

**HUDSON RIVER-BLACK RIVER REGULATING DISTRICT
BOARD MEETING
Lowville Town Offices
5533 Bostwick Street
Lowville, New York 13360
December 13, 2016
10:00AM**

CALL TO ORDER

Chairman Mark M. Finkle called the meeting to order at 10:00 A.M.

PLEDGE OF ALLEGIANCE

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 adopt the meeting agenda. Mr. Berkstresser made a motion to adopt the agenda. Mr. Rosenthal seconded. The Board unanimously approved the motion.

INTRODUCTION OF GUESTS

Chairman Finkle recognized Legislator Philip Hathaway from District One of Lewis County.

PUBLIC COMMENT

Chairman Finkle noted that the Board would re-open the Black River Area Apportionment Grievance Hearing shortly and that at that time, any person aggrieved by the Apportionment will have an opportunity to speak. He solicited comments on other matters of interest from the public and heard none.

BLACK RIVER AREA APPORTIONMENT GRIEVANCE HEARING

Chairman Finkle then reconvened the Apportionment Grievance Hearing commenced on November 9th. The Board Chair indicated that it was his intent to afford the affected Counties and others interested in or aggrieved by the Black River Area Apportionment an additional opportunity to seek a modification to the Apportionment. Now having had a chance to digest

information provided before and during the initial grievance hearing session, the Board Chair asked a representative from Lewis County to offer his thoughts.

The following aggrieved parties presented oral testimony to the Board:

Lewis County Legislator Philip Hathaway noted that 90% of the Lewis County Budget comes from unfunded state mandates; specifically citing the operation of the Lewis County Jail and Medicaid expenses. He explained that the County has installed flood monitoring gauges and, while acknowledging that such monitoring is beyond the scope of the Regulating District's mission, asserted that the Regulating District should include the cost of maintaining these gauges in the Regulating District's budget because the advance flood warning capabilities such gauges provide is complementary to the Regulating District's mission.

Chairman Finkle led a discussion among the Board and the aggrieved parties.

RESOLUTION TO APPROVE THE BLACK RIVER AREA APPORTIONMENT WITHOUT MODIFICATION

Chairman Finkle introduced a Resolution to approve the Black River Area Apportionment. Mr. Neddo advanced a motion to adopt the Resolution to approve the Apportionment without modification. Mr. Rosenthal seconded and the motion was approved by unanimous vote.

APPROVAL OF THE NOVEMBER 9, 2016 REGULAR MEETING MINUTES

Chairman Finkle asked for a motion to adopt the November 9, 2016 regular meeting minutes. Mr. Berkstresser advanced the motion to approve the regular meeting minutes. Mr. Hayes seconded and the motion was approved by unanimous vote.

REPORT OF THE EXECUTIVE DIRECTOR

Mr. Smullen presented his report. He reported that staff conducted meetings with Lewis County, Herkimer County, and Jefferson County officials regarding the Black River Area apportionment. Mr. Smullen made special note that discussions with the Mercer Company regarding the Stillwater Reservoir Operating Agreement have not produced a successor agreement and that pursuant to the terms of the existing contract ending on December 31st, the parties will exercise the 5 year extension option and be subject to the specified escalator during said term. Mr. Smullen reported upon a meeting held with Sacandaga Protection Committee representatives to discuss mutual areas of interest regarding the GSL. He also noted his attendance at a recent meeting of the Association of Adirondack Town and Villages. Mr. Smullen noted that Saratoga County officials solicited support for a historical documentary on the creation of the Sacandaga Reservoir and received access to Regulating District archival records. He noted that the premier of the film may be held at the Sacandaga Field Office. Mr. Smullen noted that the Memorandum of Agreement between the Regulating District and CSEA Local was signed on November 22nd by Regulating District and Union representatives for ratification by the Board. Executive Director Smullen then presented the Board Chair with a list of tentative dates and locations for the 2017 Board Meetings.

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AGREEMENT BY AND BETWEEN THE HUDSON RIVER-BLACK RIVER REGULATING DISTRICT AND THE CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., AFSCME LOCAL 1000, AFL-CIO, HUDSON RIVER-BLACK RIVER REGULATING DISTRICT LOCAL 120

Mr. Ferrara directed the Board to a draft resolution examined previously through which the Board would ratify the Executive Director's execution of a Memorandum of Agreement with representatives of the Regulating District's CSEA, AFSCME, Local 1000, AFL-CIO unit memorializing a negotiated employment agreement for the period July 1, 2016 through June 30, 2020.

Chairman Finkle asked for a motion adopting the Resolution. Mr. Rosenthal made a motion to adopt the resolution ratifying the memorandum of agreement with the CSEA bargaining unit. Mr. Berkstresser seconded and the Board adopted the motion by unanimous vote.

CONTRACTS

RESOLUTION TO APPROVE 2ND AMENDMENT TO CONTRACT C032013 WITH BERGMANN ASSOCIATE'S TO COMPLETE INDIAN LAKE FIRST ENGINEERING ASSESSMENT

Mr. Foltan presented the Board with a draft resolution through which the Board could approve an amendment to contract C032013 authorizing the Regulating District's contractor, Bergmann Associates to complete Phase 2 of the Indian Lake Dam Engineering Assessment and Recommendation for Remedial Measures. Mr. Foltan explained that on April 8, 2014 the Board awarded work associated with the Indian Lake Dam Engineering Assessment and Recommendation for Remedial Measures project to Bergmann Associates (Bergmann). In 2015 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. Mr. Foltan noted that in April 2016 he presented a summary of the dam safety and maintenance compliance issues identified by Bergmann in the Engineering Assessment Report, and in June 2016 the Board accepted his recommendation to use Bergmann to complete additional engineering studies necessary to correct the safety compliance issues. He noted that the Board also authorized staff to seek a Scope of Work and Fee Proposal from Bergmann to complete the supplemental engineering work. Mr. Rosenthal inquired about the structure of the bid award; specifically, why the contract alternatives include optional work.

Mr. Foltan walked the Board through Bergmann's proposal for the next phase of work associated with the project. The proposal outlines the work necessary to complete *Phase 2 – Develop Dam Improvement Alternatives*. Bergmann proposes to evaluate and develop 2 to 3 alternatives to address the needed dam improvements and will assist the Regulating District in identifying the preferred method of remediation to address the safety compliance issues.

Mr. Foltan noted that the proposal includes fees for a Base Scope of work, which must be completed before proceeding to the construction phase of the project, and provides a scope of work and fee proposal for Optional Work tasks, the completion of which will be dependent upon the findings and results of the Base Scope work. Mr. Foltan noted that the contract amendment includes the Scope of Work and Fee associated with the Base Scope (Task 1, 1a, 1e, 2, and 3) of work and that if, during the completion of the Base Scope tasks, it is determined that the Optional Tasks should be completed, then a subsequent contract amendment will be necessary to authorize completion of the Optional Tasks.

Mr. Foltan recommended the Board accept Bergmann Associates' proposal and authorize, by Resolution, the Executive Director to enter into a contract amendment expanding the scope of work for Contract C032013 to include the Base Scope tasks, and to increase the project budget by \$119,890, to a total contract price of \$298,466.

Mr. Rosenthal made a motion to adopt the Resolution to approve the increased scope for contract C032013. Mr. Berkstresser seconded and the Board adopted the Resolution by unanimous vote.

RESOLUTION TO APPROVE FUNDING OF BLACK RIVER AREA GAUGING STATION IN DADVILLE IN SUPPORT OF LEWIS COUNTY SOIL AND WATER CONSERVATION DISTRICT

Mr. Ferrara offered the following language for a motion to adopt a Resolution to wit: whereas the Board desires to fund the Black River Area gauging station in Dadville in support of Lewis County Soil & Water Conservation District as detailed in the Chief Engineer's memo dated 12/9/2016, and now therefore be it resolved staff seeks Board authorization to evaluate, select, and award Black River Rating Curve Field Survey work to a qualified MBE, WBE, or SDVOB firm, and authorization for the Executive Director to execute an agreement in an amount not-to-exceed \$10,000. Mr. Berkstresser advanced the motion, Mr. Rosenthal seconded and the Board adopted the motion approving the Resolution by unanimous vote.

STAFF REPORTS

Mr. Leslie presented his report to the Board. Mr. Leslie noted that the U.S.C.A. DC Cir. has yet to schedule oral argument in the Erie v. FERC matter. Negotiations with DEC over the use of a fishing access point for staging and the embankment for the Hawkinsville Dam Remediation continue.

Ms. Ruzycky presented her report to the Board. She noted that the projected third quarter utilization report due January 15th shows MWBE spend at \$1,772.28.

Mr. Ferrara presented his report to the Board. He noted that at the close of fiscal November 30, 2016, the general fund balances for the HRA and BRA were approximately \$3,203,014 and \$972,520 respectively. He noted that District's transactional processing and reporting are current. District bank reconciliations are complete through October 31, 2016.

Mr. Ferrara noted that the draft independent audit is unqualified. He noted that the Access Permit Database conversion is complete. A Beta version final assessment has been conducted.

Mr. Foltan presented the Chief Engineer's report to the Board. Mr. Foltan noted that the November average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 840 cubic feet per second (cfs). Precipitation during the month of November 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 50% and 52% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 36% and 13% of historic average, respectively.

The November average daily release from Stillwater Reservoir was approximately 300 cfs. Monthly total precipitation measured 80%, 71%, 71% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of November 27th. Precipitation in the month of November was below average at Stillwater, Old Forge and at Sixth Lake. The monthly inflow to Stillwater Reservoir was approximately 38% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.09 and 0.21 billion cubic feet, respectively, in November. Release of water from Stillwater Reservoir averaged 76% of historic discharge.

Mr. Hodgson presented his report to the Board. He updated the Board on the completion of the remediation plans required of Oakey and Gizzy by DEC regarding the land disturbance in Mayfield. Mr. Hodgson reported that 450.18 tons of stone was used to restore 587 feet of eroded shoreline. He noted that the Mayfield office is in the access permit renewal process. Mr. Hodgson also provided an update on staff's construction of the new garage at Stillwater.

RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE ORGANIZATIONAL AND REGULAR MEETING FOR JANUARY 10, 2017

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, January 10, 2017 at the Northampton Town Hall, 412 South Main Street, Northville, NY 12134 at 10:00 A.M.

Mr. Neddo 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.

ADJOURNMENT

Chairman Finkle called for a motion to adjourn the meeting. Mr. Berkstresser advanced the motion. Mr. Hayes seconded. The meeting adjourned at 10:57 A.M.

RESOLUTIONS

16-38-12 RESOLUTION TO APPROVE THE BLACK RIVER AREA APPORTIONMENT WITHOUT MODIFICATION

Mr. Neddo made a motion to approve the Black River Area Apportionment without modification. Mr. Rosenthal seconded and the Board adopted the Resolution by unanimous vote.

16-39-12 RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AGREEMENT BY AND BETWEEN THE HUDSON RIVER-BLACK RIVER REGULATING DISTRICT AND THE CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., AFSCME LOCAL 1000, AFL-CIO, HUDSON RIVER-BLACK RIVER REGULATING DISTRICT LOCAL 120

Mr. Rosenthal made a motion to adopt the resolution ratifying the memorandum of agreement with the CSEA bargaining unit. Mr. Berkstresser seconded and the Board adopted the motion by unanimous vote.

16-40-12 RESOLUTION TO APPROVE 2ND AMENDMENT TO CONTRACT C032013 WITH BERGMANN ASSOCIATE'S TO COMPLETE INDIAN LAKE FIRST ENGINEERING ASSESSMENT

Mr. Rosenthal made a motion to adopt the Resolution to approve the increased scope for contract C032013. Mr. Berkstresser seconded and the Board adopted the Resolution by unanimous vote.

16-41-12 RESOLUTION TO APPROVE FUNDING OF BLACK RIVER AREA GAUGING STATION IN DADVILLE IN SUPPORT OF LEWIS COUNTY SOIL AND WATER CONSERVATION DISTRICT

Mr. Berkstresser made a motion whereas the Board desires to fund the Black River Area gauging station in Dadville in support of Lewis County Soil & Water Conservation District as detailed in the Chief Engineer's memo dated 12/9/2016, and now therefore be it resolved staff seeks Board authorization to evaluate, select, and award Black River Rating Curve Field Survey work to a qualified MBE, WBE, or SDVOB firm, and authorization for the Executive Director to execute an agreement in an amount not-to-exceed \$10,000. Mr. Rosenthal seconded and the Board adopted the motion approving the Resolution by unanimous vote.

16-42-12 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE ORGANIZATIONAL AND REGULAR MEETING FOR JANUARY 10, 2017

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, January 10, 2017 at the Northampton Town Hall, 412 South Main Street, Northville, NY 12134 at 10:00 A.M.

Mr. Neddo 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