



**MINUTES**  
**NEW YORK STATE CANAL CORPORATION**  
**BOARD MEETING NO. CC-180**  
**December 17, 2012**

Minutes of a meeting of the New York State Canal Corporation held at the CUNY Graduate Center, 365 Fifth Avenue, New York, New York and the New York State Thruway Authority Boardroom, R. Burdell Bixby Administrative Building, 200 Southern Boulevard, Albany, New York.

The meetings of the New York State Thruway Authority and Canal Corporation Boards opened in joint session for the consideration of various matters. These minutes reflect only those items considered by the New York State Canal Corporation Board. The meeting began at 2:00 p.m.

There were present:

Chairman Howard P. Milstein  
Donna J. Luh, Vice Chairperson  
J. Donald Rice, Jr., Board Member  
Brandon R. Sall, Board Member  
Richard N. Simberg, Board Member  
Jose-Holguin-Veras, Ph.D., Board Member, via video conference  
E. Virgil Conway, Board Member

**Constituting all of the members of the Thruway Authority Board.**

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

**Thomas J. Madison, Jr., Executive Director**

**Thomas J. Ryan, Chief of Staff**

**John Bryan, Chief Financial Officer and Treasurer**

**William Estes, General Counsel**

**Ted Nadratowski, Interim Tappan Zee Project Director**

**Jill B. Warner, Board Administrator and Secretary**

**Jonathan Ehrlich, Special Assistant to the Chairman**

**Shane Mahar, Special Assistant to Thomas J. Madison**

**Karen Wilson, Information Technology Specialist III**

**Captain Weber, Troop T**

**Sergeant Tryon, Troop T, via video conference**

**Kathleen Lefave, Special Assistant to Thomas J. Ryan, via video conference**

**William Ringwood, Assistant Director, Office of Contract Management**

**Harry Lennon, Acting Director of Audit & Management Services**

**Tanya Morris, Administrative Assistant to Thomas J. Madison**

**Michele Errico, Community Relations Specialist, NY Division**

**Michael Shamma, Acting Chief Engineer**

**Brian Stratton, Director, Canal Corporation**

**Daniel Weiller, Director, Office of Public Affairs**

**Todd Gold, Inter-Governmental Relations, via video conference**

**Also in attendance:**

**Ervel Douse, Expedite Video Conferencing Services**

**Jeffrey Parker, Senior Managing Director, Ernst & Young**

**Robert Brownstein, Vice President, AECOM**

**Robert Pattison, Executive Director, J. P. Morgan Chase**

**Stanley Kramer, Partner, Hawkins Delafield & Wood LLP**

**Matthew Hobby, Senior Manager, Ernst & Young**

**Michael Anderson, NYS Department of Transportation**

David J. Spara, Director, Toski & Co.  
Tom Zambito, Reporter, Newsday  
Andrea Riquier, Reporter, Debtwire Municipals  
Maria Corrado, NYS Department of Transportation  
Jim Smith, Reporter, WCBS 880  
Theresa Juva-Brown, Reporter, Journal News/LoHud.com  
Dave Paget, Principal, Sive, Paget & Risel, P.C.  
Steven Polan, Partner, Manatt Phelps & Phillips, LLP  
Mark Roche, Americas Highways Business Leader, ARUP  
Martha Gross, Senior Consultant – Transaction Advice, ARUP  
Richard Anderson, President, New York Building Congress  
Tom Minnick, Director, The Business Council  
David Wilson, Reporter, Journal News  
Veronica Vanterpool, Executive Director, Tri-State Transportation Campaign  
Vincent Pellecchia, General Counsel, Tri-State Transportation Campaign  
Ronald Peek, Consultant, Dack Consulting Solutions, Inc.  
Alex Saunders, public  
Murray Bodin, public

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

Chairman Milstein called the meeting of the Thruway Authority and Canal Corporation Boards to order. (57:36)

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

---

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

**Approval of Minutes of Meeting No. CC-179 (57:55)**

On the motion of Mr. Conway, seconded by Mr. Sall, without any objections, the Board approved the minutes of Meeting No. CC-179 held on May 30, 2012, which were made available to the Board Members as part of the Agenda.

**Item 2 by Mr. Bryan (Appendix B)**  
**Revisions to the 2012 Financial Plan and the 2013 Proposed Budget for the New York State Thruway Authority and the New York State Canal Corporation (57:55)**

This Item was advanced to the Board at the recommendation of the Finance Committee.

On the motion of Mr. Conway seconded by Mr. Sall, without any objections, the Board unanimously adopted the following resolution:

**RESOLUTION NO. 570**  
**APPROVAL OF REVISIONS TO THE 2012  
FINANCIAL PLAN AND THE 2013 PROPOSED  
BUDGET FOR THE NEW YORK STATE THRUWAY  
AUTHORITY AND NEW YORK STATE CANAL  
CORPORATION**

---

RESOLVED, that the Report on the 2012 Financial Plan as presented in this item be, and the same hereby is, accepted by the Board, and be it further

RESOLVED, that the Chief Financial Officer be, and he hereby is, authorized to make any and all adjustments to the appropriate funds consistent with this revised Financial Plan for 2012, and be it further

RESOLVED, that the Chief Financial Officer be, and he hereby is, authorized to make any other adjustments based on actual results that are consistent with this projected plan, and report such actions to the Board, and be it further

RESOLVED, that the Authority's proposed Budget for the fiscal year 2013, submitted by the Executive Director and

the Chief Financial Officer, be, and the same hereby is, approved and funded in accordance with the attached Exhibit II, and be it further

RESOLVED, that the Executive Director or his 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 to the New York State entities 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 3 by Mr. Shamma (Appendix C)**  
**Approving the 2013 Thruway and Canal Contracts Program (57:55)**

This Item was advanced to the Board at the recommendation of the Finance Committee.

On the motion of Mr. Conway seconded by Mr. Sall, without any objections, the Board unanimously adopted the following resolution:

**RESOLUTION NO. 571**  
**APPROVING THE 2013 THRUWAY AND CANAL CONTRACTS PROGRAMS**

---

RESOLVED, that the 2013 Thruway and Canal Contracts Programs for Highway, Bridge, Intelligent Transportation Systems, Architectural, Canals and related

facility projects, full copies of which have been provided to the Boards for review, be, and the same hereby are, approved, and be it further

RESOLVED, that the Chief Engineer be, and hereby is, 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 2013 Thruway and Canal Contracts Programs;

B. to hold the respective Engineer's/ Architect's Estimates of Cost for such contracts confidential until after contracts have been awarded;

C. to advertise for receipt of bids for those projects which are tabulated in the 2013 Thruway and Canal Contracts Programs: (1) when the final Engineer's/Architect's Estimate of Cost is equal to or less than the project's budget allocations, and (2) when the final Engineer's/Architect's Estimate of Cost does not exceed the project's budget allocation by more than \$75,000 for projects with budget allocations of up to and including \$500,000 or by more than 15 percent for projects with budget allocations that exceed \$500,000 provided confirmation is received from the Department of Finance and Accounts that sufficient funds are available in the 2013 Thruway and Canal Contracts Programs for the final Engineer's/Architect's Estimate of Cost, or (3) when the final Engineer's/Architect's Estimate of Cost exceeds the project's budget allocation beyond the limits in (2), provided that he receives prior approval of the Executive Director and confirmation from the Department of Finance and Accounts

that sufficient funds are available in the 2013 Thruway and Canal Contracts Programs for the final Engineer's/Architect's Estimate of Cost;

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

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

2. the low bid exceeds the Engineer's/Architect's Estimate of Cost by no more than \$75,000 on contracts up to and including \$500,000, or by no more than 15 percent on contracts over \$500,000 and confirmation is received from 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 Engineer's/Architect's Estimate of Cost amount and the low bid; or

3. the low bid exceeds the Engineer's/Architect's Estimate of Cost by no more than \$100,000 on contracts up to and including \$500,000, or by no more than 20 percent on contracts over \$500,000, provided that he receives prior approval of the Executive Director and confirmation from 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 Engineer's/Architect's Estimate of Cost amount and the low bid; or

4. the low bid exceeds the limits of (1), (2) or (3) provided he obtains 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 or Corporation'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, utilizing the procedure set forth in Executive Instruction 2011-4, Procedure for Declared Emergency Work, prepare and approve Official Proposals, Plans and Specifications, Engineer's/Architect's Estimates of Cost and Contract Documents, including amendments and order-on- contracts, award (pursuant to paragraph D) and reject bids (pursuant to paragraph E) for such work being progressed to address a declared emergency, provided that the total of the Engineer's/Architect's Estimate of Cost for any such contract, amendment or order-on-contract does not exceed \$2,000,000; the Board will receive contemporaneous notifications of those actions taken for emergency work;

G. to approve contingent or extra work on construction contracts, when necessary, provided the additional cost shall not exceed the bid price by more than \$150,000 for contracts bid up to and including \$1,000,000, or 15 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 Executive Director, provided the final cost of the respective contract 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;

H. 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;

I. to acquire and grant such property interests (fee title, easements, etc.) in accordance with the provisions of the Authority's and Corporation's Real Property Management Policies, as may be necessary for implementation of the 2013 Thruway and Canal Contracts Programs, provided that the total amount of acquisitions or the amount of grants for any one project shall not exceed \$150,000 without Board authorization;

J. 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 2013 Thruway and Canal Contracts Programs;

K. to execute 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 of a Board approved agreement including a Board approved supplemental agreement, in the case of agreements over \$3,000,000;

L. to execute, with the prior approval of the Executive Director, a supplemental agreement for the 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 of such Board approved agreement including a Board approved supplemental agreement and any additional funds authorized in paragraph K; and provided further, when such supplemental agreement includes additional new design or construction inspection tasks, such approval must be based upon a determination that the assignment of the additional tasks is in the best interests of the Authority or Corporation: when considering the proximity of the additional tasks to the ongoing tasks, or to expedite the additional tasks through such assignment, or that significant savings to the Authority or Corporation will result through the assignment of the additional tasks;

M. to exercise all powers reserved to the Authority and Corporation under the provisions of any contracts or agreements executed pursuant to these items, 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 Authority or 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 these resolutions 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 shall be, and hereby is,

authorized to make all necessary decisions pursuant to the State Environmental Quality Review Act (SEQRA) with relation to the 2013 Thruway and Canal Contracts Programs, and be it further

RESOLVED, that quarterly reports shall be submitted to the Board by the Chief Engineer on: all awarded construction contracts; approved additional funds for construction contracts over and above the contingency funds; and all engineering agreements and supplemental engineering agreements, approved pursuant to the provisions of these resolutions, and be it further

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 2013 Budgets which are otherwise not required for expenditure during 2013 to the proper fund in accordance with acceptable budgeting and accounting procedures;

B. to monitor total cash expenditures for the 2013 Contracts Programs to insure that they do not exceed \$286,850,439 for the Thruway Authority and \$49,988,978 for the Canal Corporation during the 2013 Fiscal Year;

C. to return bid checks submitted for such contracts to unsuccessful bidders, and to make necessary adjustments in the respective 2013 approved Budgets as required by implementation of any part of this Resolution, and be it further

RESOLVED, that the provisions of this resolution shall be deemed to supersede all other inconsistent Authority and Corporation policies and procedures to the extent necessary to implement the approved 2013 Thruway and

Canal Contracts Programs and for no other purposes, and be it further

RESOLVED, that these resolutions be incorporated in the minutes of this meeting

**Item 4 by Mr. Stratton and Mr. Bryan (Appendix D)**  
**Authorizing the Abandonment of Real Property Reference No. AC060037, Approximately 1.127± Acres of Canal Land Located in the Town of Fort Edward, Washington County; and Authorizing Its Sale to The Fort Miller Group (1:04:18)**

On the motion of Mr. Sall, seconded by Mr. Conway, without any objections, the Board unanimously adopted the following resolution:

**RESOLUTION NO. 572**  
**AUTHORIZING THE ABANDONMENT OF REAL PROPERTY REFERENCE NO. AC060037, APPROXIMATELY 1.127± ACRES OF CANAL LAND LOCATED IN THE TOWN OF FORT EDWARD, WASHINGTON COUNTY; AND AUTHORIZING ITS SALE TO THE FORT MILLER GROUP, INC.**

---

RESOLVED, that approximately 1.127± acres of Canal land located in the Town of Fort Edward, County of Washington 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 the sale of said 1.127± acres of Canal land by quitclaim deed to The Fort Miller Group, Inc. for \$20,111, consistent with the terms of this agenda item, be, and hereby is, approved, subject to such other legal, financial, engineering, and such 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 the Executive Director, or his designee, be, and the same hereby is, authorized to execute an Agreement for Sale of Real Property with The Fort Miller Group, Inc. and any amendments and/or conforming changes thereto consistent with the terms of this agenda item, along with all other documents necessary to effectuate the conveyance of the Property, in accordance with the terms authorized during this meeting, and be it further

RESOLVED, that the Office of Canal Maintenance and Operations shall prepare an Official Order abandoning the lands 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, or his designee, 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, that 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 Canal Corporation Board with relation to this action, and be it further

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

RESOLVED, that the Corporation's Contracting Officer determined that a sale of the Property on the terms recommended in the agenda item complies with all applicable provisions of law relating to disposal of real property, 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 this resolution be incorporated in the minutes of this meeting

**Item 5 by Mr. Stratton and Mr. Bryan (Appendix E)**  
**Abandonment of a Permanent Easement In, On and Over Approximately 1.935± Acres of Canal Land Located in the Town of Perinton, County of Monroe; and Authorizing Its Transfer to the Town of Perinton (1:04:18)**

On the motion of Mr. Sall, seconded by Mr. Conway, without any objections, the Board unanimously adopted the following resolution:

**RESOLUTION NO. 573**  
**ABANDONMENT OF A PERMANENT EASEMENT IN, ON AND OVER APPROXIMATELY 1.935± ACRES OF CANAL LAND LOCATED IN THE TOWN OF PERINTON, COUNTY OF MONROE; AND AUTHORIZING ITS TRANSFER TO THE TOWN OF PERINTON**

---

RESOLVED, that interests in approximately 1.935± acres of Canal land located in the Town of Perinton, 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 following publication of a notice of abandonment 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 lands for Canal purposes, together with a map and description of such lands for review and execution by the Director of Maintenance and Operations, 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 transfer of a permanent easement of approximately 1.935± acres of Canal land to the Town of Perinton for \$1.00 (one dollar), on the terms described and recommended in this agenda item, be and hereby is, approved, subject to such other legal, financial, engineering, and other terms as may be deemed by the Executive Director, the Chief of Staff, 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 transfer 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 the easement in, on and over 1.935± acres of land may be sold by negotiation without public advertising because such disposal falls under Section 2897 (6) (c) (v) of the Public Authorities Law, and Section IV.H. of the Canal Real Property Management Policy, and that the

transfer 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 based upon the information provided by the Town of Perinton and Canal Corporation staff, that there is no reasonable alternative to the proposed below fair-market-value transfer that would achieve the same purpose of the proposed transfer to the Town of Perinton, and be it further

RESOLVED, that the Executive Director, or his designee, be authorized to execute the contract of sale, and all other documents necessary for conveying an easement interest, and be it further

RESOLVED, that the Executive Director, the Chief of Staff, the Director of Canals, the Chief Financial Officer, and the General Counsel be, and the same hereby is, 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 6 by Mr. Shamma (Appendix F)**  
**Authorizing Execution of Statewide Canal Design Term Agreement D214130**  
**with T.Y. Lin International Engineers, Architects & Land Surveying, P.C.**  
**(1:13:37)**

On the motion of Mr. Sall, seconded by Mr. Conway, without any objections, the Board unanimously adopted the following resolution:

**RESOLUTION NO. 574**  
**AUTHORIZING EXECUTION OF STATEWIDE**  
**CANAL DESIGN TERM AGREEMENT D214130**

**WITH T.Y. LIN INTERNATIONAL ENGINEERS,  
ARCHITECTS & LAND SURVEYING, P.C.**

---

RESOLVED, that the Chief Engineer be, and hereby is, authorized to execute engineering agreement D214130 with T.Y. Lin International Engineers, Architects & Land Surveying, P.C., 255 East Avenue, Rochester, New York 14604 for Canal design services statewide, provided that the Maximum Amount Payable does not exceed \$2,000,000 (Item CS14.1 of the 2013 Contracts Program), and such agreement shall be on such other terms and conditions as the Chief Engineer, in consultation with the General Counsel, determines to be in the best interest of the Corporation and be it further

RESOLVED, that the Chief Engineer or his 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 2013 Contracts Program Resolution and other Board authorizations, and suspend or terminate the agreement in the best interest of the Corporation, and be it further

RESOLVED, that the information relating to this agreement be included in the Chief Engineer's Quarterly Report to the Board on Contracts Program activities, such information to include the date of execution of the agreement, and be it further

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

**PUBLIC COMMENT PERIOD**

There were two public speakers who addressed items specific to the Authority agenda. Refer to the video recording of the meeting for the content of the speaker's statements.

Murray Bodin, public (1:14:49)

Alex Saunders (1:17:07)

### **OTHER BUSINESS**

Chairman Milstein introduced and welcomed Acting Chief Engineer Michael Shamma to the Authority/Corporation. (58:12)

### **ADJOURNMENT**

There being no further business to come before the Board, without any objections, on the motion of Chairman Milstein, with no objections, the meeting was adjourned. (1:24:25)

---

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 four months.*