

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

**HRBRRD Sacandaga Field Office**

737 Bunker Hill Road  
Mayfield, New York 12117

March 13, 2018

**10:00AM**

**Remote Call-in Locations**

Ocean Pearl Clubhouse	Longboat Harbor Office/Library
3920 Ocean Pearl Atlantic Beach Blvd. (A-1-A)	4454 Gulf of Mexico Drive
North Hutchinson Island, FL 34949	Longboat Key, FL 34228

**CALL TO ORDER**

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

**ROLL CALL**

**Present:** Board Chairman Mark M. Finkle; First Vice-Chair David W. Berkstresser; Second Vice-Chair Albert J. Hayes; 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.

**Video Feed:** Board Members Kenneth F. DeWitt, Jeffrey Rosenthal

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

Chairman Finkle noted that, as indicated through the meeting Notice and in compliance with NYS's Open Meetings Law, Mr. DeWitt and Mr. Rosenthal are participating via video conference. Mr. Finkle asked for a motion to revise the meeting agenda to reflect an executive session to discuss a personnel issue. Mr. Finkle noted that he would call for the executive session near the close of the meeting and that the Board would not likely take any action upon returning from executive session to adjourn. Mr. Hayes made a motion to adopt the agenda as revised. Mr. DeWitt seconded. The Board approved the motion in a unanimous 5-0 vote.

**PUBLIC COMMENT**

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

**APPROVAL OF THE JANUARY 9, 2018 ORGANIZATIONAL AND REGULAR MEETING MINUTES**

Chairman Finkle asked for a motion to adopt the January 9, 2018 organizational meeting minutes. Mr. Berkstresser advanced the motion to approve the organizational meeting minutes. Mr. Rosenthal seconded and the Board approved the motion by unanimous vote.

Chairman Finkle asked for a motion to adopt the January 9, 2018 regular meeting minutes. Mr. Berkstresser advanced the motion to approve the regular meeting minutes. Mr. Rosenthal seconded and the Board approved the motion by unanimous vote.

## **REPORT OF THE EXECUTIVE DIRECTOR**

Mr. Smullen presented his report. He reported that as negotiations for a reduced footprint at the leased office space at 350 Northern Boulevard continued, the Regulating District entered into an amendment converting the tenancy to 'month-to-month'. He indicated that a Resolution concerning the lease extension and another addressing a new lease for adjacent office space would be presented later in the meeting. Mr. Smullen noted that a similar initiative with regard to the Watertown office is also underway. Mr. Smullen reported his attendance at the 2018 Budget Address presented by Governor Andrew Cuomo on Wednesday January 16<sup>th</sup> and noted that the Governor's address indicated no change to the designated state share of the Regulating District's assessments in the Black or Hudson River Areas. Mr. Smullen reported that on January 26, 2018, he participated in the initial planning conference for the New York Navel Militia Exercise (Rapid Gunwale '18) at the Department of Military and Naval Affairs Offices in Latham, NY. He explained that the exercise will be a multi-jurisdictional security exercise centered on the Conklingville Dam to be held in September of 2018. Mr. Smullen noted that the Regulating District's Newsletter, the Waterline, was released on February 8<sup>th</sup> and that the recipient open rate was 51% with a click through rate of 8%. Finally, the Executive Director reported his acceptance of the Governor's invitation to the State Interfaith Prayer Breakfast on February 27<sup>th</sup>.

## **CONTRACTS**

### **RESOLUTION TO APPROVE AMENDMENT #3 TO CONTRACT C032013**

Mr. Foltan presented a Resolution to the Board. He noted that the Board adopted Resolution 13-45-12 awarding work for the First Engineering Assessment at Indian Lake Dam to Bergmann Associates for a not to exceed amount of \$169,156.00 and that the Board subsequently approved Amendment #1 for \$9,420.00 and Amendment #2 for \$119,890.00 increasing the not to exceed amount to \$298,466.00. Mr. Foltan noted that Bergmann submitted the Engineering Assessment to the Department of Environmental Conservation (DEC) and, as expected, DEC has offered several comments necessitating additional work. Mr. Foltan recommended that the Board accept Bergmann Associates proposal dated January 29, 2018, for the additional work, approve the scope of work to include tasks presented in the proposal for \$7,335.00, and authorize the Executive Director to execute a contract with Bergmann Associates for an amended not to exceed amount of \$305,801.00. Mr. Foltan noted that the contract is subject to the review and approval of the Office of the New York State Attorney General and the New York State Office of the State Comptroller.

Mr. Rosenthal moved to authorize the Executive Director to execute a contract amendment with Bergman Associates for an amended amount not to exceed \$305,801.00. Mr. DeWitt seconded and the Board adopted the Resolution by unanimous vote.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXERCISE MONTH TO MONTH LEASE EXTENSION AMENDMENT #7 WITH DF ACQUISITIONS LLC FOR THE ALBANY OFFICE**

Mr. Ferrara reported to the Board that through Resolution 16-03-02 the Board authorized him, as the then acting Executive Director, to enter into a two-year lease option amendment #6 for the current office space at 350 Northern Boulevard. As that lease was set to expire on February 28<sup>th</sup>, the Executive Director executed a seventh amendment to that lease converting the lease to a ‘month-to-month’ basis for a reduced monthly fee of \$1,776.50 until the Regulating District vacates the current premises for a smaller office located at the same address.

Mr. Hayes made a motion to approve a Resolution to ratify the Executive Director’s action to enter into a month to month tenancy for office space at 350 Northern Boulevard to extend until the Regulating District vacates such space for a smaller office located at the same address. Mr. Berkstresser seconded and the Board adopted the Resolution by unanimous vote.

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXERCISE NEW ALBANY OFFICE LEASE WITH DF ACQUISITIONS LLC FOR SUITE #307, 350 NORTHERN BOULEVARD**

Mr. Smullen presented a new proposal for reduced leased space at 350 Northern Boulevard covering a three year term noting that the new space is adjacent to the existing space, on the same floor, and that a move can be accomplished with minimal cost and disruption. The new three-year lease would be at the following rates:

- Year 1: \$21,318.00 annually (\$1,776.50 monthly, \$16.50 per square foot)
- Year 2: \$21,964.00 annually (\$1,830.33 monthly, \$17.00 per square foot)
- Year 3: \$22,610.00 annually (\$1,884.17 monthly, \$17.50 per square foot)

Transition to the smaller office footprint will represent a rent reduction, over the three periods, of over \$50,000.00.

Mr. DeWitt moved to adopt the Resolution authorizing the Executive Director to enter into a three year lease for office space at 350 Northern Boulevard, Albany NY. Mr. Berkstresser seconded and the Board adopted the Resolution by unanimous vote.

**STAFF REPORTS**

Mr. Leslie presented his report to the Board. Mr. Leslie updated the Board with respect to the litigation surrounding FERC’s Headwater Benefits Assessment Orders. As reported earlier, on December 22, 2017, the United States Court of Appeals, D.C. Circuit denied Erie Boulevard Hydropower, L.P.’s petition to overturn two recent FERC Orders setting the dates upon which Erie must commence paying Headwater Benefits Assessments. The 45 day period during which Erie could have moved for a panel rehearing or a hearing before the entire D.C. Circuit expired on February 5<sup>th</sup>. While Erie can still file a petition for certiorari with the U.S. Supreme Court, such a petition would be a long shot. The Supreme Court typically looks for a split between Circuit Courts (not evident here) before granting cert. Mr. Leslie noted that Leatherstocking

Abstract has completed an abstract of title and a draft title insurance policy pertaining to the HRBRRD's purchase of a piece of land adjacent to the Hawkinsville Dam. Mr. Ferrara is working on securing approval from the Office of the State Comptroller for payment of the \$7,800 purchase price. Mr. Leslie reported that he filed the semi-annual Domestic Violence and Workplace Report with the NYS Office for the Prevention of Domestic Violence. The HRBRRD reported no known incidents of domestic violence affecting HRBRRD employees within the July 31, to December 31, 2017 reporting period. Mr. Leslie noted that on behalf of the records access officer, counsel/staff addressed three (3) FOIL request(s) during the reporting period and that there were no appeals.

Ms. Ruzycky presented her report to the Board. She noted that the HRBRRD's MWBE Program achieved an A+ with a max score of 21 on the Performance Report Card for FY 17/18 for Q1 & Q2. She noted that the performance goal for FY 17/18 has been approved and that the FY 19/19 goal has been submitted and is under review. Ms. Ruzycky indicated that both new employees have completed their required training.

Mr. Ferrara presented his report to the Board. He noted that at the close of fiscal February, 28 2018, the general fund balances for the HRA and BRA were approximately \$2,904,692 and \$1,771,322 respectively. He noted that District's transactional processing and reporting are current. District bank reconciliations are complete through January 31, 2018. Mr. Ferrara updated the Board with respect to the July 1, 2018 through June 30, 2021 Regulating District Budget.

Mr. Foltan presented the Chief Engineer's report to the Board. Mr. Foltan noted that the February average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 2,950 cubic feet per second (cfs). Precipitation during the month of February was above 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 194% and 183% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 105% and 133% of historic average, respectively.

The February average daily release from Stillwater Reservoir was approximately 460 cfs. Monthly total precipitation measured 120%, 123%, 125% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of February 25<sup>th</sup>. Precipitation in the month of February was above average at Stillwater, Sixth Lake and Old Forge. The monthly inflow to Stillwater Reservoir was approximately 164% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.19 and 0.36 billion cubic feet, respectively, in February. Release of water from Stillwater Reservoir averaged 83% of historic discharge.

Mr. Hodgson presented his report to the Board. He noted that 90% of the 2018 access permit system renewals have been returned and that staff recently completed training on the Emergency Action Plans. He reported that HRBRRD Field Office staff assisted Hamilton County with a washout on Hope Falls Road and that the BRFO staff have completed the interior surfaces inside the new garage at Stillwater.

## **RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE ORGANIZATIONAL AND REGULAR MEETING FOR APRIL 10, 2018**

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, April 10, 2018 at the Watertown State Office Building, 317 Washington Street, Watertown, New York 13601 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.

### **EXECUTIVE SESSION**

Chairman Finkle called for a motion to adjourn to Executive Session to discuss personnel issues. Chairman Finkle invited the Executive Director to participate and noted that the Board will not likely conduct business upon its return from Executive Session. Mr. Berkstresser advanced the motion, Mr. Hayes seconded. The Board adjourned to Executive Session at 10:42 A.M. and returned at 11:07 A.M.

### **ADJOURNMENT**

Chairman Finkle called for a motion to adjourn the meeting. Mr. Berkstresser advanced the motion. Mr. Hayes seconded. The meeting adjourned at 11:07 A.M.

### **RESOLUTIONS**

#### **18-02-03 RESOLUTION TO APPROVE AMENDMENT #3 TO CONTRACT C032013**

Mr. Rosenthal moved to authorize the Executive Director to execute a contract amendment with Bergman Associates for an amended amount not to exceed \$305,801.00. Mr. DeWitt seconded and the Board adopted the Resolution by unanimous vote.

#### **18-03-03 RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXERCISE MONTH TO MONTH LEASE EXTENSION AMENDMENT #7 WITH DF ACQUISITIONS LLC FOR THE ALBANY OFFICE**

Mr. Hayes made a motion to approve a Resolution to ratify the Executive Director's action to enter into a month to month tenancy for office space at 350 Northern Boulevard to extend until the Regulating District vacates such space for a smaller office located at the same address. Mr. Berkstresser seconded and the Board adopted the Resolution by unanimous vote.

**18-04-03      RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO  
EXERCISE NEW ALBANY OFFICE LEASE WITH DF ACQUISITIONS  
LLC FOR SUITE #307, 350 NORTHERN BOULEVARD**

Mr. DeWitt moved to adopt the Resolution authorizing the Executive Director to enter into a three year lease for office space at 350 Northern Boulevard, Albany NY. Mr. Berkstresser seconded and the Board adopted the Resolution by unanimous vote.

**18-05-03      RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE  
ORGANIZATIONAL AND REGULAR MEETING FOR APRIL 10, 2018**

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