



MINUTES
NEW YORK STATE CANAL CORPORATION
BOARD MEETING NO. CC-173
May 18, 2011

Minutes of a meeting of the New York State Canal Corporation, held in the Board Room at Administrative Headquarters, 200 Southern Boulevard, Albany, New York 12209 and via video conference from the Corporation's New York Division Office, 4 Executive Boulevard, Suffern, New York.

The meeting began at 11:00 a.m.

There were present:

Chairman John L. Buono

Donna J. Luh, Vice Chair

J. Donald Rice, Jr., Board Member

Richard N. Simberg, Board Member

Brandon R. Sall, Board Member, via video conference

Constituting a majority of the members of the Canal Corporation Board.

E. Virgil Conway and Jose Holguin-Veras, Ph.D., were not present at this meeting and did not vote on any of the Items.

In addition, there were present the following staff personnel:

Michael R. Fleischer, Executive Director

John Barr, Director, Administrative Services

Donald Bell, Director, Operations and Maintenance

John Bryan, Chief Financial Officer

William Estes, General Counsel

J. Marc Hannibal, Director, Audit and Management Services

Brian Stratton, Director, Canal Corporation

Major Robert Meyers, Troop T

Thomas Ryan, Chief of Staff

Ted Nadratowski, Chief Engineer

Thomas Pericak, Division Director, Buffalo Division

Michael Loftus, Acting Division Director, Albany Division

Patrick Hoehn, Acting Division Director, Syracuse Division

Stephen Grabowski, Acting New York Division Director

John Callaghan, Deputy Director, Canal Corporation

Catherine Sheridan, Acting Deputy Director for Canal Maintenance, Operations & Engineering

Wendy Allen, Director, Management and Planning

Anthony Kirby, Director, Real Property Management

Doraine Steele, Director, Fiscal Audit and Budget

Harry Lennon, Senior Investigator, Audit and Management Services

Tracie Sandell, Assistant Director, Audit and Management Services

Jonathan Gunther, Assistant Counsel

Lawrence Norville, Chief Compliance Officer

Michael Sikule, Director, Investments and Asset Management

Jill B. Warner, Board Administrator

Douglas Elson, Information Technology

Also in attendance:

John Armstrong, New York Network

Pierre Vilain, Ph.D., Vice President, Henningson, Durham & Richardson

John Puig, Managing Director, RBC Capital Markets

Stanley Kramer, Partner, Hawkins Delafield & Wood LLP
Joseph Reid, Principal, Law Offices of Joseph C. Reid, P.A.
Steven Kantor, Managing Director, First Southwest Company
Angela Rodell, Senior Vice President, First Southwest Company
Robert Walsh, Managing Director, Loop Capital Markets

Chairman Buono noted that he, Ms. Luh, Mr. Rice, Mr. Simberg and Mr. Sall had received and reviewed the Agenda submitted for consideration at this meeting and were prepared to act on each of the Items.

Chairman Buono called the meeting to order.

Ms. Warner recorded the minutes as contained herein (public notice of the meeting had been given).

Item 1 by Board Secretary (Appendix A)
Approval of Minutes of Board Meeting No. CC-172

On the motion of Mr. Sall, seconded by Ms. Luh, without any objections, the Board approved the minutes of Meeting No. CC-172 held on March 23, 2011, which were made available to the Board Members as part of the Agenda.

Chairman Buono welcomed the new Director of the Canals, Brian Stratton.

Item 2 by Mr. Bryan and Mr. Stratton (Appendix B)
Authorizing the Abandonment of Approximately 5.194+Acres of Canal Land Located in the Town of Pittsford, County of Monroe, and Authorizing Its Sale to Route 96, Inc.

Mr. Bryan reported that the subject property is a highly irregular shaped parcel that has a number of terrain and configuration issues, and is surrounded by the applicant's property which is currently an inactive gravel mine. Route 96 Inc. is seeking to purchase this parcel because it

contains a dirt road that is the only viable way in which the applicant can reach a large portion of its adjoining property. The sale price is being set at its appraised value of \$14,000.

After full discussion, on the motion of Mr. Simberg, seconded by Ms. Luh, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 541
**AUTHORIZING THE ABANDONMENT OF
APPROXIMATELY 5.194± ACRES OF CANAL LAND
LOCATED IN THE TOWN OF PITTSFORD, COUNTY OF
MONROE, AND AUTHORIZING THEIR SALE TO ROUTE
96, INC.**

RESOLVED, that approximately 5.194± acres of Canal land located in the Town of Pittsford, County of Monroe are no longer useful or necessary as part of the Barge Canal System, as an aid to navigation thereon, or for Barge Canal purposes, and be it further

RESOLVED, that pursuant to Section 51 of the Canal Law, Notice of Proposed Abandonment for the Property will be published for three consecutive weeks in a newspaper published in the locality and if as a result of such publication any negative comments are received, no further action shall be taken until the Board is advised, and be it further

RESOLVED, that following transmittal of Notice of Proposed Abandonment to the CRC, the Office of Canal Maintenance and Operations shall prepare an Official Order abandoning the land for Canal purposes, together with a map and description of such lands for review and execution by the Executive Director, and be it further

RESOLVED, that following preparation of the Official Order of Abandonment, the Executive Director be, and he hereby

is, authorized to execute such Order of Abandonment, and be it further

RESOLVED, that the recommendation for issuance of a Negative Declaration based on an environmental assessment of the proposed action completed in accordance with the provisions of the State Environmental Quality Review Act (SEQRA) be, and hereby is, approved, and be it further

RESOLVED, the Chief Engineer, or his designee, be, and he hereby is, authorized to sign the SEQRA Environmental Assessment and issue the Negative Declaration, and to distribute any required notices on behalf of the Corporation Board with relation to this action, and be it further

RESOLVED, that the sale of said approximately 5.194± acres of land by quitclaim deed to Route 96, Inc. for \$14,000 be, and hereby is, approved, subject to such other legal, financial, engineering and other terms as may be deemed by the Executive Director, the Director of Canals or the General Counsel, to be in the best interest of the Canal Corporation and consistent with the intent of this agenda item, and be it further

RESOLVED, that such sale shall be conditioned upon the payment of certain costs incidental to the transfer of real property, and be it further

RESOLVED, that the Corporation's Contracting Officer determined that the Property may be sold by negotiation without public advertising because such disposal falls under Section 2897 (6) (c) (ii) of the Public Authorities Law, and Section IV.I. of the Canal Real Property Management Policy, and that the sale of the Property on the terms recommended in the agenda item complies with all applicable provisions of law, including Article 9, Title 5-A of the Public Authorities Law, and with the Canal Real Property Management Policy, and be it further

RESOLVED, that the Executive Director, or his designee, be, and he hereby is, authorized to execute a contract of sale, and all other documents necessary for closing of title, and be it further

RESOLVED, that the Executive Director, the Director of Canals, the Chief Financial Officer, and the General Counsel be, and the same hereby are, authorized to take all actions necessary to effectuate closing of title, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting

Item 3 by Mr. Bryan and Mr. Stratton (Appendix C)
Authorizing the Abandonment of Approximately 0.81+ Acre of Canal Land Located in the Town of Clay, County of Onondaga, and Authorizing Its Sale to James H. and Talisman R. Forward

Mr. Bryan reported that the subject property is rectangular in shape, fronts the Oneida River, has several improvements made on it by James H. and Talisman R. Forward and encroaches on Canal property. Staff is proposing to transfer the property to them at the appraised value of \$12,500.

After full discussion, on the motion of Ms. Luh, seconded by Mr. Rice, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 542
AUTHORIZING THE ABANDONMENT OF APPROXIMATELY 0.81± ACRE OF CANAL LAND LOCATED IN THE TOWN OF CLAY, COUNTY OF ONONDAGA, AND AUTHORIZING ITS SALE TO JAMES H. AND TALISMAN R. FORWARD

RESOLVED, that approximately 0.81± acre of Canal land located in the Town of Clay, County of Onondaga is no longer useful or necessary as part of the Barge Canal System, as an aid to navigation thereon, or for Barge Canal purposes, and be it further

RESOLVED, that following publication of the notice of abandonment for the Property as required by Section 51 of the Canal Law and transmittal of such notice to the Canal Recreationway Commission (“CRC”), the Office of Canal Maintenance and Operations shall prepare an Official Order abandoning the land for canal purposes, together with a map and description of such lands for review and execution by the Executive Director, and be it further

RESOLVED, that following preparation of the Official Order of Abandonment, the Executive Director be, and he hereby is, authorized to execute such order of abandonment, and be it further

RESOLVED, that the recommendation for issuance of a Negative Declaration based on an environmental assessment of the proposed action completed in accordance with the provisions of the State Environmental Quality Review Act (SEQRA) be, and hereby is, approved, and be it further

RESOLVED, the Chief Engineer, or his designee, be, and he hereby is, authorized to sign the SEQRA Environmental Assessment and issue the Negative Declaration, and to distribute any required notices on behalf of the Corporation Board with relation to this action, and be it further

RESOLVED, that the sale of said approximately 0.81± acre of land by quitclaim deed to James H. and Talisman R. Forward for \$12,500 be, and hereby is, approved, subject to such other legal, financial, engineering and other terms as may be deemed by the Executive Director, the Director of Canals or the General Counsel, to be in the best interest of the Canal Corporation and consistent with the intent of this agenda item, and be it further

RESOLVED, that such sale shall be conditioned upon the payment of certain costs incidental to the transfer of real property, and be it further

RESOLVED, that the Corporation's Contracting Officer determined that the Property may be sold by negotiation without public advertising because such disposal falls under Section 2897 (6) (c) (ii) of the Public Authorities Law, and Section IV.H. of the Canal Real Property Management Policy, and that the sale of the Property on the terms recommended in the agenda item complies with all applicable provisions of law, including Article 9, Title 5-A of the Public Authorities Law, and with the Canal Real Property Management Policy, and be it further

RESOLVED, that the Executive Director, or his designee, be authorized to execute a contract of sale, and all other documents necessary for closing of title, and be it further

RESOLVED, that the Executive Director, the Director of Canals, the Chief Financial Officer, and the General Counsel be, and the same hereby are, authorized to take all actions necessary to effectuate closing of title, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting

Item 4 by Mr. Bryan and Mr. Stratton (Appendix D)
Authorizing the Abandonment of Approximately 1,821+ Square Feet of Canal Land Located in the Town of Ohio, County of Herkimer, and Authorizing Its Sale to Maria L. Jensen

Mr. Bryan stated that the subject property is irregularly shaped and contains a small portion of the applicant's home. Ms. Jensen would like to purchase the property so she can subsequently sell her home free of any encumbrance. The sale price is being set at the property's appraised value of \$675.

Mr. Bryan corrected a misprint on page two of the Agenda Item. The Item states that the real property transaction would go to the Canal Recreation Commission (CRC) meeting scheduled for June 9, 2011, however, the CRC held a meeting yesterday and this Item was approved by the Commission. He added that Appendix D will be amended to reflect this change.

After full discussion, on the motion of Ms. Luh, seconded by Mr. Sall, without any objections, the Board adopted the following resolution, as amended:

RESOLUTION NO. 543
**AUTHORIZING THE ABANDONMENT OF
APPROXIMATELY 1,821± SQUARE FEET OF CANAL
LAND LOCATED IN THE TOWN OF OHIO, COUNTY OF
HERKIMER, AND AUTHORIZING ITS SALE TO MARIA
L. JENSEN**

RESOLVED, that approximately 1,821± square feet of Canal land located in the Town of Ohio, County of Herkimer is no longer useful or necessary as part of the Barge Canal System, as an aid to navigation thereon, or for Barge Canal purposes, and be it further

RESOLVED, that following publication of the notice of abandonment for the Property as required by Section 51 of the Canal Law and transmittal of such notice to the CRC, the Office of Canal Maintenance and Operations shall prepare an Official Order abandoning the land for canal purposes, together with a map and description of such lands for review and execution by the Executive Director, and be it further

RESOLVED, that following preparation of the Official Order of Abandonment, the Executive Director be, and he hereby is, authorized to execute such order of abandonment, and be it further

RESOLVED, that the recommendation for issuance of a Negative Declaration based on an environmental assessment of the

proposed action completed in accordance with the provisions of the State Environmental Quality Review Act (SEQRA) be, and hereby is, approved, and be it further

RESOLVED, the Chief Engineer, or his designee, be, and he hereby is, authorized to sign the SEQRA Environmental Assessment and issue the Negative Declaration, and to distribute any required notices on behalf of the Corporation Board with relation to this action, and be it further

RESOLVED, that the sale of said approximately 1,821± square feet of land by quitclaim deed to Maria L. Jensen for \$675 be, and hereby is, approved, subject to such other legal, financial, engineering and other terms as may be deemed by the Executive Director, the Director of Canals or the General Counsel, to be in the best interest of the Canal Corporation and consistent with the intent of this agenda item, and be it further

RESOLVED, that such sale shall be conditioned upon the payment of certain costs incidental to the transfer of real property, and be it further

RESOLVED, that the Corporation's Contracting Officer determined that the Property may be sold by negotiation without public advertising because such disposal falls under Section 2897 (6) (c) (ii) of the Public Authorities Law, and Section IV.H. of the Canal Real Property Management Policy, and that the sale of the Property on the terms recommended in the agenda item complies with all applicable provisions of law, including Article 9, Title 5-A of the Public Authorities Law, and with the Canal Real Property Management Policy, and be it further

RESOLVED, that the Executive Director, or his designee, be authorized to execute a contract of sale, and all other documents necessary for closing of title, and be it further

RESOLVED, that the Executive Director, the Director of Canals, the Chief Financial Officer, and the General Counsel be, and the same hereby are, authorized to take all actions necessary to effectuate closing of title, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting

Item 5 by Mr. Stratton (Appendix E)

Amending the Authorization for the Establishment and Implementation of the Erie Canal Greenway Grant Program and Reallocating the Expenditure of Ten Million Dollars (\$10,000,000) Appropriated to the Canal Corporation in the 2006-07 New York State Budget, as Approved by Resolution No. 391 at Meeting No. CC-140, and Amended by Resolution No. 405 at Meeting No. CC-143

Mr. Stratton reported that this Item seeks Board approval to reallocate the remaining \$1,517,521 unexpended from the original appropriation of \$10 million in the 2006-2007 State Budget for the Erie Canal Greenway Grant Program. The initial round of grants was very successful with over 50 exciting projects funded. Staff is recommending that \$1 million dollars be set aside for a new round of matching grants with individual awards that would range from \$50,000 to \$150,000. The remaining \$517,521 dollars would be used by the Canal Corporation and other state agencies for capital projects supporting Canal based educational or interpretive initiatives. The Division of the Budget has informed staff that these funds have been re-appropriated and are available for this program. Staff's intention is to announce the program and begin soliciting proposals in June so that the projects can be awarded by the end of the year and can get underway in the Spring of 2012.

Mr. Simberg requested clarification regarding the difference between the funds being used for canal community infrastructure projects versus real canal infrastructure projects. Mr. Stratton responded that the funds are intended to promote economic development and historic interpretation all along the canal. They are not intended as a means to divert the Corporation's responsibility to support the infrastructure of the canal or any municipal infrastructure for that matter.

After full discussion, on the motion of Mr. Simberg, seconded by Mr. Sall, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 544

AMENDING THE AUTHORIZATION FOR THE ESTABLISHMENT AND IMPLEMENTATION OF THE ERIE CANAL GREENWAY GRANT PROGRAM AND REALLOCATING THE EXPENDITURE OF TEN MILLION DOLLARS (\$10,000,000) APPROPRIATED TO THE CANAL CORPORATION IN THE 2006-07 NEW YORK STATE BUDGET, AS APPROVED BY RESOLUTION NO. 391 AT MEETING NO. CC-140 AND AMENDED BY RESOLUTION NO. 405 AT MEETING NO. CC-143

RESOLVED, that consistent with the Board's adoption of Resolution No. 391 at Meeting No. CC-140 authorizing the establishment and implementation of the Erie Canal Greenway Grant Program, as amended by Resolution No. 405 at Meeting No. CC-143, that \$1,000,000 of the funds appropriated to the New York State Canal Corporation in the 2006-2007 New York State Budget be allocated for a competitive grant program; and be it further

RESOLVED, that projects funded through this competitive grant program be consistent with the 1995 Canal Recreationway Plan; and be it further

RESOLVED, that the remaining \$517,521 will be allocated to the Canal Corporation or other State Agencies for non-competitive educational or interpretive projects consistent with the 1995 Canal Recreationway Plan; and be it further

RESOLVED, that the Executive Director, or his designee, be, and hereby is, authorized to execute all contracts and any other necessary documents for projects and grants in excess of \$150,000 to be on terms and conditions determined to be in the best interests of the Canal Corporation and consistent will all applicable rules, regulations, policies and laws; and be it further

RESOLVED, that all grant recipients will receive an award notification letter indicating the award process and stating that grant funds will be provided solely on a reimbursement basis; and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting

Item 6 by Mr. Nadratowski (Appendix F)
Authorizing an Amendment to the 2011 Canal Contracts Program for C62.1, Replace Lower Miter Gates at Lock E-32 in the Buffalo Division, and Allocating Funds Therefor

Mr. Nadratowski reported that during a recent inspection, deterioration was identified at the gate's support structure that required temporary repair by maintenance forces. Given the condition of the lower miter gates, Corporation staff recommends replacing the gates at a cost of \$1,550,000 and \$160,000 for construction inspection. The design will be completed by Authority in-house staff. Due to savings and other adjustments in the 2011 contracts program, there is sufficient funding for this project.

After full discussion, on the motion of Ms. Luh, seconded by Mr. Sall, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 545
AUTHORIZING AN AMENDMENT TO THE 2011 CANAL CONTRACTS PROGRAM FOR C62.1, REPLACE LOWER MITER GATES AT LOCK E-32 IN THE BUFFALO DIVISION, AND ALLOCATING FUNDS THEREFOR

RESOLVED, that the 2011 Contracts Program be amended in order to let C62.1, replace Lower Miter Gates at Lock E-32 in the Buffalo Division (construction cost of \$1,550,000, construction inspection cost of \$160,000), in 2011, be, and the same hereby is, approved, and be it further

RESOLVED, that the 2011 Contracts Program be amended to account for the additional \$1,710,000 in Canal Capital funds, and

the same hereby is, allocated towards C62.1 from bid savings and other adjustments made to the 2011 Canal Contracts Program, and be it further

RESOLVED, that the Executive Director or his designee shall have the authority to exercise all powers reserved to the Corporation under the provisions of the contract, manage and administer the contract, amend the provisions of the contract consistent with the terms of this Item and other Board authorizations and suspend or terminate the contract in the best interests of the Corporation, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting

Item 7 by Mr. Fleischer (Appendix G)
Authorization for the Executive Director to Defer Payment of the 2011 General Salary Increase, Step Advances and Longevity Payments for Managerial/Confidential (M/C) Employees of the 2008 M/C Salary Schedule

Ms. Luh inquired as to the last time the MC employees received a raise. Mr. Fleischer responded that the last raise for Executive staff was in 2007 and for all other MC employees it was in 2008. Ms. Luh asked to go on record as stating that the staff is fantastic and always available to answer her calls, even if it's late on a Saturday night, and she has a problem with not granting the raises at this time.

Mr. Simberg asked if this action was consistent with what the rest of the State was doing. Mr. Fleischer concurred, adding that this Item only authorizes the Executive Director to start action. Staff did not want to wait until the June Board Meeting because it would have been too close to the July 1, 2011 pay period. Mr. Fleischer stated that he would do more research between now and when action has to be taken. Mr. Rice inquired as to what other State Authorities were doing. Mr. Fleischer responded that he was not aware of what other Authorities were planning to do but that he would find out and report back to the Board.

Mr. Simberg stated that this applies to all MC employees, who are made MC because the Authority has more confidence in them, and as a reward they are paid less. He inquired if there was anything in the law that prohibits reclassification of MC titles to a regular title for the same type of work. Mr. Fleischer responded he assumed that it would have to be a competitive title and would have to go through the civil service system. Mr. Simberg requested more information on this by the next meeting.

Chairman Buono stated that the rest of the Board echoes Mr. Simberg and Ms. Luh's sentiments regarding the quality of the Executive and Management/Confidential staff but that unfortunately the Authority/Corporation is trying to maintain consistency with the rest of the State.

After full discussion, on the motion of Ms. Luh, seconded by Mr. Rice, without any objections, the Board adopted the following resolution:

RESOLUTION NO. 546
AUTHORIZATION FOR THE EXECUTIVE DIRECTOR TO DEFER PAYMENT OF THE 2011 GENERAL SALARY INCREASE, STEP ADVANCES AND LONGEVITY PAYMENTS FOR MANAGERIAL/CONFIDENTIAL (M/C) EMPLOYEES OF THE 2008 M/C SALARY SCHEDULE

RESOLVED, that the Executive Director be, and hereby is, authorized to defer payment of the general salary increase, step advances and longevity payments for M/C employees scheduled for the pay periods that include July 1, 2011 through June 30, 2012 and the commensurate 2011 adjustment of the M/C Salary Schedule until such time as he determines appropriate, and be it further

RESOLVED, that this resolution be incorporated in the minutes of this meeting

ADJOURNMENT

There being no further business to come before the Board, without any objections, on the motion of Ms. Luh, seconded by Chairman Buono, the meeting was adjourned.

Jill B. Warner
Secretary

Note: Webcasts, which include dialogue of Authority/Corporation Board Meetings, are available on the Thruway Authority website 48 hours after such meetings occur and remain on the website for a period of 4 months.