

**HUDSON RIVER-BLACK RIVER REGULATING DISTRICT
BOARD MEETING**

Dulles State Office Building
317 Washington Street, Room 100 (Conf. Room #1)
Watertown, New York 13601

April 12, 2016

Immediately following 10:00 AM Governance Committee Meeting

CALL TO ORDER

Chairman Mark M. Finkle called the meeting to order at 10:17 A.M.

ROLL CALL

Present: Board Chairman Mark M. Finkle; First Vice-Chair Albert J. Hayes; Second Vice-Chair David W. Berkstresser, and Board Members, Anthony M. Neddo, and Jeffrey Rosenthal; Acting Executive Director and Chief Fiscal Officer Richard J. Ferrara; General Counsel Robert P. Leslie; Chief Engineer Robert Foltan; Administrator John Hodgson; and Compliance Officer Stephanie Ruzycky.

Excused: Robert Moore

MOTION TO ADOPT OR REVISE THE MEETING AGENDA

Chairman Finkle asked for a motion to revise the meeting agenda to reflect an Executive Session to discuss litigation and collective bargaining and asked that the agenda reflect consideration of Board Expenses after Mr. Ferrara's report. Mr. Berkstresser made a motion to adopt the agenda as revised. Mr. Hayes seconded. The Board unanimously approved the motion.

PUBLIC COMMENT

Chairman Finkle solicited comments from the public. Hearing none.

APPROVAL OF THE MARCH 1, 2016 REGULAR MEETING MINUTES

Chairman Finkle asked for a motion to adopt the March 1, 2016 regular meeting minutes. Mr. Hayes advanced the motion to approve the regular meeting minutes. Mr. Neddo seconded and the motion was unanimously approved.

ACCESS PERMIT SYSTEM DETERMINATIONS KUNKEL PERMIT APPEAL

Chairman Finkle opened a discussion of the Kunkel appeal. Mr. Leslie reminded the Board that the Adirondack Park Agency limits or prohibits certain construction and land development activities within the Adirondack Park and that as the agency with jurisdiction over the access permit area in question, the Regulating District would have to join in a request for a permit or variance from the APA restrictions to permit Mr. Kunkel's retention of a set of un-

mortared stone steps. The Chairman noted that a previous Board Resolution, 06-20-05, limits the Regulating District's participation in section 814 reviews to those activities with specific public benefit which are intended to serve the public good and are considered duly authorized public works projects of local, county, state, or federal governmental agencies or departments. The Chairman asked for a motion to address Mr. Kunkel's request that he be permitted to retain the un-mortared stone steps.

Mr. Neddo made a motion that the Board grant Mr. Kunkel's appeal acknowledging that the placement of the non-mortared stone steps is tantamount to placement of rip rap beneficial to the public good, but however, conditioning the Board's acquiesce upon the permittee gaining approval for the steps from the Adirondack Park Agency noting that the Board is willing to participate if necessary in the APA's section 814 review. Mr. Berkstresser seconded and the Board adopted the motion by unanimous vote.

REPORT OF THE ACTING EXECUTIVE DIRECTOR

Mr. Ferrara presented his report. He noted that he met with Blue Shield and CSEA regarding the expiration of the Regulating District's dental plan and with the Area Administrator regarding routine matters. Mr. Ferrara noted that he continued work on the EFC funding application concerning the work at Conklingville Dam and that staff continue to work on the Black River Area Apportionment.

CONTRACTS

RESOLUTION TO CONDITIONALLY AWARD THE WORK ASSOCIATED WITH THE CONKLINGVILLE DAM ICE SLUICE REPAIR

Mr. Foltan pointed to his memo on page 49 of the Board packet and explained that the Board authorized staff to solicit bids from construction firms for the completion of the Conklingville Dam Ice Sluice Repair. Approximately thirty five (35) construction firms requested and received a copy of the Invitation for Bids (IFB) document. Three (3) bids were received and publically opened at 11:00 A.M. on January 8, 2016. Pursuant to section 1-18 of the IFB, staff determined Kingsbury Companies, LLC to be the apparent low bidder. Mr. Foltan recommended that the Board conditionally award the work associated with the Conklingville Dam Ice Sluice Repair to Kingsbury Companies, LLC. Further, Mr. Foltan recommended that the Board authorize the Executive Director to execute an agreement in the amount of \$606,430.00 subject to the review and approval of the NYS Attorney General and the NYS Office of the State Comptroller.

Mr. Berkstresser made a motion to adopt a Resolution to award the Conklingville Dam Ice Sluice Repair work to Kingsbury Companies, LLC and to authorize the Acting Executive Director to execute an agreement in the amount of \$606,430.00 subject to review and approval of the Office of the Attorney General and the Office of the State Comptroller. Mr. Hayes seconded the motion and the Board adopted the Resolution by unanimous vote.

STAFF/COMMITTEE REPORTS

GOVERNANCE COMMITTEE

RESOLUTION TO SATISFY ANNUAL REVIEW AND APPROVAL OF THE REGULATING DISTRICT'S INVESTMENT POLICY

Committee Chairman Rosenthal explained that the Governance Committee had conducted its annual review of the Board's Investment Policy. Mr. Neddo made a motion to approve the Resolution indicating review and approval of the Investment Policy without revision. Mr. Berkstresser seconded and the Board unanimously approved the motion.

RESOLUTION TO SATISFY ANNUAL REVIEW AND APPROVAL OF THE REGULATING DISTRICT'S PROCUREMENT POLICY

Committee Chairman Rosenthal explained that the Governance Committee had conducted its annual review of the Board's Procurement Policy. Mr. Hayes made a motion to approve the Resolution indicating review and approval of the Procurement Policy without revision. Mr. Berkstresser seconded and the Board unanimously approved the motion.

RESOLUTION TO ANNUALLY REVIEW AND APPROVE THE REGULATING DISTRICT'S DISPOSITION OF PROPERTY GUIDELINES PURSUANT TO SECTION 2896(1) OF THE PUBLIC AUTHORITIES LAW

Committee Chairman Rosenthal explained that the Governance Committee had conducted its annual review of the Board's Disposition of Property Guidelines and that the committee recommended revising Section 2, subdivision F, paragraph (iv), subparagraphs 3 & 4 of the Regulating District's Disposition of Property Guidelines to reduce the threshold for preparation of an explanatory statement from \$100,000 to \$15,000 in the circumstances described therein. Mr. Berkstresser made a motion to approve the resolution indicating review and approval of the Regulating District's Disposition of Property Guidelines as revised per the committee's recommendation. Mr. Neddo seconded and the Board unanimously approved the motion adopting the Resolution.

Mr. Leslie presented his report to the Board. Mr. Leslie reminded the Board that Erie Boulevard Hydropower, L.P. and the Boralex Companies appealed FERC's November 19th Order through the United States Court of Appeals for the D.C. Circuit, that the NYS Attorney General has filed a 'Motion to Intervene' on the Regulating District's behalf and that both Erie and Boralex have filed their non-binding list of issues on appeal. FERC has filed its Notice of Appearance. Mr. Leslie also noted that the Regulating District's outside counsel has requested the federal court convene a settlement conference as the Regulating District awaits Niagara Mohawk's draft of the comprehensive settlement agreement consistent with the terms of the executed term sheet. The federal court has granted Niagara Mohawk another adjournment of the commencement of trial to June 21, 2016.

Ms. Ruzycky presented her report to the Board. She noted that the 4th Quarter Utilization report is due to Empire State Development on April 15th. MWBE utilization was \$156,702.52 (66.2%) for the quarter. Year to date spend is 36.7%, far in excess of the HRBRRD's 30% goal. She noted that she attended the MWBE monthly Authority Webinar and the NYS Regional Opportunities Expo. She also attended the NYS Contract System Webinar and noted that the HRBRRD's Service-Disabled Veteran-Owned Business goal plan was approved and accepted by OGS. Finally, she noted that the Regulating District's web redesign is complete.

Mr. Ferrara presented his report to the Board. He noted that at the close of fiscal March 31, 2015, the general fund balances for the HRA and BRA were approximately \$1,810,456 and \$1,207,294 respectively. He noted that District's transactional processing and reporting for the fiscal month of February 2016 was completed in an accurate and timely fashion. District bank reconciliations are complete through February 28, 2016. Mr. Ferrara noted that the state share for both the Hudson River Area (\$1,000,000) and the Black River Area (\$250,000) were adopted as part of the State's 2016-2017 budget.

Mr. Foltan presented the Chief Engineer's report to the Board. Mr. Foltan noted that reservoir releases and elevations are on target. Monthly total precipitation is above normal at 113% and 140% of historic average at Great Sacandaga Lake and Indian Lake respectively as of March 29th. Releases of water from Great Sacandaga Lake and Indian Lake measured 75% and 68% of historic average respectively. Precipitation was above average at Stillwater, Old Forge and Sixth Lake. Releases from Stillwater Reservoir averaged 82% of historic discharge. Mr. Foltan noted that in 2015 Bergmann Associates completed a safety inspection and first engineering assessment of the Indian Lake dam consistent with NYS DEC Dam Safety Regulations. Based on compliance, maintenance and repair issues identified, Mr. Foltan proposed that he develop an engineering analysis, design and remediation plan to present to the Board in Mid-2016 which will detail his recommendations for the supplemental engineering work, and potential remediation methods necessary to bring the facility into compliance with NYS DEC Dam Safety Regulations.

Mr. Foltan also provided the Board with an update of the work completed to date with respect to the development of a Black River Area Apportionment.

Mr. Hodgson presented his report to the Board. He reported that the Sacandaga Field Office has processed 892 renewal and 5 new permit applications during the reporting period. He also noted that the office processed 62 work permit applications and monitored the Gizzi, Edwards & Oakey ground disturbance encroachment area twice weekly. Mr. Hodgson noted that staff attended the NYSIF Fire Safety and Workplace Violence training and addressed eleven dangerous tree and/or trees impacting the NYS property line.

RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR BOARD MEETING FOR MAY 10, 2016

Chairman Finkle asked for a motion to adopt a Resolution setting the next meeting of the Board of the Hudson River-Black River Regulating District for Tuesday, May 10, 2016 at the

Northampton Town Hall, 412 South Main Street, Northville, NY 12134 at 10:00 A.M.
Chairman Finkle asked for a motion to set the meeting as indicated.

Mr. Rosenthal moved to adopt the Resolution setting the date, time and place of the next meeting. Mr. Berkstresser seconded and the Board adopted the Resolution by unanimous vote.

EXECUTIVE SESSION

Chairman Finkle called for a motion to adjourn to Executive Session to discuss collective bargaining and the National Grid litigation. The Chairman invited the Acting Executive Director/Chief Fiscal Officer, and General Counsel to join the Board. Chairman Finkle noted that the Board did not anticipate conducting business upon its return from Executive Session. Mr. Hayes advanced the motion, Mr. Rosenthal seconded. The Board adjourned to Executive Session at 11:35 A.M. and returned at 11:48 A.M.

There being no further business to come before the Board, Mr. Rosenthal moved to adjourn the meeting. Mr. Berkstresser seconded it. The motion was unanimously approved. The meeting adjourned at 11:48 A.M.

RESOLUTIONS

16-08-04 RESOLUTION TO CONDITIONALLY AWARD THE WORK ASSOCIATED WITH THE CONKLINGVILLE DAM ICE SLUICE REPAIR

Mr. Berkstresser made a motion to adopt a Resolution to award the Conklingville Dam Ice Sluice Repair work to Kingsbury Companies, LLC and to authorize the Acting Executive Director to execute an agreement in the amount of \$606,430.00 subject to review and approval of the Office of the Attorney General and the Office of the State Comptroller. Mr. Hayes seconded the motion and the Board adopted the Resolution by unanimous vote.

16-09-04 RESOLUTION TO SATISFY ANNUAL REVIEW AND APPROVAL OF THE REGULATING DISTRICT'S INVESTMENT POLICY

Mr. Neddo made a motion to approve the Resolution indicating review and approval of the Investment Policy without revision. Mr. Berkstresser seconded and the Board unanimously approved the motion.

16-10-04 RESOLUTION TO SATISFY ANNUAL REVIEW AND APPROVAL OF THE REGULATING DISTRICT'S PROCUREMENT POLICY

Mr. Hayes made a motion to approve the Resolution indicating review and approval of the Procurement Policy without revision. Mr. Berkstresser seconded and the Board unanimously approved the motion.

16-11-04 RESOLUTION TO ANNUALLY REVIEW AND APPROVE THE REGULATING DISTRICT'S DISPOSITION OF PROPERTY GUIDELINES PURSUANT TO SECTION 2896(1) OF THE PUBLIC AUTHORITIES LAW

Mr. Berkstresser made a motion to approve the resolution indicating review and approval of the Regulating District's Disposition of Property Guidelines revised to reflect a change to Section 2, subdivision F, paragraph (iv), subparagraphs 3 & 4 of the Regulating District's Disposition of Property Guidelines to reduce the threshold for preparation of an explanatory statement from \$100,000 to \$15,000 in the circumstances described therein. Mr. Neddo seconded and the Board unanimously approved the motion adopting the Resolution.

16-12-04 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR BOARD MEETING FOR MAY 10, 2016

Mr. Rosenthal moved to adopt the Resolution setting the date, time and place of the next meeting. Mr. Berkstresser seconded and the Board adopted the Resolution by unanimous vote.

Respectfully submitted,

Richard J. Ferrara,
Secretary/Treasurer

Mark M. Finkle
Board Chairman