



## **MINUTES**

### **NEW YORK STATE CANAL CORPORATION**

#### **BOARD MEETING NO. CC-135**

**October 20, 2005**

**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.**

**The meeting began at 2:10 p.m.**

**There were present:**

**John L. Buono, Chairman  
Nancy Carey Cassidy, Board Member  
John R. Riedman, Board Member**

**Constituting all of the members of the Canal Corporation Board.**

**In addition, there were present the following staff personnel:**

**Michael R. Fleischer, Executive Director  
John Brizzell, Deputy Executive Director, Chief Engineer  
John Bryan, Chief Financial Officer  
Sharon O'Connor, General Counsel  
William Rinaldi, Acting Director, Operations  
Susan Young, Director, Systems Management Team**

**Wendy Allen, Director, Department of Planning Services**  
**Christopher Waite, Director, Engineering Services and Assistant Chief Engineer**  
**George Tanner, Director, Maintenance Engineering and Assistant Chief Engineer**  
**Michael Flynn, Director, Audit and Management Services**  
**Jill Warner, Secretary and Board Administrator**  
**Major George Beach, Troop T**  
**Daniel Gilbert, Director, Public Affairs**  
**Wilma DeLucco, Director, Administrative Services**  
**Donald Bell, Director, Albany Division**  
**Carmella Mantello, Director of Canal Corporation**  
**Lawrence Frame, Deputy Director of Canal Corporation**  
**Richard Garrabrant, Acting Director, Syracuse Division**  
**Ramesh Mehta, Director, New York Division**  
**David Boshart, Director, Office of Canal Land Management**  
**Jennifer Meicht, Deputy Director of Canal Corporation**  
**Dorraine Steele, Director, Office of Fiscal Audit and Budget**  
**Mark Andersen, Director, Office of Travelers' Services**  
**Fred Rudin, Director, Bureau of Purchasing**  
**Dorraine Steele, Director, Office of Fiscal Audit and Budget**  
**Karen Osborn, Budget Manager, Office of Fiscal Audit and Budget**  
**Michael Sikule, Director, Office of Investments and Asset Management**  
**Also in Attendance:**  
**Cathy Woodruff, Reporter, *Albany Times Union***

Chairman Buono noted that he, Ms. Carey Cassidy and Mr. Riedman had received and reviewed the Agenda submitted for consideration at this meeting and were prepared to act on each of the items.

Ms. Warner recorded the minutes as contained herein.

Public notice of the meeting had been given, Ms. Warner said.

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**Item 1 by Ms. Warner (Appendix A)**  
**Minutes of Meeting No. CC-134**

On the motion of Ms. Carey-Cassidy, seconded by Mr. Riedman, without any objections, the Board approved the minutes of Meeting No. CC-134 held on September 7, 2005 which were made available to the Board Members as part of the Agenda.



**Item 2 by Mr. Fleischer (Appendix B)**  
**Report to Canal Corporation Board for Personal Service Contracts Up to \$150,000 for the Period July 1, 2005 through September 30, 2005**

Mr. Fleischer submitted as Exhibit I a listing containing Personal Service Contracts up to \$150,000 for the period of July 1, 2005 through September 31, 2005.

After full discussion, on the motion of Ms. Carey Cassidy, seconded by Mr. Riedman, without any objections, the Board accepted Mr. Fleischer's report.

**Item 3 by Mr. Bryan (Appendix B)**  
**Approval of the 2006 Recommended Budget for the New York State Canal Corporation**

Mr. Bryan reported to the Board that the total financial commitment for the Canal Corporation for 2006 is \$85.8 million, increasing by \$10.5 million or 13.9% over the 2005 revised budget. Of this increase, \$3.8 million is attributable to a budgeted increase in Operations and \$6.8 million is attributable to an increase in the Canal Capital Program.

The increase in the Capital Program is due to the procurement of new dredging equipment that the Army Corps of Engineers is requiring the Corporation to use if we are to continue to dredge the canal as well as the replacement of an old dredge procured in 1926, over 80 years ago.

On the operating side, in 2006 the Corporation expects to see a \$3.8 million or 8.5% increase in the Canal Operating Budget. However, as with the Thruway Authority Budget, this increase is almost entirely attributable to increases in mandatory or non-discretionary expenses.

He reported that the Canal Corporation Budget's will be negatively impacted by such items as growing health insurance, fuel price increases and increases in structural inspections. The Canal Corporation will also see a \$1.5 million new expense for environmental remediation at Utica Harbor. However, this expense will be reimbursed to the Corporation by New York State.

If you adjust for these mandatory or uncontrollable expenses, our underlying Operating Budget would have grown by only \$200,000 or 0.5 percent.

The 2006 Canal Budget will be funded through a variety of sources including Federal Aid, Thruway Revenues, Canal Development Fund revenues and State and local funds. We are anticipating receiving the traditional \$5.9 million in federal Canal



**Item 3 by Mr. Bryan (Appendix B)**

**Approval of the 2006 Recommended Budget for the New York State Canal Corporation  
(Continued)**

Enhancement Funding for operations as well as \$9.1 million in federal aid for the Canal Capital Program. A majority of the \$9.1 million in federal funding will come from TEA-21 funds pursuant to the Governor's Revitalization II initiative.

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

**RESOLUTION NO. 352**

**APPROVAL OF THE 2006 RECOMMENDED BUDGET  
FOR THE NEW YORK STATE CANAL  
CORPORATION**

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**RESOLVED**, that the Canal Corporation's proposed Budget for the fiscal year 2006, submitted by the Executive Director, the Deputy Executive Director and the Chief Financial Officer, be, and the same hereby is, approved and funded in accordance with the attached Exhibit I, and be it further

**RESOLVED**, that the Executive Director or designee be, and he hereby is, authorized to make such expenditures as set forth in this Budget, subject to compliance with Authority policies and procedures, and to make such internal adjustments and transfers within the Authority Budget as are necessary and proper, and to make any other adjustment with the concurrence of the Board, and be it further

**RESOLVED**, that a copy of the Budget approved herein, when printed in final form, be attached to these minutes and made a part thereof and be submitted in accordance with Section 2801 of the Public Authorities Law, and be it further

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



**Item 4 by Mr. Waite (Appendix D)**  
**Approving the 2006 Canal Contracts Program**

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

**RESOLUTION NO. 353**  
**APPROVING THE 2006 CANAL**  
**CONTRACTS PROGRAM**

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**RESOLVED**, that the 2006 Contracts Program for Canals and Related Facility Projects be, and the same hereby is, approved, and be it further

**RESOLVED**, that the Chief Engineer or the Director of Engineering Services be, and they hereby are, authorized:

A. to prepare and approve Official Proposals, Plans and Specifications, Engineer's/Architect's Estimates of Cost and Contract Documents for such projects as are tabulated in the 2006 CONTRACTS PROGRAM;

B. to hold the respective Engineer's/ Architect's Estimate of Cost for such contracts confidential;

C. to advertise for receipt of bids for those contracts which are tabulated in the 2006 CONTRACTS PROGRAM wherein the final Engineer's/Architect's Estimates of Cost are equal to or less than the respective budget allocations as tabulated in the 2006 CONTRACTS PROGRAM, and for those projects wherein the final Engineer's/Architect's Estimate of Cost is higher than the budget allocation but confirmation is given by the Department of Finance and Accounts that sufficient funds are available in the 2006 CONTRACTS PROGRAM by virtue of bid savings and/or deferrals; followed by approval of the Deputy Executive Director;

D. to award any such contract to the lowest responsible bidder when it is deemed to be an acceptable bid, provided that:

1. the low bid is equal to or less than the Engineer's/Architect's Estimate; or



**Item 4 by Mr. Waite (Appendix D)**  
**Approving the 2006 Canal Contracts Program(Continued)**

2. if the low bid exceeds the Engineer's/Architects Estimate by up to \$100,000 on contracts up to and including \$500,000, or 20 percent on contracts over \$500,000, and such award, upon consultation with the Deputy Executive Director, is deemed to be in the best interests of the Authority, he shall first obtain confirmation by the Department of Finance and Accounts that, by virtue of bid savings and/or deferrals, sufficient funds are available for the additional difference between the budget amount and the low bid; or

3. if the low bid does not conform with D.(1) or D.(2) and, upon consultation with the Executive Director such award is deemed to be in the best interests of the Authority, he shall first obtain Board authorization for the necessary additional funds;

E. to reject bids for any such contract which are determined to be not in accordance with bid documents and specifications thereof, or not in the Authority's best interests, or which are submitted by bidders determined to be not responsible. In these cases and where no bids are received, he may again advertise for receipt of bids pursuant to paragraph C;

F. to approve contingent or extra work on such construction contracts, when necessary, provided the additional cost shall not exceed the bid price by more than \$100,000, for contracts bid up to and including \$1,000,000, or 10 percent for contracts bid in excess of \$1,000,000 and to approve additional extra work, beyond that authorized above with the prior approval of the Deputy Executive Director, provided the final cost of the respective contracts shall not exceed the total bid price by more than \$200,000, for contracts bid up to and including \$1,000,000, or 20 percent for contracts bid in excess of \$1,000,000; and to adjust and determine disputed contract claims in accordance with contract documents;



**Item 4 by Mr. Waite (Appendix D)**  
**Approving the 2006 Canal Contracts Program(Continued)**

**G. to enter into, extend, and modify project specific agreements or multi-project agreements with localities, utility companies, railroads, and/or others as may be necessary in order to facilitate the administration, award, progress and completion of such contracts;**

**H. to acquire and grant such property interests (fee title, easements, etc.) as may be necessary for implementation of the 2006 CONTRACTS PROGRAM; provided that the total amount of acquisitions or the amount of grants for any one project shall not exceed \$150,000 each without Board authorization;**

**I. to execute engineering agreements approved by the Board, or where otherwise authorized by the Executive Director, including amendments thereto, for services relating to projects included in the 2006 CONTRACTS PROGRAM;**

**J. to approve in consultation with the Deputy Executive Director a supplemental agreement, for expenditure of additional funds in furtherance of a Board approved engineering agreement, including any Board approved supplemental agreement, provided that the amount of such additional funds does not exceed \$150,000 in the case of agreements up to and including \$3,000,000, or 5 percent, in the case of agreements of over \$3,000,000; to approve, with the prior approval of the Deputy Executive Director and Executive Director, a supplemental agreement for expenditure of additional funds in furtherance of a Board approved engineering agreement, including any Board approved supplemental agreement, provided that the amount of such additional funds does not exceed 25 percent including any additional funds authorized in paragraph J; and provided further, when such supplemental agreement includes additional new design or construction inspection tasks, such approval must be based upon the following: it is determined that the assignment of the additional tasks is in the best interests of the Corporation when considering the proximity of the additional tasks to the ongoing tasks, or it is determined to**



**Item 4 by Mr. Waite (Appendix D)**  
**Approving the 2006 Canal Contracts Program(Continued)**

**K. be in the best interests of the Corporation to expedite the additional tasks through such assignment, or it is determined that significant savings to the Corporation will result through the assignment of the additional tasks;**

**L. to exercise all powers reserved to the Corporation under the provisions of any contracts or agreements executed pursuant to this item, manage and administer any such contracts or agreements, amend the provisions of any such contracts or agreements consistent with the terms of this item and in accordance with other applicable Board authorizations, and suspend or terminate any such contracts or agreements in the best interests of the Corporation, and be it further**

**RESOLVED, that any powers granted to the Executive Director by the Board to approve expenditures or to increase expenditures for contracts and agreements shall be in addition to those powers granted under this resolution and any action taken pursuant thereto shall be deemed to be authorized under this resolution and be it further**

**RESOLVED, that in accordance with the other powers delegated herein, the Chief Engineer or the Director of Engineering Services shall be, and they hereby are, authorized to make all necessary decisions pursuant to the State Environmental Quality Review Act (SEQRA) with relation to the Contracts Program, and be it further**

**RESOLVED, that quarterly reports shall be submitted to the Board by the Chief Engineer or the Director of Engineering Services on all awarded construction contracts; on approved additional funds for construction contracts over and above the contingency funds; on all engineering agreements and supplemental engineering agreements, approved pursuant to the provisions of this resolution, and be it further**



**Item 4 by Mr. Waite (Appendix D)**  
**Approving the 2006 Canal Contracts Program(Continued)**

**RESOLVED**, that the Chief Financial Officer be, and he hereby is, authorized:

**A.** upon award of such contracts to return such funds budgeted for such projects in the respective 2006 Budgets which are otherwise not required for expenditure during 2006 to its proper fund in accordance with acceptable budgeting and accounting procedure;

**B.** to monitor total cash expenditures for the 2006 CONTRACTS PROGRAM to insure that they do not exceed \$27,107,135 during the 2006 Fiscal Year;

**C.** to return bid checks submitted for such contracts to unsuccessful bidders; and to make necessary adjustments in the respective 2006 approved Budgets as required by implementation of any part of the Resolution relative to the 2006 CONTRACTS PROGRAM; and be it further

**RESOLVED**, that the Executive Director or Deputy Executive Director/Chief Engineer or the Director of Engineering Services be, and they hereby are, authorized to execute such contracts, including any amendments thereto, provided such amendments do not increase the authorized contract value beyond that which is otherwise authorized; and be it further

**RESOLVED**, that the provisions of this resolution shall be deemed to supercede all other inconsistent Authority/Corporation policies and procedures to the extent necessary to implement the approved Contracts Program and for no other purposes, and be it further

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



**Item 5 by Mr. Waite (Appendix E)**

**Authorizing Negotiation and Execution of Engineering Agreement D213519 with Ravi Engineering and Land Surveying, P.C. for Construction Inspection Services Relative to TAS 05-14C, Rehabilitation of Dam and Taintor Gate at Lock E-26 in the Syracuse Division**

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

**RESOLUTION NO. 354**

**AUTHORIZING NEGOTIATION AND EXECUTION OF ENGINEERING AGREEMENT D213519 WITH RAVI ENGINEERING AND LAND SURVEYING, P.C. FOR CONSTRUCTION INSPECTION SERVICES RELATIVE TO TAS 05-14C, REHABILITATION OF DAM AND TAINTOR GATE AT LOCK E-26 IN THE SYRACUSE DIVISION**

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**RESOLVED**, that the Chief Engineer or Director of Engineering Services be, and they hereby are, authorized to negotiate and execute engineering agreement D213519 with Ravi Engineering and Land Surveying, P.C., Blackwatch Office Park Suite E-5, 6605 Pittsford-Palmyra Road, Fairport, New York 14450 for construction inspection services relative to TAS 05-15, Rehabilitation of Dam and Taintor Gate at Lock E-26 in the Syracuse Division, provided that the Maximum Amount Payable does not exceed the \$500,000 which is currently provided through the 2006 Contracts Program (C93.1), and be it further

**RESOLVED**, that the Chief Engineer or the Director of Engineering Services or their designees shall have the authority to exercise all powers reserved to the Corporation under the provisions of the Agreement, manage and administer the Agreement, amend the provisions of the Agreement consistent with the terms of this item and in accordance with the 2006 Canal Contracts Program Resolution and other Board authorizations, and suspend or terminate the Agreement in the best interests of the Corporation, and be it further



**Item 5 by Mr. Waite (Appendix E)**

**Authorizing Negotiation and Execution of Engineering Agreement D213519 with Ravi Engineering and Land Surveying, P.C. for Construction Inspection Services Relative to TAS 05-14C, Rehabilitation of Dam and Taintor Gate at Lock E-26 in the Syracuse Division (Continued)**

RESOLVED, that the information relating to this agreement be included in the Director of Engineering Services' Quarterly Report to the Board on Contracts Program activities, such information to include the exact Maximum Amount Payable and date of execution of the agreement and be it further

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

**Item 6 by Ms. Mantello (Appendix F)**

**Authorizing Withdrawal of Canal Corporation Board Resolution Numbers: 112, Adopted at Meeting No. CC-46 and 121, Adopted at Meeting No. CC- 48**

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

**RESOLUTION NO. 355**

**AUTHORIZING WITHDRAWAL OF CANAL CORPORATION BOARD RESOLUTION NUMBERS: 112, ADOPTED AT MEETING NO. CC-46 AND 121, ADOPTED AT MEETING NO. CC- 48**

RESOLVED, that Canal Corporation Board Resolution Numbers: 112, adopted at Meeting No. CC-46 and 121, adopted at Meeting No. CC-48 be, and the same hereby are, withdrawn, and be it further

RESOLVED, that the Director of Canals, or her designee, be, and she hereby is, authorized, to take follow-up review and action consistent with this Board item, and be it further

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



**Item 7 by Ms, Mantello (Appendix G)**

**Authorizing Preliminary Actions for Abandonment of Approximately 719 Acres of Canal Lands Located in the Town of Ohio, County of Herkimer, for a Transfer of Jurisdiction over Such Lands to the New York State Department of Environmental Conservation**

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

**RESOLUTION NO. 356**

**AUTHORIZING PRELIMINARY ACTIONS FOR:  
ABANDONMENT OF APPROXIMATELY 719 ACRES  
OF CANAL LAND LOCATED IN THE TOWN OF  
OHIO, COUNTY OF HERKIMER; FOR A TRANSFER  
OF JURISDICTION OVER SUCH LANDS BY THE  
NEW YORK STATE OFFICE OF GENERAL  
SERVICES TO THE NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL  
CONSERVATION**

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**RESOLVED, that the Director of Canals, or her designee, be, and she hereby is, authorized to take all actions necessary for the Canal Corporation Board to determine whether to abandon jurisdiction over approximately 719 acres of canal lands located in the Town of Ohio, County of Herkimer to the New York State Department of Environmental Conservation in accordance with this agenda item, and be it further**

**RESOLVED, that the Director of Canals, or her designee, shall be authorized to take all actions necessary to implement this Board action; 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, on the motion of Mr. Riedman, seconded by Ms. Carey-Cassidy, without any objections, the meeting was adjourned.

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**Jill B. Warner**  
Secretary

