

MINUTES OF THE REGULAR MEETING OF THE
NEW YORK STATE BRIDGE AUTHORITY

HELD AT HEADQUARTERS, HIGHLAND, N.Y. ON
August 18, 2005

Business agenda documents/reports are mailed to the Board Members and General Counsel one week prior to the meeting.

IN ATTENDANCE:

BOARD MEMBERS:

Sproat, James P., Chairman
Dressel, Roderick O., Vice Chairman
Paradies, Walter A., Commissioner
Teator, David A., Commissioner

Whitbeck, Carl G., Jr., Esq., Counsel

OFFICERS:

Sinnott, George C., Secretary
Bresnan, James J., Assistant Secretary
Sewell, John R., Treasurer

Chairman Sproat called the regular meeting of the Authority to order at 3:00 P.M. Chairman Sproat called for a motion to adopt the minutes of the July 21, 2005 meeting if there were no questions or comments. On motion of Vice Chairman Dressel, seconded by Commissioner Paradies, the minutes of the July 21, 2005 regular meeting were adopted unanimously. Chairman Sproat stated that the first order of business was Engineering and Maintenance.

ENGINEERING:

1) Bear Mountain Cable Strengthening Construction Supervision

This contract involves construction of a new cable anchorage and erection of four supplemental cables between the west tower and the west abutment. The design support assignment will be recommended for award to the design engineers, Ammann & Whitney (A&W). This is customary and in compliance with the Authority's procedures. Mr. Moreau proceeded to present the following alternatives with regard to the construction supervision assignment:

- Solicit proposals for an independent engineer with specific qualifications for bridge cable construction.
- Award an additional work assignment to A&W and combine this task with the design support assignment.
- Perform the construction supervision responsibilities with in-house staff.

Mr. Moreau recommended awarding this additional assignment to A&W stating that there is a cost savings with the designer of contract. Mr. Moreau estimated the additional cost for A&W to perform the construction supervision services to be \$75,000, while the cost of an independent engineer could be upwards of \$250,000.00. Chairman Sproat stated this appeared to be a good opportunity to save money. Commissioner Teator asked about the option of having the services performed in-house. General Counsel stated he did not recommend this option due to a lack of insurance. Mr. Moreau stated that utilizing in-house staff posed an additional risk to the Authority in that there is no independent consultant on-site with oversight responsibilities and Owners' Protective Insurance.

Commissioner Paradies inquired about the use of a designer-build assignment. Mr. Moreau stated we are not authorized in our by-laws to award design-build contracts.

Mr. Whitbeck explained there is not a legal process at issue here, merely the requirement to ensure the proper discussion of the policy variance is noted and recorded in the meeting's minutes. The Comptroller's criticism of past Authority actions was not based upon variation from standard policy; moreover that a thorough discussion and decision to vary standard policy on a specific project must be made and documented at the Board level. The legal opinion from Mr. Whitbeck is included in his memo of August 18, 2005, which is replicated on page 5 of these minutes.

Chairman Sproat asked Mr. Moreau to proceed and submit his formal recommendation to the Board.

2) Mid-Hudson Bridge Travelers

Mr. Moreau stated that on Tuesday (August 9th) the maintenance crew discovered traveler number six smashed up against the east abutment. Mr. Moreau presented to the Board a report of the damage along with photographs. Mr. Moreau stated his maintenance supervisor and he inspected the damaged traveler and was unable to determine the cause. Modjeski and Masters, the Authority's general consultants and American Crane, the original manufacturer, have both inspected the damage and will submit a report in the near future. No plausible explanation has yet surfaced from any of the inspections. However, Mr. Moreau speculated that the severe storm that occurred the previous week could have been the cause due to the high winds. Estimated steel repairs will cost approximately \$15,000.00. Mr. Moreau discussed the issue of insurance with the Treasurer and the Authority will not be making a claim based upon the deductible, which far exceeds the repair costs. Two options were presented to the Board for repair work. Piasecki Steel is currently on-site nearing completion of the hand rope replacement contract for the main cable. Piasecki was the original contractor who installed the travelers in 1995 and this work is at the same bridge. The other option is to utilize the recently awarded Emergency Bridge and Highway Repair contract with D.A. Collins. Either contractor would be working on a time-and-material basis. Piasecki Steel would not charge for mobilization and it is Mr. Moreau's recommendation for this assignment. Chairman Sproat stated that the incident is unfortunate but that the economics of this repair work were unavoidable.

General Counsel brought the Board's attention to his opinion and the legal obligation under the Authority's procurement policies and the Public Authorities Law. Mr. Whitbeck's opinion is as follows:

MEMORANDUM

TO: George Sinnott
William Moreau

FROM: Carl G. Whitbeck, Jr.

DATE: August 18, 2005

RE: Traveler Repairs at Mid-Hudson Bridge
Contract Supervision at Bear Mountain Bridge

You have asked me to opine on the legality under our procurement policies and the Public Authorities Law for the Board to vary written policy to meet unique circumstances. Specifically, you have asked the following two (2) questions:

(1) May the Board of the Bridge Authority authorize the retention of the design engineer to perform construction supervision on the same project?

Although the Bridge Authority's policy is to use a separate engineering firm for construction supervision, the Board has the power to vary the policy where the circumstances of a particular project warrant the use of the design engineer as the construction supervisor. This would be especially true when financial savings to the Bridge Authority would be significant and/or the quality of the finished product could be better assured.

(2) Does the Board of the Bridge Authority have the power to assign emergency repairs to an existing contractor where the emergency repairs could be more efficiently and price effectively completed without utilizing the existing emergency repair contractor?

The Board of the Bridge Authority has the power to assign specific emergency repairs to an existing contractor when the change order is not material to the

total contract, the emergency repair can be made more efficiently and cost effectively by using the contractor on the site, and the retained emergency contractor recognizes and consents to the immediacy of the emergency. Even if the retained emergency contractor does not consent, it is my opinion that the Board has the authority to assign such work in a way to cause it to be completed most efficiently and cost effectively for the Bridge Authority.

Chairman Sproat asked Mr. Moreau to follow up with the Board next month and present Engineering's recommendation formally.

3) Kingston Rhinecliff Bridge Neighborhood Noise Complaints

Mr. Moreau wanted the Board to know that local residents were complaining of the noise surrounding the Kingston-Rhinecliff Bridge lead abatement and repainting project. Mr. Moreau stated that the noise complaint probably stemmed from the steel shot blaster being used. Mr. Moreau further stated that the Authority was within its legal rights in accordance with the Town of Ulster Ordinance which exempted construction projects and the performance of them during specified hours and that the blasting phase of the contract would be completed by October 15th.

The Board agreed with Mr. Moreau and General Counsel that the Authority was within their legal rights and that the complaints did not warrant any action on the Authority's part.

4) Monthly Engineering Progress Report

Mr. Moreau presented the Construction Project Report and asked if there were any questions based on the jobs in progress for the period ending July 2005. Commissioner Paradies referred to the cost summary page of the report and asked why the original award and revised contract amount columns different from last month's report under the Rip Van Winkle Bridge from \$3,228,158 to \$3,221,158. Mr. Moreau stated Mr. Fong was the author of this report and that he would consult Mr. Fong and let the Board know why the difference. Mr. Moreau further stated that the report was based on formulas that automatically updated the report to revise costs as the project status changed. Chairman Sproat called for a motion to accept the engineering report as presented, other than the discrepancy and clarification from Engineering. Commissioner Paradies stated that it was not necessary for Mr. Fong to submit a written explanation relative to the discrepancy that Mr. Fong could let him know verbally. On motion of Commissioner Paradies, seconded by Vice Chairman Dressel, the following resolution was approved unanimously:

NEW YORK STATE BRIDGE AUTHORITY

BOARD RESOLUTION

Resolution No.: 05-085

Resolution Date: August 18, 2005

WHEREAS, the Board has reviewed the monthly Engineering Progress Report on the Capital Project Status; now therefore

BE IT RESOLVED that the Engineering Progress Report for July 2005 is accepted as an instrument documenting the Board's briefing of the Capital Construction activities; and

BE IT FURTHER RESOLVED that the Executive Director, or his designee, is hereby authorized and directed to take the necessary measures to implement this resolution.

IN WITNESS WHEREOF, this resolution has been duly adopted this 18th day of August 2005.



George C. Sinnott, Secretary

FINANCIAL:

1) Investment Report

The Treasurer presented the Investment Report for the month of July 2005 and stated that on July 11th the Bank of America suspended the sale of certificates of deposit. At the same time, the Bank of America was providing a new investment vehicle for government entities called a public funds interest checking account. Funds in the Operating Fund were now being invested in this account at a current interest rate of 3.48 percent. Mr. Sewell further stated that this was actually to the Authority's benefit as the public funding account provided a better interest rate than the certificates of deposit. Vice Chairman Dressel stated that the Operations Report previously sent to all members, helps them to better understand Authority finances. Chairman Sproat moved to accept the report as presented, which was seconded by Commissioner Teator, and approved unanimously:

NEW YORK STATE BRIDGE AUTHORITY

BOARD RESOLUTION

Resolution No.: 005-086

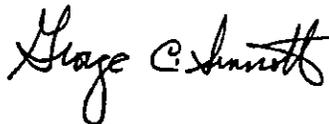
Resolution Date: August 18, 2005

WHEREAS, the investment control procedures for the New York State Bridge Authority provide that the Board shall review and approve the report of investment transactions completed since the meeting of the Board on July 21, 2005; now therefore

BE IT RESOLVED the New York State Bridge Authority does hereby concur with and approve the investment report as filed with this body on this date for the purposes noted; and

BE IT FURTHER RESOLVED that the Executive Director, or his designee, is hereby authorized and directed to take the necessary measures to implement this resolution.

IN WITNESS WHEREOF, this resolution has been duly adopted this 18th day of August 2005.



George C. Sinnott, Secretary

INFORMATION TECHNOLOGY:

1) Mark IV Maintenance Program

Mr. Herd, Manager of Information Technology, presented this report in Mr. Cavallino's absence. Mr. Herd told the Board that Mark IV handles the Authority's equipment for the reading of E-ZPass Tags and the initial processing of electronic toll transactions such as in-lane antennas and tag readers located at each plaza. This equipment is maintained through a contract with Mark IV that covers equipment, provides on-site support for any system problems and monthly pro-active system condition visits. Mr. Herd further stated that this is not a new billing that in the past, prior to the bridges coming on board unilaterally, payments were made for the individual facilities at different times throughout the year and did not need Board approval since payments did not meet the \$10,000 threshold. Now that the facilities are uniformed, Mark IV will send one annual maintenance program fee in the amount of \$22,787.98. Also, Mr. Herd told the Board that this cost is consistent with the overall E-ZPass Interagency Group (IAG) rate schedule. The Board reviewed the documentation presented to them and without further comment the Chairman called for a motion to approve the annual maintenance fee to Mark IV. On motion of Commissioner Paradies, seconded by Roderick Dressel, the following resolution was adopted unanimously:

NEW YORK STATE BRIDGE AUTHORITY

BOARD RESOLUTION

Resolution No.: 005-087

Resolution Date: August 18, 2005

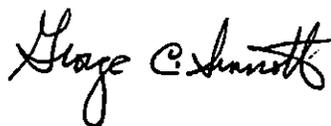
WHEREAS, the Authority utilizes Mark IV equipment for the reading of E-ZPass tags for electronic toll processing; and

WHEREAS, it is in the best interest of the Authority to maintain this equipment through services provided by Mark IV and identified through the current E-ZPass Interagency Agreement; now therefore

BE IT RESOLVED that the Authority will continue their maintenance agreement with Mark IV at a cost of \$22,787.98; and

BE IT FURTHER RESOLVED that the Executive Director, or his designee, is hereby authorized and directed to take the necessary measures to implement this resolution.

IN WITNESS WHEREOF, this resolution has been duly adopted this 18th day of August 2005.



George C. Sinnott, Secretary

REPORTS TO THE BOARD:

1. Monthly Activity Report of the Executive Director

The Monthly Activity Report for July 2005 was submitted by the Executive Director, Mr. Sinnott, who stated there were no expenditures this month.

2. Audit Committee Report

Chairman Sproat stated the Board will take this up at the next meeting.

Chairman Sproat stated that this concluded the meeting's agenda for Authority business and requested an attorney/client privilege session and called for a motion to adjourn the regular meeting. On motion of Vice Chairman Dressel, seconded by Commissioner Paradies, the Board adjourned to an attorney/client privilege session at 4:00 P.M.

The next regular meeting is scheduled for September 22, 2005 at 3:00 P. M at Headquarters.