



MINUTES

NEW YORK STATE CANAL CORPORATION

BOARD MEETING NO. CC-147

May 16, 2007

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 10:30 a.m.

There were present:

**John L. Buono, Chairman
Nancy E. Carey Cassidy, Vice Chairman
E. Virgil Conway, Board Member
Erin M. Crotty, Board Member
Frederick M. Howard, Board Member
Kevin J. Plunkett, Board Member**

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

Board Member Williams 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

John Bryan, Chief Financial Officer
Sharon O’Conor, General Counsel
William Rinaldi, Director, Albany Division
Christopher Waite, Chief Engineer
Jill Warner, Secretary and Board Administrator
Daniel Gilbert, Chief of Staff
Wendy Allen, Deputy Chief of Staff
John Barr, Director, Administrative Services
Donald Bell, Director, Operations and Maintenance
Carmella Mantello, Director of Canal Corporation
Michael Flynn, Director, Audit & Management Services
Kevin Allen, Unit Supervisor, Audit & Management Services
Cathy Sheridan, Canal Capital Program Manager
Betsy Graham, Acting Director, Office of Public Affairs
John Brizzell, Transportation Federation Liaison
Tracie Sandell, Assistant Counsel
Peter Casper, Assistant Counsel
Carolyn Laney, Director of Long Range Planning, Policy and Analysis
Liz Yanus, Office Manager, Office of the Deputy Chief of Staff
Michael Sikule, Director, Office of Investments and Asset Management
William Leslie, Director, Buffalo Division
Lawrence Frame, Deputy Director, Canal Corporation
Jennifer Meicht, Deputy Director, Canal Office of Communications and Marketing
Steve Sweeney, Canal Engineer, Albany Division
Ramesh Mehta, Director, New York Division
Richard Garrabrant, Director, Syracuse Division
Thomas Pericak, Deputy Division Director, Buffalo Division
Richard Harris, Deputy Director of Canal Community Development & Land Management
Susan Young, Director, Systems Management Team
Kenneth Flood, Director, Real Property Management
Lieutenant Gene Demczar, Troop T
Also in Attendance:
Stanley Kramer, Bond Counsel, Hawkins Delafield & Wood, LLP
Cathy Woodruff, Reporter, *Albany Times Union*
Staffer, Assemblyman Stephen Hawley’s Office

Chairman Buono noted that he, Mr. Howard, Mr. Plunkett, Mr. Conway, Ms. Crotty and Ms. Carey Cassidy 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.

Item 1 by Ms. Warner (Appendix A)
Minutes of Meeting No. CC-146

On the motion of Ms. Carey Cassidy, seconded by Mr. Plunkett, without any objections, the Board approved the minutes of Meeting No. CC-146 held on April 18, 2007 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 January 1, 2007 through March 31, 2007

Mr. Fleischer submitted as Exhibit I a listing containing Personal Service Contracts up to \$150,000 for the period of January 1, 2007 through March 31, 2007.

After full discussion, on the motion of Mr. Conway, seconded by Mr. Plunkett, without any objections, the Board accepted Mr. Fleischer's report.

Item 3 by Ms. Mantello and Mr. Bryan (Appendix C)
Authorizing: Withdrawal of Canal Corporation Board Resolution No. 308 Adopted at Meeting CC-105 Held on December 5, 2002; Abandonment of Approximately 0.32 Acre of Canal Land Located in the Town of Forestport, County of Oneida; and Authorizing its Sale to Donna and Gardner Broadbent

Mr. Plunkett asked for clarification of "flowage rights." Ms. Mantello advised that the term refers to a release from liability for Canal overflow. He subsequently inquired if there are any flooding issues associated with the property, to which Ms. Mantello provided a negative response.

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

RESOLUTION NO. 422

AUTHORIZING: WITHDRAWAL OF CANAL CORPORATION BOARD RESOLUTION NO. 308 ADOPTED AT MEETING NO. CC-105 HELD ON DECEMBER 5, 2002; ABANDONMENT OF APPROXIMATELY 0.32 ACRE OF CANAL LAND LOCATED IN THE TOWN OF FORESTPORT, COUNTY



Item 3 by Ms. Mantello and Mr. Bryan (Appendix C)

Authorizing: Withdrawal of Canal Corporation Board Resolution No. 308 Adopted at Meeting CC-105 Held on December 5, 2002; Abandonment of Approximately 0.32 Acre of Canal Land Located in the Town of Forestport, County of Oneida; and Authorizing its Sale to Donna and Gardner Broadbent (Continued)

**OF ONEIDA; AND AUTHORIZING ITS SALE TO
DONNA AND GARDNER BROADBENT**

RESOLVED, that approximately 0.32 acre of Canal land located in the Town of Forestport, County of Oneida is no longer useful or necessary as part of the Barge Canal System, as an aid to navigation thereon, or for Barge Canal purposes, provided, however, that flowage rights over such property still are necessary and useful; and be it further

RESOLVED, that the Office of Canal Maintenance and Operations shall prepare an Official Order abandoning the land for canal purposes, reserving, however, flowage rights to the Canal Corporation, together with a map and description of such lands for review by the Executive Director; and be it further

RESOLVED, that 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, 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



Item 3 by Ms. Mantello and Mr. Bryan (Appendix C)

Authorizing: Withdrawal of Canal Corporation Board Resolution No. 308 Adopted at Meeting CC-105 Held on December 5, 2002; Abandonment of Approximately 0.32 Acre of Canal Land Located in the Town of Forestport, County of Oneida; and Authorizing its Sale to Donna and Gardner Broadbent (Continued)

RESOLVED, that the sale of said approximately 0.32 acre of land by quitclaim deed to Donna and Gardner Broadbent for \$7,000 reserving flowage rights to the Canal Corporation over such property 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 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 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



Item 3 by Ms. Mantello and Mr. Bryan (Appendix C)

Authorizing: Withdrawal of Canal Corporation Board Resolution No. 308 Adopted at Meeting CC-105 Held on December 5, 2002; Abandonment of Approximately 0.32 Acre of Canal Land Located in the Town of Forestport, County of Oneida; and Authorizing its Sale to Donna and Gardner Broadbent (Continued)

take all actions necessary to effectuate closing of title and implement this Board Item; and be it further

RESOLVED, that Resolution No. 308 adopted at Meeting No. CC-105 held on December 5, 2002 be, and the same hereby is, withdrawn; and be it further

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

Item 4 by Ms. Mantello and Mr. Bryan (Appendix D)

Extending the Expiration of Provisions Previously Approved Under Resolution No. 379, Authorizing the Abandonment of Approximately 1, 622 Acres of Canal Lands Located in the Towns of Western and Rome, County of Oneida, for a Transfer of Jurisdiction over Such Lands by the New York State Office of General Services to the New York State Office of Parks, Recreation and Historic Preservation

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

RESOLUTION NO. 423

EXTENDING THE EXPIRATION OF PROVISIONS PREVIOUSLY APPROVED UNDER RESOLUTION NO. 379, AUTHORIZING THE ABANDONMENT OF APPROXIMATELY 1,622 ACRES OF CANAL LANDS LOCATED IN THE TOWNS OF WESTERN AND ROME, COUNTY OF ONEIDA, FOR A TRANSFER OF JURISDICTION OVER SUCH LANDS BY THE NEW YORK STATE OFFICE OF GENERAL SERVICES TO THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION



Item 4 by Ms. Mantello and Mr. Bryan (Appendix D)
Extending the Expiration of Provisions Previously Approved Under Resolution No. 379... (Continued)

RESOLVED, that the expiration of provisions previously approved under Resolution No. 379 be, and the same hereby is, extended through December 31, 2007; and be it further

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

Item 5 by Ms. Mantello and Mr. Bryan (Appendix E)
Extending the Expiration of Provisions Previously Approved Under Resolution No. 378, Authorizing: Abandonment of Approximately 14,810 Square Feet of Canal Land Located in the Town of Arcadia, County of Wayne; and Authorizing Sale of Such Land to Helen Fellows; Abandonment of Approximately 12,197 Square Feet of Canal Land Located in the Town of Arcadia, County of Wayne; and Authorizing Sale of Such Land to June Renner; Abandonment of Approximately 16,117 Square Feet of Canal Land Located in the Town of Arcadia, County of Wayne; and Authorizing Sale of Such Land to Christina Robertson; Abandonment of Approximately 13,504 Square Feet of Canal Land Located in the Town of Arcadia, County of Wayne; and Authorizing Sale of Such Land to Robert and June Wage

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

RESOLUTION NO. 424

EXTENDING THE EXPIRATION OF PROVISIONS PREVIOUSLY APPROVED UNDER RESOLUTION NO. 378, AUTHORIZING: ABANDONMENT OF APPROXIMATELY 14,810 SQUARE FEET OF CANAL LAND LOCATED IN THE TOWN OF ARCADIA, COUNTY OF WAYNE; AND AUTHORIZING SALE OF SUCH LAND TO HELEN FELLOWS; ABANDONMENT OF APPROXIMATELY 12,197 SQUARE FEET OF CANAL LAND LOCATED IN THE TOWN OF ARCADIA, COUNTY OF WAYNE; AND AUTHORIZING SALE OF SUCH LAND TO JUNE RENNER; ABANDONMENT OF APPROXIMATELY 16,117 SQUARE FEET OF CANAL LAND LOCATED IN THE



Item 5 by Ms. Mantello and Mr. Bryan (Appendix E)
Extending the Expiration of Provisions Previously Approved Under Resolution No. 378... (Continued)

**TOWN OF ARCADIA, COUNTY OF WAYNE; AND
AUTHORIZING SALE OF SUCH LAND TO CHRISTINA
ROBERTSON; ABANDONMENT OF APPROXIMATELY
13,504 SQUARE FEET OF CANAL LAND LOCATED IN
THE TOWN OF ARCADIA, COUNTY OF WAYNE; AND
AUTHORIZING SALE OF SUCH LAND TO ROBERT
AND JUNE WAGE**

**RESOLVED, that the expiration of provisions
previously approved under Resolution No. 378 be, and the
same hereby is, extended through November 16, 2007; and
be it further**

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

Item 6 by Mr. Waite (Appendix F)
**Authorizing Negotiation and Execution of a Term Agreement D213674 with FRA
Engineering, P.C. for Design Services Relative to the Rehabilitation and Repair of Canal
System Components Statewide**

Ms. Carey Cassidy asked if FRA Engineering, P.C. has done work for the Authority in the past. Mr. Waite responded affirmatively, adding that the firm is reputable.

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

RESOLUTION NO. 425
**AUTHORIZING NEGOTIATION AND EXECUTION OF
A TERM AGREEMENT D213674 WITH FRA
ENGINEERING, P.C. FOR DESIGN SERVICES
RELATIVE TO THE REHABILITATION AND REPAIR
OF CANAL SYSTEM COMPONENTS STATEWIDE**



Item 6 by Mr. Waite (Appendix F)

Authorizing Negotiation and Execution of a Term Agreement D213674 with FRA Engineering, P.C. for Design Services Relative to the Rehabilitation and Repair of Canal System Components Statewide (Continued)

RESOLVED, that the Chief Engineer be, and hereby is, authorized to negotiate and execute engineering agreement D213674 with FRA Engineering, P.C., 530 Summit Point Drive, Henrietta, New York 12572, for design services relative to the rehabilitation and repair of Canal system components statewide, provided that the Maximum Amount Payable does not exceed \$1,500,000 which is currently provided through the 2007 Contracts Program (Item CS2.1), 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 2007 Contracts Program Resolution No. 396 and other Board authorizations, and suspend or terminate the agreement in the best interests 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 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 7 by Mr. Waite (Appendix G)

Authorizing Additional Funding for TAA 04-29C, D213172, Rehabilitation of Movable Dam 6 at Lock E-10 in the Albany Division

Ms. Carey Cassidy asked if the \$300,000 spillway construction cost was included in the original bid and Engineer's Estimate. Mr. Waite advised that the preliminary estimate was inaccurate. He added that the new spillway will be sturdier and able



Item 7 by Mr. Waite (Appendix G)

Authorizing Additional Funding for TAA 04-29C, D213172, Rehabilitation of Movable Dam 6 at Lock E-10 in the Albany Division (Continued)

to withstand a flooding event similar to the June 2006 flood. Mr. Howard noted that standards have changed since the estimate was first made.

Mr. Plunkett inquired whether 75 percent of the funds will be provided by the Federal Emergency Management Office. Ms. Mantello advised that funding has not yet been committed, but is anticipated that FEMA will reimburse 75 percent for the increase.

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

RESOLUTION NO. 426

AUTHORIZING ADDITIONAL FUNDING FOR TAA 04-29C, D213172, REHABILITATION OF MOVABLE DAM 6 AT LOCK E-10 IN THE ALBANY DIVISION

RESOLVED, that additional funding in the amount of \$1,180,000 be authorized for TAA 04-29C, D213172, with a revised contract value of \$19,718,988, and be it further

RESOLVED, that the Corporation declares that this Canal system project is deemed to be necessary due to the existence of an emergency involving danger to life, safety or property and in accordance with the provisions of Section 383(1)(c) of the Public Authorities Law and authorizes the use of \$295,000 in bond proceeds issued in accordance with the provisions of the Public Authorities Law towards the emergency repair project, and be it further

RESOLVED, that the 2007 Contracts Program be amended to account for the additional \$1,180,000 for TAA 04-29C, and that a sum of \$295,000 in 2007 Thruway funds be, and the same hereby is, allocated toward the project from bid savings and other adjustments made to the 2007 Contracts Program, and be it further



Item 7 by Mr. Waite (Appendix G)

Authorizing Additional Funding for TAA 04-29C, D213172, Rehabilitation of Movable Dam 6 at Lock E-10 in the Albany Division (Continued)

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 8 by Ms. Mantello (Appendix H)

Authorizing the Executive Director to Provide the United States Environmental Protection Agency (“USEPA”) Region II with Written Notice of Canal Corporation’s Intention to Fully Comply with USEPA’s Access Order Index No. CERCLA-02-2007-2017, Granting Access to USEPA and Its Named Designee, General Electric Company (“GE”), to Two Parcels of Property Under Canal Corporation’s Jurisdiction, and Continued Access to a Third Parcel Previously Authorized Temporarily by the Board, to Effectuate the Hudson River PCB Cleanup Project

Mr. Howard commended staff for protecting the Canal Corporation’s interests in this matter.

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

RESOLUTION NO. 427

AUTHORIZING THE EXECUTIVE DIRECTOR TO PROVIDE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (“USEPA”) REGION II WITH WRITTEN NOTICE OF CANAL CORPORATION’S INTENTION TO FULLY COMPLY WITH USEPA’S ACCESS ORDER INDEX NO. CERCLA-02-2007-2017, GRANTING ACCESS TO USEPA AND ITS NAMED DESIGNEE, GENERAL ELECTRIC COMPANY (“GE”), TO TWO PARCELS OF PROPERTY UNDER CANAL



Item 8 by Ms. Mantello (Appendix H)

Authorizing the Executive Director to Provide the United States Environmental Protection Agency (“USEPA”) Region II with Written Notice of Canal Corporation’s Intention to Fully Comply with USEPA’s Access Order Index No. CERCLA-02-2007-2017... (Continued)

CORPORATION’S JURISDICTION, AND CONTINUED ACCESS TO A THIRD PARCEL PREVIOUSLY AUTHORIZED TEMPORARILY BY THE BOARD, TO EFFECTUATE THE HUDSON RIVER PCB CLEANUP PROJECT

RESOLVED, that the Executive Director, or his designee, be and hereby is authorized, to issue a written notice of compliance to the USEPA’s Access Order Index No. CERCLA-02-2007-2017, permitting USEPA and its designee, GE, access (to the extent required under the Access Order) to three parcels consisting of the following: (1) the 25 acres of Canal Corporation property the USEPA selected as the appropriate location for the transfer facility; (2) the property for the proposed location of the alternative access road just north of lock C-8; and (3) property just west of Roger’s Island to be used as a Marina Support Facility; and be it further

RESOLVED, that the Board directs the staff to continue efforts to ensure that the Canal Corporation receives fair compensation, appropriate protection from liability as well as necessary access to the Canal facilities to meet its continuing obligations to operate and maintain the Canal during EPA’s use and occupancy of these properties; and be it further

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



Item 9 by Ms. Mantello (Appendix I)

Disposal of Canal Dredge Spoil Material to the Village of Sylvan Beach to be Used by the Village to Rebuild Its Public Beachfront

Mr. Conway asked what the cost of removing the dredged spoil material was estimated to be. Ms. Mantello advised that the cost was \$.50 per cubic yard, which totals \$15,000 for the estimated 30,000 cubic yards.

Ms. Carey Cassidy directed that the indemnification letter proposed by the Village of Sylvan Beach be expanded to cover all potential liability to the extent possible.

Ms. Crotty asked if the Canal Corporation tested the dredge spoil material. Ms. Mantello responded affirmatively, noting that the spoils have been tested by the DEC and a BUD (Beneficial Use Determined) has been issued.

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

RESOLUTION NO. 427

**DISPOSAL OF CANAL DREDGE SPOIL MATERIAL TO
THE VILLAGE OF SYLVAN BEACH TO BE USED BY
THE VILLAGE TO REBUILD ITS PUBLIC
BEACHFRONT**

RESOLVED, that the Village of Sylvan Beach has requested the use of approximately 30,000 cubic yards of dredge spoil material owned by the Canal Corporation to replace sand and rebuild its public beachfront, which was substantially destroyed in a major storm during the month of October 2006; and be it further

RESOLVED that the Village of Sylvan Beach has cited an immediate need for the sand replacement to prevent irreparable damage to area homes, businesses and roadways, along with the need to ensure that the tourism industry, the predominant economic engine of the east shore of Oneida Lake, is protected; and be it further

RESOLVED, that Canal Corporation staff have determined that additional capacity is needed at a nearby



Item 9 by Ms. Mantello (Appendix I)

Disposal of Canal Dredge Spoil Material to the Village of Sylvan Beach to be Used by the Village to Rebuild Its Public Beachfront (Continued)

upland disposal site (“UDS”) in the vicinity of Sylvan Beach, known as UDS #4-59 in the Town of Verona and that at least 30,000 cubic yards currently located at the site are surplus to the needs of the Corporation and no longer needed for Canal Corporation purposes; and be it further

RESOLVED, that Public Authorities Law Section 2897 (the “Act”) requires that public authorities may sell or transfer personal property, consistent with the fair market value of that property, with limited exceptions; and be it further

RESOLVED, that the New York State Canal Corporation has determined that the type of transaction requested by the Village of Sylvan Beach qualifies under the limited exceptions contained within the Act, since the disposal of personal property would further the public health, safety, or welfare through the protection of homes, businesses, roadways and the economic future of the community and its primary industry, tourism; and be it further

RESOLVED that the Canal Corporation has determined that dredge spoil material is personal property and, therefore, this transaction falls within the terms of General Policy 25-6-02C, entitled “Canal Personal Property Disposal Policy,” approved July 6, 2006, which requires the purpose and terms of this disposal of personal property to be documented in writing and approved by resolution of the Corporation Board; and be it further

RESOLVED that the Board authorizes staff to issue a fee exempt work permit to the Village of Sylvan Beach to remove up to 30,000 cubic yards of dredge spoil material no longer needed for Corporation purposes from a designated upland disposal site, UDS #4-59, in the Town of Verona, to be used for the replenishment and reconstruction of the



Item 9 by Ms. Mantello (Appendix I)

Disposal of Canal Dredge Spoil Material to the Village of Sylvan Beach to be Used by the Village to Rebuild Its Public Beachfront (Continued)

Village's public beachfront in order to protect homes, businesses, roadways and the tourism industry of the region; and be it further

RESOLVED that the Village of Sylvan Beach shall indemnify the Canal Corporation against any liability related to the removal of these spoils, installation along the eroded areas and use of these spoils in perpetuity; and be it further

RESOLVED that the Village of Sylvan Beach shall obtain all necessary permits from any other governing Authorities with jurisdiction over this removal and placement of dredge spoil material; and be it further

RESOLVED that the Executive Director or his designee shall be, and hereby are, authorized to take all actions to implement this Board item; and be it further

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

Adjournment

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

Jill B. Warner
Secretary

