

**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 11, 2017**

**Immediately following the Finance Committee Meeting scheduled for 10:00 AM**

**CALL TO ORDER**

Chairman Mark M. Finkle called the meeting to order at 10:07 A.M.

**ROLL CALL**

**Present:** Board Chairman Mark M. Finkle; First Vice-Chair Albert J. Hayes; Second Vice-Chair David W. Berkstresser, and Board Member Anthony M. Neddo; 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 Ruzicky.

**Excused:** Jeffrey Rosenthal

**MOTION TO ADOPT OR REVISE THE MEETING AGENDA**

Chairman Finkle asked for a motion to revise the meeting agenda to reflect additional Resolutions dealing with a proposed purchase of property adjacent to the Hawkinsville Dam. Mr. Berkstresser made a motion to adopt the agenda as revised. Mr. Neddo seconded. The Board unanimously approved the motion.

**PUBLIC COMMENT**

Chairman Finkle opened the floor to public comments; hearing none.

**APPROVAL OF THE MARCH 28, 2017 REGULAR MEETING MINUTES**

Chairman Finkle asked for a motion to adopt the March 28, 2017 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; noting that evaluations for the NYS 'New' New York Leaders intern program have begun and that he expects same to be completed by mid-May. Mr. Smullen noted that the documentary funded by the Great Sacandaga Lake Advisory Council (GSLAC) on the construction of the Conklingville Dam is entering its final stages and that the Regulating District has been providing archival materials, personnel support for content and

interviews for the film. Mr. Smullen reminded the Board that representatives from Schnabel Engineering, the firm the Board selected to prepare a technical proposal for the Conklingville Spillway Grouting and Concrete Repair Project, anticipate presenting their proposal to the Board at the May meeting.

Mr. Smullen reported that negotiations continue to progress regarding the Black River Environmental Improvement Association (BREIA) regarding land adjacent to HRBRRD property at Hawkinsville. Chairman Finkle asked if Mr. Smullen wished to address the two Resolutions added to the agenda at this time; hearing in the affirmative.

**RESOLUTION OF INTENT FOR THE REGULATING DISTRICT TO SERVE AS LEAD AGENCY FOR THE PURCHASE OF BREIA LAND ADJACENT TO THE HAWKINSVILLE DAM RECONSTRUCTION PROJECT FOR SEQRA COMPLIANCE AND TO ISSUE A NOTICE OF DETERMINATION OF NON-SIGNIFICANCE**

Mr. Leslie introduced Resolutions incident to the approval to progress with the purchase of the BREIA land. He noted that Counsel and the Chief Engineer prepared and executed Parts 1 & 2 of the Short Environmental Assessment Form and presented to the Board: that assessment; a proposed declaration indicating that the purchase would have no adverse effect on the environment; and a draft Resolution memorializing said determination.

Chairman Finkle asked for a motion adopting the Resolution. Mr. Neddo made a motion to adopt the Resolution indicating the Regulating District's intent to serve as lead agency for its purchase of lands in conjunction with its Hawkinsville Dam reconstruction project and, for the purposes of SEQRA compliance, to issue a notice of determination of non-significance with respect to said purchase. Mr. Berkstresser seconded and the Board adopted the motion by unanimous vote.

**RESOLUTION TO AUTHORIZE THE EXECUTIVE DIRECTOR TO ENTER INTO AN AGREEMENT WITH THE BLACK RIVER ENVIRONMENTAL IMPROVEMENT ASSOCIATION, INC. TO PURCHASE LAND FACILITATING CONSTRUCTION OF AN EARTHEN EMBANKMENT ADJACENT TO THE HAWKINSVILLE DAM**

Mr. Leslie addressed the second Resolution explaining that through this Resolution, the Board would convey upon the Executive Director authority to consummate the negotiation and purchase of the BREIA land. Mr. Smullen added that he intended to act only within the parameters indicated and that were the deal to evolve into terms not contemplated, he would return to the Board before proceeding.

Chairman Finkle asked for a motion adopting the Resolution. Mr. Berkstresser made a motion to adopt the Resolution authorizing the Executive Director to obtain a property boundary survey, appraisal, abstract of title, phase I environmental assessment, and other documents associated with the purchase of the property; to enter into an agreement to purchase said parcel; and to consummate the purchase through payment of typical closing costs, including, but not limited to, real estate taxes, recording fees where applicable, legal fees, and title insurance costs. Mr. Neddo seconded and the Board adopted the motion by unanimous vote.

## **CONTRACTS**

### **RESOLUTION TO AMEND CONTRACT D032015 FOR CONCRETE TESTING SERVICES PROVIDED BY ATLANTIC TESTING LABORATORIES INC.**

Mr. Foltan presented a Resolution to the Board. He noted that the Board authorized staff to award concrete testing services to Atlantic Testing Laboratories, Inc. in December 2015, and that work was to begin on or about May 2016. However work on the ice sluice was delayed and is now scheduled to begin June 2017. He noted that the effective dates of contract D032015 have expired and should be amended and updated. Mr. Foltan recommended that the Board amend Contract D032015 to reflect an expiration date of December 31, 2108 and that the Board authorize the Executive Director to execute an amendment to said agreement to achieve the new expiration date.

Chairman Finkle asked for a motion adopting the Resolution. Mr. Berkstresser made a motion to adopt the Resolution authorizing the extension of Contract D032015 through December 31, 2018. Mr. Hayes seconded and the Board adopted the motion by unanimous vote.

## **GOVERNANCE COMMITTEE REPORT**

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

Committee Vice-Chair Hayes noted that section 2925 of the Public Authority Law requires every public benefit corporation to adopt by Resolution comprehensive investment guidelines that detail the corporation's operative policy and instructions to the Board and management regarding the investing, monitoring and reporting of funds of the corporation. He noted that the Governance Committee reviewed the Regulating District's Investment Policy earlier and that the Committee recommended that no changes be made to the policy.

Chairman Finkle asked for a motion adopting the Resolution. Mr. Neddo made a motion to recommend approval of the Resolution to satisfy the annual review and approval of the Regulating District's Investment Policy. 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 Vice-Chair Hayes noted that section 2879(1) of the Public Authority Law requires every public benefit corporation to adopt by Resolution procurement guidelines that detail the corporation's operative policy and instructions to the Board and management regarding procurement. He noted that the Governance Committee reviewed the Regulating District's Procurement Policy earlier and that the Committee recommended that no changes be made to the policy.

Chairman Finkle asked for a motion adopting the Resolution. Mr. Berkstresser made a motion to recommend approval of the Resolution to satisfy the annual review and approval of the Regulating District's Procurement Policy. Mr. Neddo 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 Vice-Chair Hayes noted that section 2896(1) of the Public Authority Law requires every public benefit corporation to adopt by Resolution an annual review of the Disposition of Property Guidelines that detail the corporation's operative policy and instructions to the Board and management regarding the disposition of property. He noted that the Governance Committee reviewed the Regulating District's Disposition of Property Policy earlier and that the Committee recommended that no changes be made to the policy.

Chairman Finkle asked for a motion adopting the Resolution. Mr. Berkstresser made a motion to recommend approval of the Resolution to satisfy the annual review and approval of the Regulating District's Disposition of Property Policy. Mr. Neddo seconded and the Board unanimously approved the motion.

### **STAFF REPORTS**

Mr. Leslie presented his report to the Board. Mr. Leslie noted that the U.S.C.A. DC Cir. has still 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 appear on hold pending completion of negotiations to purchase the BREIA land bordering both the DEC and HRBRRD parcels.

Ms. Ruzycky presented her report to the Board. She noted that the fourth quarter utilization report has been submitted and that the total goal for 16/17 fiscal year was 33%. The report showed that the MWBE spend achieved 55.5% for the Fourth Quarter.

Mr. Ferrara presented his report to the Board. He noted that at the close of fiscal March 31, 2017, the general fund balances for the HRA and BRA were approximately \$2,703,178 and \$640,970 respectively. He noted that District's transactional processing and reporting are current. District bank reconciliations are complete through March 31, 2017. He noted that Jefferson and Herkimer as well as Brookfield and one other hydro operator have paid their BRA assessments.

Mr. Ferrara presented Board expenses for Mr. Finkle (\$640.87). Mr. Neddo made a motion to reimburse said expenses. Mr. Berkstresser seconded. The Board approved reimbursement of such expenses by unanimous vote.

Mr. Foltan presented the Chief Engineer's report to the Board. Mr. Foltan noted that the March average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was

approximately 2,400 cubic feet per second (cfs). Precipitation during the month of March was below normal across the Great Sacandaga Lake and Indian Lake watersheds. The monthly inflow to Great Sacandaga Lake and Indian Lake reservoir was approximately 71% and 105% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 120% and 221% of historic average, respectively. Mr. Foltan also pointed to an April 10 press release explaining that impoundments of run-off in the Regulating District's Reservoirs at Sacandaga and Indian Lake reduced peak Hudson River Flow by 2/3's ensuring the Hudson did not reach major flood stage between Hadley and Fort Edward during the recent rain event (April 7<sup>th</sup>).

The February average daily release from Stillwater Reservoir was approximately 420 cfs. Monthly total precipitation measured 122%, 109%, 103% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of March 28<sup>th</sup>. Precipitation in the month of March was above average at Stillwater, Old Forge and Sixth Lake. The monthly inflow to Stillwater Reservoir was approximately 111% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.32 and 0.49 billion cubic feet, respectively, in March. Release of water from Stillwater Reservoir averaged 100% of historic discharge.

Mr. Foltan presented the results of GEI Consultants' External Audit and Report of the Regulating District's Dam Safety Program. He explained that the Federal Energy Regulatory Commission requires the owners of high and significant hazard potential dams, like Stillwater Dam and Conklingville Dam, to hire an independent consultant to complete an external audit of the owner's dam safety program at least once every five years. The Regulating District hired Lee Wooten of GEI Consultants, Inc., P.C. to conduct the audit. Mr. Foltan noted that Mr. Wooten's primary conclusion is that the Regulating District's Dam Safety Program is effective and generally conforms to FERC guidelines. The recommended modifications that Mr. Wooten suggested have been incorporated in a revised Dam Safety Manual.

Mr. Hodgson presented his report to the Board. He provided the Board with a summary of a workshop he attended at Fort Drum on Joint Land Use Safety. He also updated the Board on the installation of cameras at the Conklingville valve gallery and at Stillwater showing the downstream face of the dam.

#### **RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR MEETING FOR MAY 9, 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, May 9, 2017 at the Inlet Town Offices, 160 Rt. 28, Inlet, NY 13360 at 10:00 A.M.

Mr. Hayes 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. Hayes advanced the motion. Mr. Berkstresser seconded. The meeting adjourned at 10:37 A.M.

## **RESOLUTIONS**

**17-10-04 RESOLUTION OF INTENT FOR THE REGULATING DISTRICT TO SERVE AS LEAD AGENCY FOR THE PURCHASE OF BREIA LAND ADJACENT TO THE HAWKINSVILLE DAM RECONSTRUCTION PROJECT FOR SEQRA COMPLIANCE AND TO ISSUE A NOTICE OF DETERMINATION OF NON-SIGNIFICANCE**

Chairman Finkle asked for a motion adopting the Resolution. Mr. Neddo made a motion to adopt the Resolution indicating the Regulating District's intent to serve as lead agency for its purchase of lands in conjunction with its Hawkinsville Dam reconstruction project and for the purposes of SEQRA compliance to issue a notice of determination of non-significance with respect to said purchase. Mr. Berkstresser seconded and the Board adopted the motion by unanimous vote.

**17-11-04 RESOLUTION TO AUTHORIZE THE EXECUTIVE DIRECTOR TO ENTER INTO AN AGREEMENT WITH THE BLACK RIVER ENVIRONMENTAL IMPROVEMENT ASSOCIATION, INC. TO PURCHASE LAND FACILITATING CONSTRUCTION OF AN EARTHEN EMBANKMENT ADJACENT TO THE HAWKINSVILLE DAM**

Chairman Finkle asked for a motion adopting the Resolution. Mr. Berkstresser made a motion to adopt the Resolution authorizing the Executive Director to obtain a property boundary survey, appraisal, abstract of title, phase I environmental assessment, and other documents associated with the purchase of the property; to enter into an agreement to purchase said parcel; and to consummate the purchase through payment of typical closing costs, including, but not limited to, real estate taxes, recording fees where applicable, legal fees, and title insurance costs. Mr. Neddo seconded and the Board adopted the motion by unanimous vote.

**17-12-04 RESOLUTION TO AMEND CONTRACT D032015 FOR CONCRETE TESTING SERVICES PROVIDED BY ATLANTIC TESTING LABORATORIES INC.**

Chairman Finkle asked for a motion adopting the Resolution. Mr. Berkstresser made a motion to adopt the Resolution authorizing the extension of Contract D032015 through December 31, 2018. Mr. Hayes seconded and the Board adopted the motion by unanimous vote.

**17-13-04 RESOLUTION TO SATISFY ANNUAL REVIEW AND APPROVAL OF THE REGULATING DISTRICT'S INVESTMENT POLICY**

Chairman Finkle asked for a motion adopting the Resolution. Mr. Neddo made a motion to recommend approval of the Resolution to satisfy the annual review and approval of the Regulating District's Investment Policy. Mr. Berkstresser seconded and the Board unanimously approved the motion.

**17-14-04 RESOLUTION TO SATISFY ANNUAL REVIEW AND APPROVAL OF THE REGULATING DISTRICT'S PROCUREMENT POLICY**

Chairman Finkle asked for a motion adopting the Resolution. Mr. Berkstresser made a motion to recommend approval of the Resolution to satisfy the annual review and approval of the Regulating District's Procurement Policy. Mr. Neddo seconded and the Board unanimously approved the motion.

**17-15-04 RESOLUTION TO ANNUALLY REVIEW AND APPROVE THE REGULATING DISTRICT'S DISPOSITION OF PROPERTY GUIDELINES PURSUANT TO SECTION 2896(1) OF THE PUBLIC AUTHORITIES LAW**

Chairman Finkle asked for a motion adopting the Resolution. Mr. Berkstresser made a motion to recommend approval of the Resolution to satisfy the annual review and approval of the Regulating District's Disposition of Property Policy. Mr. Neddo seconded and the Board unanimously approved the motion.

**17-16-04 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR MEETING FOR MAY 9, 2017**

Mr. Hayes 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