

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

Inlet Town Office

160 Rt 28

Inlet, NY 13360

June 14, 2016

Following the Finance, Audit and Governance Committee Meetings
Scheduled for 10:00 AM

CALL TO ORDER

Chairman Mark M. Finkle called the meeting to order at 10:39 A.M. The Chair noted with regret that he received a letter from Mr. Moore. He noted that Mr. Moore is resigning from the Board effective immediately citing the duties and schedule required as Town of Webb Supervisor. The Chair and the Board thanked Mr. Moore for his service to the Regulating District.

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; Executive Director Robert J. Smullen; General Counsel Robert P. Leslie; Chief Fiscal Officer Richard J. Ferrara; Chief Engineer Robert Foltan; Administrator John Hodgson; and Compliance Officer Stephanie Ruzycky.

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 collective bargaining. He noted that the Board expects to conduct no business upon return from executive session. Mr. Rosenthal made a motion to adopt the revised agenda. Mr. Berkstresser seconded. The Board unanimously approved the motion.

PUBLIC COMMENT

Chairman Finkle solicited comments from the public. One speaker addressed the Board's action at the May meeting with respect to an encroachment upon state land in Mayfield.

APPROVAL OF THE MAY 10, 2016 REGULAR MEETING MINUTES

Chairman Finkle asked for a motion to adopt the May 10, 2016 regular meeting minutes. Mr. Rosenthal advanced the motion to approve the regular meeting minutes. Mr. Berkstresser seconded and the motion was unanimously approved.

REPORT OF THE EXECUTIVE DIRECTOR

Mr. Smullen presented his report noting he is pleased to have met with all Regulating District employees during facilities inspections conducted with the Chairman, CFO, Chief Engineer, and Administrator. Executive Director Smullen reported a series of meetings with Lewis, Hamilton, and Jefferson County officials to provide information on the upcoming Black River Area apportionment. He plans to meet the beneficiaries in the Hudson River watershed in the coming months. Mr. Smullen reported on his attendance at the Black River Watershed conference hosted by the Tug Hill Commission. Finally, he thanked the Board for its confidence in his appointment as Executive Director.

CONTRACTS

RESOLUTION TO APPROVE INSURANCE PROPOSAL FOR POLICY YEAR JULY 1, 2016 THROUGH JUNE 30, 2017

Mr. Ferrara explained that the Regulating District's current commercial insurance coverage is set to expire on June 30, 2016. Mr. Ferrara noted that following a formal bid solicitation process, the Board had previously approved a Resolution awarding Cool Insuring Agency the Regulating District's Insurance Program to provide the District with comprehensive insurance for policy year July 1, 2014 through June 30, 2015 and for three (3) option policy years ending June 30, 2016, June 30, 2017 and June 30, 2018. He noted that in accordance with the Regulating District procurement process protocols, he solicited premium quotes for comprehensive coverage for the next policy year and supplied the Board with a quote for continuing coverage (\$194,437.00). Mr. Ferrara recommended that the Board extend an additional option year of coverage for the next fiscal year of July 1, 2016 through June 30, 2017.

Mr. Neddo made a motion to adopt the Resolution approving the insurance policy proposal for the fiscal period of July 1, 2016 through June 30, 2017 for the annual premium amount of \$194,437. Mr. Rosenthal seconded. The Board approved the motion by unanimous vote.

MOTION TO AUTHORIZE STAFF TO SEEK PROPOSAL TO COMPLETE ADDITIONAL ENGINEERING WORK AS PART OF CONTRACT C032013 (BERGMANN ASSOCIATES) TO PERFORM SITE SPECIFIC PROBABLE MAXIMUM FLOOD ANALYSIS

Mr. Foltan noted that in 2015 Bergmann Associates (Bergmann) completed a safety inspection and the First Engineering Assessment of Indian Lake Dam consistent with Department of Environmental Conservation (DEC) dam safety regulations. Bergmann's reports detailing the results, conclusions, and recommendations of the inspection and assessment were provided to the Board in January 2016. In April staff presented a summary of the dam safety and maintenance compliance issues identified by Bergmann in the Engineering Assessment Report. Compliance issues include:

- Insufficient capacity to evacuate storage between maximum design high water and auxiliary spillway
- Insufficient low level outlet discharge capacity
- Inadequate spillway overturning and sliding stability resistance

- Seepage through the masonry dam
- Non-functioning intake gates
- Inoperable gate in log sluice
- Lack of seepage flow collection and monitoring system at toe of embankment dam

Mr. Foltan recommended completing the following tasks to address identified deficiencies:

- Develop a site specific probable maximum precipitation analysis and revise the probable maximum flood analysis in an effort to reduce the project's required Spillway Design Flood (SDF). A reduction in the SDF may have a beneficial effect when reevaluating the project's ability to adequately handle flood flows. A reduction in the SDF (and corresponding lower headwater elevation) may have a beneficial effect when reevaluating the project's overturning and sliding stability.
- Design new head gates, operators, and controls which will allow full dewatering and inspection and maintenance of the outlet gates.
- Design a new bulkhead gate structure which will provide additional project discharge capacity and required low level outlet discharge capacity.
- Develop a methodology and plan to reduce or eliminate the seepage through the masonry dam. Elimination of seepage will improve the life expectancy of the dam.
- Design new trash racks including development of plans to replace or repair the existing trash rack system.
- Design a seepage flow collection and monitoring system to observe seepage flow at the toe of the embankment dam.

Mr. Foltan further noted that the Regulating District's Contract C032013 with Bergmann includes, as "future" work tasks, some of the scope of work necessary to address several of the identified safety compliance deficiencies. Additional work tasks will need to be added to address the other deficiencies. Fees associated with all of these supplement engineering services will also need to be defined. Mr. Foltan recommended using Bergmann to complete the tasks outline above and sought Board authorization to request a Scope of Work and Fee Proposal from Bergmann to complete the supplemental engineering work.

Mr. Rosenthal made a motion to authorize the chief engineer to request a scope of work and fee proposal from Bergmann to complete the supplemental engineering work identified. Mr. Neddo seconded. The Board approved the motion by unanimous vote.

**RESOLUTION TO CONDITIONALLY AWARD ENGINEERING WORK
ASSOCIATED WITH THE CONKLINGVILLE DAM GROUTING & CONCRETE
REPAIR DESIGN**

Mr. Foltan noted that in December 2015 the Board authorized staff to procure engineering services relative to the Conklingville Dam to complete the design work necessary to 1) reduce or eliminate seepage through the spillway foundation (grouting) and 2) remove and replace deteriorated concrete on the spillway. Consistent with state procurement guidelines and Section 136-a of the State Finance Law, he requested and received Annual Statement of

Qualifications and performance data from professional engineering firms for the purpose of evaluating qualifications to identify the firm most highly qualified to provide the services required. He and staff evaluated the three most highly qualified firms, which submitted Annual Statement of Qualifications, based upon corporate and personnel experience demonstrated by the professional firms as it pertains to the project needs and services required. Specifically, Annual Statement of Qualifications have been reviewed for experience completing grouting design and concrete repair design. The evaluation team evaluated each firm according to the evaluation system defined in the Regulating District's Annual Statement of Qualifications - Project Based Evaluation procedures. The evaluation included a review of firm experience and personnel experience completing grouting design and concrete repair design. The evaluation team determined that Schnabel Engineering is the highest qualified firm for the project. The evaluation team recommends conditionally awarding the work to Schnabel Engineering. Mr. Foltan sought Board acceptance of the evaluation team recommendation, and authorization to request a scope of work and to negotiate a contract with Schnabel Engineering subject to Board approval, at a fee which is fair and reasonable to the Regulating District.

Mr. Rosenthal made a motion to adopt the Resolution conditionally awarding engineering work associated with the Conklingville Dam grouting and concrete repair design. Mr. Neddo seconded and the Board approved the motion by unanimous vote.

STAFF/COMMITTEE REPORTS

AUDIT COMMITTEE

RESOLUTION TO AMEND AUDIT SERVICES AGREEMENT C012014 WITH KBL, LLC

Mr. Berkstresser presented a Resolution to amend the Audit Services agreement with KBL, LLC (C012014) to exercise the 2016 option. He reminded the Board it had approved Resolution 14-12-05 which awarded a \$22,500 contract for audit services work covering the Regulating District's fiscal year ending June 30, 2014 to KBL, LLC. The contract provided for a one (1) year option for fiscal year ending June 30, 2015 for not to exceed amount of \$23,500.00. He noted that that last June, the Board exercised that option extending the contract through June 30, 2016. He recommended that the Board exercise the next option for fiscal year ending June 30, 2016 for a total not to exceed payment, including travel expenses, of \$24,475.00 and add an option for fiscal year ending June 30, 2017 for a total not to exceed payment, including travel expenses, of \$25,498.75. Mr. Ferrara noted that given the discretionary nature of this service offering (does not exceed \$50K), he did not believe a full solicitation would add any additional value for this professional service.

Mr. Berkstresser moved to authorize the Executive Director to exercise the 2016 option for a not to exceed amount of \$24,475.00 and negotiate an option for the fiscal year ending June 30, 2017 for a not to exceed amount of \$25,498.75. Mr. Rosenthal seconded. The Board carried the motion by unanimous vote.

FINANCE COMMITTEE

RESOLUTION TO APPROVE THE ANNUAL ASSESSMENT FOR THE OPERATION AND MAINTENANCE OF STORAGE RESERVOIRS IN THE HUDSON RIVER AREA FOR THE SECOND YEAR (JULY 1, 2016 - JUNE 30, 2017) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2015

Mr. Neddo explained that Environmental Conservation Law, Title 21, Article 15, Sections 15-2123 and 15-2125, empower the Board to annually prepare a statement showing the name of each public corporation and a description of each parcel of real estate benefited by such reservoir and the amount of operation and maintenance charges to be borne by each as determined in the apportionment. He noted that pursuant to the current Hudson River Area apportionment, the Annual Assessment for Storage Reservoirs for the Hudson River Area for the second year of the budget period beginning July 1, 2016 totals \$2,994,100.00. He requested that the Board approve a Resolution for the Annual Assessment for the Operation and Maintenance of Storage Reservoirs in the Hudson River Area and the amount chargeable to the state for the second year of the (July 1, 2016 - June 30, 2017 of the current three year budget (July 1, 2015 - June 30, 2018).

Mr. Rosenthal made a motion to adopt the Resolution adopting the July 1, 2016 through June 30, 2017 Hudson River Area Assessment and to authorize the secretary to take such action necessary for the collection of such assessment as allowed and required by law. Mr. Hayes seconded and the Board approved the motion by unanimous vote.

RESOLUTION TO APPROVE THE STATE SHARE FOR THE OPERATION AND MAINTENANCE OF STORAGE RESERVOIRS IN THE HUDSON RIVER AREA FOR THE SECOND YEAR (JULY 1, 2016 - JUNE 30, 2017) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2015

Mr. Neddo submitted for Board approval the state share for the operation and maintenance of storage reservoirs in the Hudson River area for the second year of the Budget period beginning July 1, 2016. He explained that, pursuant to the current Hudson River Area apportionment, the state share for the budget period beginning July 1, 2016 is \$853,922.00.

Mr. Rosenthal made a motion to adopt the Resolution adopting the July 1, 2016 through June 30, 2017 state share in the amount of \$853,922.00 and to authorize the secretary to take such action necessary for the collection of such assessment as allowed and required by law. Mr. Hayes seconded and the Committee approved the motion by unanimous vote.

MOTION FOR APPROVAL OF REVISED MANAGEMENT EXEMPT GUIDELINES

Mr. Rosenthal reminded the Board of its action at the May 2016 meeting (Resolution 16-14-05) to switch from the dental plan previously offered to M/C Employees (Blue Shield) to the Dutchess Dental Plan provided through the CSEA employment benefit fund. He noted that a revision to the Regulating District's Management Exempt Guidelines, "Article V - Health Insurance", is warranted to reflect the change.

Mr. Berkstresser made a motion to approve a revision to Article V - Health Insurance of the Regulating District's Management Exempt Guidelines to reflect the Board's replacement of the Blue Shield Dental Plan with the Dutchess Plan provided through the CSEA employment benefit fund and to strike language pertaining to riders from such guidelines. Mr. Hayes seconded the motion and the Board approved the motion by unanimous vote.

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. On May 17th, the Court of Appeals granted the Boralex motion to withdraw their appeal; leaving only Erie. Erie's brief is due by June 15th, FERC's brief by August 15th and the Regulating District's brief by August 22nd. The executed Stipulations of Settlement and Order have been received from the Onondaga, Herkimer and Hamilton county supreme courts. The executed stipulation from the U.S. District Court is expected soon.

Ms. Ruzycky presented her report to the Board. She noted that the 1st Quarter Utilization report is due to Empire State Development on July 15th. The current quarter MWBE utilization is \$30,105. She reported that the lease for the Albany office has been approved by OSC.

Mr. Ferrara presented his report to the Board. He noted that at the close of fiscal May 31, 2016, the general fund balances for the HRA and BRA were approximately \$2,722,829 and \$1,321,719 respectively. He noted that District's transactional processing and reporting are current. District bank reconciliations are complete through April 30, 2016. Mr. Ferrara noted the following significant disbursements during the period: Payroll ending 05/04/2016, \$52,131.38, Ryan Biggs Clark Davis (MWBE) \$3,074.82, and payroll ending 05/18/2016, \$57,218.41.

Mr. Ferrara presented Board member expenses for David Berkstresser (\$664.68) and Anthony Neddo (\$174.53). Mr. Hayes moved to approve payment of such expenses. Mr. Rosenthal seconded. The Board approved the motion authorizing payment of such expenses by unanimous vote.

Mr. Foltan presented the Chief Engineer's report to the Board. Mr. Foltan noted that the May average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 660 cubic feet per second (cfs). Precipitation during the month of May was below normal across the Great Sacandaga Lake watershed and the Indian Lake watershed. The monthly inflow to Great Sacandaga Lake and Indian Lake reservoir was approximately 47% and 49% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 27% and 45% of historic average, respectively.

The May average daily release from Stillwater Reservoir was approximately 300 cfs. Monthly total precipitation measured 65%, 58%, 61% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of May 31st. Precipitation in the month of May was below average at Stillwater, Old Forge and at Sixth Lake. The monthly inflow to Stillwater Reservoir was approximately 52% of historic average. The inflow to Sixth Lake and Old Forge

Reservoir totaled 0.06 and 0.14 billion cubic feet, respectively, in May. Release of water from Stillwater Reservoir averaged 59% of historic discharge

Mr. Hodgson presented his report to the Board. He reported that he met with several permit holders in regard to proposed work on permit areas. The Sacandaga Field Office has processed 19 new permit applications during the reporting period. He also noted that the office processed 74 work permit applications and monitored the Gizzi, Edwards & Oakey ground disturbance encroachment area twice weekly.

BOARD MEMBER QUESTIONS AND CONCERNS

Mr. Berkstresser indicated that he had been approached in his capacity as a member of the Town of Webb Board regarding the ownership and maintenance of the Boardwalk lining the reservoir at Old Forge behind the Water's Edge hotel. Staff confirmed that the Regulating District had no role in creating or maintaining the Boardwalk.

Chairman Finkle read a letter from a constituent expressing appreciation for the efforts put forth by John Hodgson. The Chair praised Mr. Hodgson.

RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR MEETING FOR JULY 12, 2016 BOARD MEETING

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 July 12, 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. Hayes moved to adopt the Resolution setting the date, time and place of the next meeting. Mr. Neddo 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. Chairman Finkle noted that the Board did not anticipate conducting business upon its return from Executive Session. Mr. Rosenthal advanced the motion, Mr. Berkstresser seconded. The Board adjourned to Executive Session at 11:22 A.M. and returned at 11:40 A.M.

ADJOURNMENT

Chairman Finkle called for a motion to adjourn the meeting. Mr. Rosenthal advanced the motion. Mr. Hayes seconded. The meeting adjourned at 11:40 P.M.

RESOLUTIONS

16-17-06 RESOLUTION TO APPROVE INSURANCE PROPOSAL FOR POLICY YEAR JULY 1, 2016 THROUGH JUNE 30, 2017

Mr. Neddo made a motion to adopt the Resolution approving the insurance policy proposal for the fiscal period of July 1, 2016 through June 30, 2017 for the annual premium amount of \$194,437. Mr. Rosenthal seconded and the Board approved the motion by unanimous vote.

16-18-06 RESOLUTION TO CONDITIONALLY AWARD ENGINEERING WORK ASSOCIATED WITH THE CONKLINGVILLE DAM GROUTING & CONCRETE REPAIR DESIGN

Mr. Rosenthal made a motion to adopt the Resolution conditionally awarding engineering work associated with the Conklingville Dam grouting and concrete repair design. Mr. Neddo seconded and the Board approved the motion by unanimous vote.

16-19-06 RESOLUTION TO AMEND AUDIT SERVICES AGREEMENT C012014 WITH KBL, LLC

Mr. Berkstresser moved to authorize the Executive Director to exercise the 2016 option for a not to exceed amount of \$24,475.00 and negotiate an option for the fiscal year ending June 30, 2017 for a not to exceed amount of \$25,498.75. Mr. Rosenthal seconded. The Board carried the motion by unanimous vote.

16-20-06 RESOLUTION TO APPROVE THE ANNUAL ASSESSMENT FOR THE OPERATION AND MAINTENANCE OF STORAGE RESERVOIRS IN THE HUDSON RIVER AREA FOR THE SECOND YEAR (JULY 1, 2016 - JUNE 30, 2017) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2015

Mr. Rosenthal made a motion to adopt the Resolution adopting the July 1, 2016 through June 30, 2017 Hudson River Area Assessment and to authorize the secretary to take such action necessary for the collection of such assessment as allowed and required by law. Mr. Hayes seconded and the Board approved the motion by unanimous vote.

16-21-06 RESOLUTION TO APPROVE THE STATE SHARE FOR THE OPERATION AND MAINTENANCE OF STORAGE RESERVOIRS IN THE HUDSON RIVER AREA FOR THE SECOND YEAR (JULY 1, 2016 - JUNE 30, 2017) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2015

Mr. Rosenthal made a motion to adopt the Resolution adopting the July 1, 2016 through June 30, 2017 state share in the amount of \$853,922.00 and to authorize the secretary to take such action necessary for the collection of such assessment as allowed and required by law. Mr. Hayes seconded and the Committee approved the

motion by unanimous vote.

**16-22-06 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE
REGULAR MEETING FOR JULY 12, 2016 BOARD MEETING**

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

Respectfully submitted,

Richard J. Ferrara,
Secretary/Treasurer

Mark M. Finkle
Board Chairman