



## **MINUTES**

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

#### **BOARD MEETING NO. CC-165**

**January 20, 2010**

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 Authority's New York Division, 4 Executive Boulevard, Suffern, NY 10901.

The meeting began at 11:25 a.m.

There were present:

**Chairman John L. Buono**  
**E. Virgil Conway, Board Member, via video conference**  
**Donna J. Luh, Board Member**  
**Brandon R. Sall, Board Member, via video conference**  
**Richard N. Simberg, Board Member**

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

Ms. Crotty was 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**  
**William Estes, General Counsel**  
**John Bryan, Chief Financial Officer**

**Jill Warner, Secretary and Board Administrator**  
**Christopher Waite, Chief Engineer**  
**Thomas Pericak, Division Director, Buffalo Division**  
**William Rinaldi, Division Director, Albany Division**  
**Ted Nadratowski, Division Director, New York Division**  
**Richard Garrabrant, Division Director, Syracuse Division**  
**Kevin Allen, Acting Director, Audit and Management Services, via video conference**  
**John Barr, Director, Administrative Services**  
**Donald Bell, Director, Operations and Maintenance**  
**Carmella Mantello, Director of Canal Corporation**  
**Major Robert Meyers, Troop T**  
**Wendy Allen, Deputy Chief of Staff**  
**Tony Kirby, Director, Office of Real Property Management**  
**Harry Lennon, Senior Investigator, Audit and Management Services**  
**Joanne Riddett, Director, Information Technology**  
**Daniel Gilbert, Chief of Staff**  
**Dorraine Steele, Director, Office of Fiscal Audit and Budget**  
**Michael Sikule, Director, Office of Investments and Asset Management**  
**Tracie Sandell, Assistant Counsel**  
**Kimberly Chupa, Public Information Specialist**  
**Also in attendance:**  
**John Armstrong, Assistant Television Engineer, NYN**  
**R.W. Groneman, public**  
**Stanley Kramer, Bond Counsel, Hawkins Delafield & Wood, LLP**  
**John Puig, Managing Director, RBC Capital Markets**  
**Angela Rodell, Senior Vice President, First Southwest Company**  
**Steven Kantor, Managing Director, First Southwest Company**

Chairman Buono noted that he, Mr. Conway, Ms. Luh, Mr. Sall and Mr. Simberg 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.

Ms. Warner said public notice of the meeting had been given.

---

**Item 1 by Ms. Warner (Appendix A)**



**Minutes of Meeting No. CC-164**

On the motion of Mr. Simberg, seconded by Ms. Luh, without any objections, the Board approved the minutes of Meeting No. CC-164 held on November 18, 2009 which were made available to the Board Members as part of the Agenda.

**Item 2 by Ms. Mantello and Mr. Bryan (Appendix B)**  
**Authorizing the Abandonment and Transfer of Jurisdiction of Approximately 0.28 Acre of Canal Land Located in the Town of Mentz, Cayuga County to the New York State Department of Transportation**

Ms. Mantello reported that this resolution will abandon and transfer jurisdiction of approximately 0.28 acre in the Town of Mentz, Cayuga County to the New York State Department of Transportation (“DOT”). The jurisdiction over Haiti Island Bridge in Syracuse Division is being requested by DOT for the purpose of a bridge replacement project and new structure alignment. In the interim, the New York State Canal Corporation did issue an occupancy permit to enable work to proceed with Federal stimulus funds. This area is not part of any local or Canal trail system. Syracuse Division has determined that the parcel is no longer needed for Canal operations as did Canal Maintenance and Operations. An environmental assessment was conducted and a Negative Declaration was declared under the State Environmental Quality Review Act (“SEQRA”). The parcel is within the flood plain and as such the transfer will be conditioned to meet the requirements of 6 New York Rules and Regulations Part 502 Floodplain Management Criteria for State Projects. No adverse effect has been issued by the State Historic Preservation Office (“SHIPO”).

The Canal Recreationway Commission has met and found that the transfer is consistent with the Canal Recreationway Plan and it does comply with the 2009 Public Authorities Reform Act. There are about a dozen properties and homeowners on the island. Right now there is a temporary bridge with a 15 ton limit. The construction of a permanent bridge will begin in March. Staff recommends that the Board consider this transfer of jurisdiction to DOT.

Mr. Sall asked if earlier in the meeting hadn’t staff mentioned that DOT was holding up giving the Authority \$5 million for the Canal, which DOT received from the Federal government, and if so shouldn’t staff make this contingent on the Authority receiving the money?

Mr. Fleischer responded that DOT’s concern would be that both agencies want to support the improvement of infrastructure in the bridge. Staff does not want the people



**Item 2 by Ms. Mantello and Mr. Bryan (Appendix B)**

**Authorizing the Abandonment and Transfer of Jurisdiction of Approximately 0.28 Acre of Canal Land Located in the Town of Mentz, Cayuga County to the New York State Department of Transportation (Continued)**

who rely upon the bridge to suffer because of both entities are unable to come to an agreement on the funding. Mr. Sall inquired as to who would suffer if the Authority does not get the \$5 million from DOT? Mr. Fleischer responded that the Authority and the Canal suffers. Mr. Sall stated that the same people suffer either way. He suggested that maybe staff should think about the fact that DOT made a promise to the Authority that staff were counting on and haven't gotten yet. Ms. Luh agreed with Mr. Sall.

Chairman Buono stated that he thinks what staff might, and probably should, do is point out that the Authority tends to consider these kinds of things important for the people we serve and that maybe DOT should begin to acknowledge and begin to be supportive of these issues. Staff should take this discussion to a higher level within DOT. Mr. Conway added that the place to resolve this issue is the Secretary's office of the Governor. Chairman Buono agreed and suggested that that message be conveyed to the Secretary's office. Chairman Buono stated that when it comes to items like bridges, with everything that is going on in our world today, public safety should be the priority. Ms. Luh stated perhaps there are issues that are not related to public safety where DOT should be told that it's not going to just be moved through. Mr. Fleischer concurred, stating that there are issues not related to public safety that the Authority can be more forceful on.

Ms. Mantello wanted to make sure the Board was aware that there is a lift-bridge agreement that staff have been waiting for sign-off from DOT on since 1992 when Canals was transferred from DOT to the Authority. Mr. Bryan added that this project is just one of a long list of things that staff has had issues with with DOT.

Mr. Simberg inquired if there are any costs incurred by the Authority in relation to this transfer at any point. Ms. Mantello stated that there are none.

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

**RESOLUTION NO. 495**  
**AUTHORIZING THE ABANDONMENT AND  
TRANSFER OF JURISDICTION OF APPROXIMATELY  
0.28 ACRE OF CANAL LAND LOCATED IN THE TOWN**



**Item 2 by Ms. Mantello and Mr. Bryan (Appendix B)**  
**Authorizing the Abandonment and Transfer of Jurisdiction of Approximately 0.28 Acre**  
**of Canal Land Located in the Town of Mentz, Cayuga County to the New York State**  
**Department of Transportation (Continued)**

**OF MENTZ, CAYUGA COUNTY TO THE NEW YORK  
STATE DEPARTMENT OF TRANSPORTATION**

---

**RESOLVED**, that approximately 0.28 acre of Canal land located in the Town of Mentz, County of Cayuga 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 50 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, provided, however, that if negative comments are received in response to the Notice, no Order shall be prepared until the Corporation Board has been informed and has determined whether a hearing is warranted, and be it further

**RESOLVED**, that following preparation of the Official Order of Abandonment, the Executive Director, or his designee, be, and 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**, that the Chief Engineer, or his designee, be, and he hereby is, authorized to sign the



**Item 2 by Ms. Mantello and Mr. Bryan (Appendix B)**  
**Authorizing the Abandonment and Transfer of Jurisdiction of Approximately 0.28 Acre of Canal Land Located in the Town of Mentz, Cayuga County to the New York State Department of Transportation (Continued)**

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 transfer of jurisdiction over such lands to the New York State Department of Transportation (“DOT”) in accordance with all other terms of this agenda item be, and hereby is, authorized, and be it further

RESOLVED, that the Executive Director, or his designee, be, and hereby is, authorized to execute all documents to effectuate such transfer, 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 implement this Board item, and be it further

RESOLVED, that the transfer of jurisdiction over the subject Property must be completed in accordance with all applicable provisions of the Canal Real Property Management Policy, and be it further

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

**Item 3 by Ms. Mantello and Mr. Bryan (Appendix C)**  
**Approval of Extension of 180 days to Complete the Sale Authorized By Resolution No. 470 of Approximately 0.515 Acre of Canal Land Located in the Village of Newark, County of Wayne to Gerald and Connie Deary**

Ms. Mantello reported that this resolution is requesting an approval of an extension of 180 days to complete the sale, authorized by Resolution No. 470, of



**Item 3 by Ms. Mantello and Mr. Bryan (Appendix C)**  
**Approval of Extension of 180 days to Complete the Sale Authorized By Resolution No. 470 of Approximately 0.515 Acre of Canal Land Located in the Village of Newark, County of Wayne to Gerald and Connie Deary (Continued)**

approximately .515 acre of Canal land located in the Village of Newark, Wayne County to Gerald and Connie Deary. The sale price of the property is \$12,300 and an external appraisal was obtained. A copy of the Resolution No. 470 is attached to the item and it does comply with the 2009 Public Authorities Reform Act.

Mr. Conway inquired as to how far away the property is from the edge of the Canal, adding that it looks close. Ms. Mantello responded in the informative and that it is waterfront property where the garage actually encroaches on Canal land. The property owner wants to cure that encroachment, but it is Canal front property. It is not directly on the canal, but it is waterfront property. Mr. Conway stated that it looks to be only 100 yards back from the Canal. Ms. Mantello responded that it is close to Vanburen Street, but it's probably more than 500 yards back. Mr. Bryan added that it's quite close actually, but remember the appraised value is \$12,300 for half an acre and in that area, that's a pretty high price. Mr. Fleischer stated that this doesn't increase or decrease the access to the Canal, it's just curing an encroachment. Mr. Bryan added that there's an existing house that is used on that person's property.

Mr. Conway stated that \$12,300 doesn't sound like a high price for waterfront property. Mr. Fleischer responded that it's just for the encroachment. None of the access to or from the Canal will change by curing the encroachment. So they are paying \$12,300 just to cure their encroachment, not to get access that they otherwise wouldn't have to the canal. Mr. Conway asked if there is a fence or anything to prevent them from having access to the Canal. Mr. Bryan stated that they already have access to the canal with the residence. Ms. Mantello added that the garage is on canal land, but they have access to the Canal.

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

**RESOLUTION NO. 496**  
**APPROVAL OF EXTENSION OF 180 DAYS TO  
COMPLETE THE SALE AUTHORIZED BY  
RESOLUTION NO. 470 OF APPROXIMATELY 0.515  
ACRE OF CANAL LAND LOCATED IN THE VILLAGE  
OF NEWARK, COUNTY OF WAYNE TO GERALD AND  
CONNIE DEARY**

---



**Item 3 by Ms. Mantello and Mr. Bryan (Appendix C)**  
**Approval of Extension of 180 days to Complete the Sale Authorized By Resolution No. 470 of Approximately 0.515 Acre of Canal Land Located in the Village of Newark, County of Wayne to Gerald and Connie Deary (Continued)**

RESOLVED, that an extension of 180 days to complete the sale of approximately 0.515 acre of canal land authorized by Resolution No. 470, be, and the same hereby is, approved, and be it further

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

**Executive Session**

On the motion of Ms. Luh, seconded by Mr. Sall, the Board voted to convene to Executive Session to discuss with counsel, matters protected by the attorney-client privilege.

The Board did not take a vote on the matters discussed in Executive Session and as such did not return to public session.

**Adjournment**

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

---

Jill B. Warner  
Secretary

