

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

Cornell Cooperative Extension of Saratoga County

The Cornell Room
50 West High Street
Ballston Spa, NY 12020

Remote Conference-In Location:

Longboat Harbor Office/Library
4454 Gulf of Mexico Drive
Longboat Key, FL 34228

November 13, 2019

10:00 AM

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; Second Vice-Chair Kenneth DeWitt; Board Member Albert J. Hayes; Executive Director John C. Callaghan; General Counsel Robert P. Leslie; Chief Engineer Robert S. Foltan; Chief Fiscal Officer Timothy Maniccia; Area Administrator John Hodgson and Compliance Officer Stephanie Ruzycky.

Video Feed: First Vice-Chair Jeffrey Rosenthal

MOTION TO ADOPT OR REVISE THE MEETING AGENDA

Chairman Finkle asked for a motion to adopt the agenda. Mr. DeWitt made a motion to adopt the agenda. Mr. Rosenthal seconded. The Board approved the motion by unanimous vote.

PUBLIC COMMENT

Chairman Finkle opened the floor to public comment. Two speakers commented upon current levels on Great Sacandaga Lake, noting a desire for a return to historic average as soon as possible while acknowledging the reservoir's primary flood protection role and commending staff for its adept management of the reservoir during the recent rain event and successfully fulfilling the flood control aspects of the District's mission. In response to questions pertaining to certain aspects of that management and efforts to lower the reservoir's level, Mr. Callaghan and Mr. Foltan explored the factors dictating releases pursuant to the Offer of Settlement. A third speaker expressed appreciation for the District's efforts to communicate to the public before, during and after the event to provide updated information. Mr. Callaghan responded to questions regarding the District's ongoing outreach efforts.

APPROVAL OF THE OCTOBER 8, 2019 BOARD MEETING MINUTES

Chairman Finkle asked for a motion to adopt the October 8, 2019 Board meeting minutes. Mr. DeWitt advanced the motion to approve the regular meeting minutes. Mr. Hayes seconded and the Board approved the motion by unanimous vote.

REPORT OF THE EXECUTIVE DIRECTOR

Mr. Callaghan noted that the Regulating District's facilities, especially those in the Hudson River Area such as Great Sacandaga Lake and Indian Lake reservoirs, handled the Halloween rain in stride and applauded staff's excellent communication efforts throughout the event. He explained that through the efforts of staff members Gina Bulman and Megan Cole, the Regulating District's social media presence has increased (e.g. Facebook 250 to 1,200 followers) and that real-time updates covering the storm were widely circulated and shared on social media, with one post reaching over 45,000 people on Facebook. He expressed an intent to continue these outreach efforts. Mr. Callaghan noted that a reported meeting with the Executive Chamber team on November 1 was postponed due to the October 31st storm.

CONTRACTS/ACTIONS

RESOLUTION TO AWARD MANAGED NETWORK SERVICES AGREEMENT TO LOGICAL NET CORPORATION

Mr. Callaghan introduced a resolution authorizing a contract for the provision of network services. He noted that the Regulating District's contract for such services with TAG Solutions, LLC expires at the end of November and, accordingly, staff has solicited quotations from qualified companies for a new, three-year agreement. After reviewing these proposals, including proposals solicited from TAG Solutions and certified MWBE companies, Mr. Callaghan recommended that the Board authorize the Regulating District to enter into a contract with Logical Net Corporation. Logical Net Corporation's proposal represents an increase in a level of service and cyber security from the Regulating District's current environment with TAG Solutions, LLC. Importantly, the proposal from Logical Net Corporation includes migration of our email to the Microsoft Outlook 365 platform – a "cloud-based" environment which will enhance our email reliability and offer greater security and redundancy. Mr. Callaghan noted that staff has met several times with Logical Net Corporation to discuss its proposal and verify the thoroughness and effectiveness of its provisions. Staff also checked references provided by Logical Net Corporation to its satisfaction. The contract with Logical Net Corporation represents significant savings for the Regulating District. Monthly savings will be approximately \$745, with a three-year savings of approximately \$15,000 after initial equipment and other start-up expenses.

Mr. Callaghan also noted that discussions continued with NYS ITS about ultimately hosting a specific area of these services, namely email support which would follow the District's transition to the "ny.gov" format, with the balance of IT services continuing to be provided by Logical Net. Mr. Rosenthal asked for a timeframe for migration of these services to the State. Mr. Callaghan noted that this will be informed by the ongoing dialog with NYS ITS and that this

discussion formed the basis for the move to a month to month agreement with Logical Net for the email component of its proposal.

Mr. DeWitt moved to adopt the resolution authorizing a three (3) year Managed Network Services agreement to Logical Net Corporation, for a not to exceed amount of \$43,237.00. Mr. Rosenthal seconded and the Board adopted the resolution by unanimous vote.

RESOLUTION TO APPOINT AN INTERNAL CONTROL OFFICER

Mr. Callaghan presented a resolution appointing an internal control officer. Public Authorities Law §2931 requires the Regulating District board to establish and maintain a system of internal control and to designate an internal control officer. Mr. Callaghan noted that the internal control officer shall implement and review the internal control responsibilities established pursuant to the public authorities law and shall implement education and training efforts to ensure that members, officers and employees of the Regulating District have achieved adequate awareness and understanding of internal control standards and, as appropriate, evaluation techniques. He noted that Richard J. Ferrara served as the Regulating District's internal control officer before his retirement effective October 30, 2019, and that he had asked Mr. Leslie and Mr. Maniccia to review the duties attendant to the internal control officer and make a recommendation to him regarding who should succeed Mr. Ferrara. As a result of that discussion, Mr. Callaghan recommended that the Board appoint Timothy Maniccia to serve as the Regulating District's internal control officer as part of his duties as the Regulating District's Chief Fiscal Officer. Mr. Callaghan noted that internal controls is a responsibility that everyone shares, and we will continue to work as a team to make a strong internal controls environment even stronger.

Mr. Hayes moved to adopt a resolution appointing Timothy Maniccia to serve as internal control officer as part of his duties as the Regulating District's Chief Fiscal Officer. Mr. DeWitt seconded and the Board adopted the resolution by unanimous vote.

RESOLUTION AUTHORIZING THE REGULATING DISTRICT TO RETAIN A CONSULTING FIRM FOR INSURANCE AND RISK MANAGEMENT SERVICES

Mr. Maniccia, presented a resolution authorizing the retention of a firm to provide insurance and risk management services. He noted that the Regulating District has utilized the services of The Compass Company, Inc., to provide these insurance and risk management services in order to properly manage potential loss exposures and reduce certain identified risks through the purchase of appropriate insurance at the least cost to the Regulating District. The Compass Company informed the previous CFO that the company is no longer providing this service. The District's previous CFO sent an informal request for services (RFP) to Marshall & Sterling Insurance, and several MWBE companies to assess their interest in providing said services. Marshall & Sterling Insurance was the only company to respond to the RFP.

Mr. DeWitt moved to adopt the resolution to authorize the Regulating District to retain Marshall & Sterling Insurance and to provide insurance and risk management services by the

terms and conditions set forth in their proposal for an amount not to exceed amount \$10,000.00. Mr. Rosenthal seconded and the Board adopted the resolution by unanimous vote.

RESOLUTION TO ACCEPT ATLANTIC TESTING LABORATORIES, LIMITED'S (ATL) PROPOSAL TO COMPLETE SUBSURFACE SOIL SAMPLING AT STILLWATER DAM IN SUPPORT OF SEISMIC STABILITY ANALYSES WORK BEING COMPLETED BY PAUL C. RIZZO ENGINEERING – NEW YORK , PLLC

Mr. Foltan presented a resolution authorizing a contract for geotechnical investigation work in connection the seismic stability analyses work being completed by Paul C. Rizzo Engineering – New York, PLLC at Stillwater Dam. He noted that in August 2010, the Board authorized staff to hire Paul C. Rizzo Engineering – New York, PLLC (Rizzo) to complete a Federal Energy Regulatory Commission (FERC) required liquefaction & deformation analysis of the Stillwater Dam. On August 14, 2014, staff submitted the Rizzo report to FERC who agreed with the findings. However, in response to recommendations made in the seventh part 12D independent consultant safety inspection report (February 2016) and in a letter dated July 30, 2018, FERC requested additional seismic stability analysis for gravity structures at the Stillwater Dam. Mr. Foltan further explained that in December 2018, pursuant to resolution 18-38-12, the Board authorized staff to engage Rizzo to complete seismic stability and seismic deformation analyses and to submit a geotechnical and seismic evaluation report. Mr. Foltan indicated an intent to conduct subsurface soil sampling at Stillwater Dam in support of seismic stability analyses work being completed by Rizzo. He noted that state finance law §163(6), authorizes purchases without a formal competitive process in certain circumstances, including; purchases from New York State small businesses and from businesses certified pursuant to Article 15-A of the executive law. Atlantic Testing Laboratories, Limited (an MWBE firm) and two other firms were provided an invitation for bid. Atlantic Testing Laboratories, Limited submitted a bid by September 23, 2019 deadline, the bid was publicly opened at 11:00 AM and a determination of the low bidder was made according to Section I-21 of the information for bidders of the bid documents. Mr. Foltan recommended conditionally awarding the work to Atlantic Testing Laboratories, Limited and sought Board acceptance of the recommendation, authorization to form a contract to complete the work, and authorization for the Executive Director to execute an agreement in an amount not-to-exceed \$84,084.00. Mr. Foltan noted that the agreement is subject to the review and approval of the NYS Attorney General and the NYS Office of the State Comptroller.

Mr. Rosenthal moved to adopt the resolution to accept the proposal submitted by ATL and to authorize the Executive Director to execute an agreement in an amount not to exceed \$84,084.00. Mr. DeWitt seconded and the Board adopted the resolution by unanimous vote.

RESOLUTION TO AUTHORIZE A THREE-YEAR SUBSCRIPTION FOR ONLINE LEGAL RESEARCH THROUGH THOMSON REUTERS

Mr. Leslie presented a resolution authorizing a three-year subscription for on-line legal research. He noted that for over the last decade Regulating District counsel has relied upon a Westlaw subscription for legal research, case strategy, citation checks and training. The client manager for the West Publishing Company, a Thomson Reuters Company, has indicated that the company will no longer offer the month to month service, but seeks to transition the Regulating District's subscription to a contract with a three-year term to be billed monthly. The \$213 monthly

subscription fee, aggregated over the 36-month term of the contract (\$7,668), exceeds the \$5,000 monetary threshold for procurement approval. However, pursuant to the Regulating District's procurement guidelines, this discretionary purchase, totaling less than \$15,000, does not require competitive bid. Mr. Leslie noted that the agreement is not subject to the review and approval of the NYS Attorney General and the NYS Office of the State Comptroller.

Mr. Rosenthal asked a question about the availability of "hard copy" versions of New York State statute. Mr. Leslie responded that while these were available, the District had not used these versions in many years, citing the need to update the books annually with inserts, and the inherent benefits of the electronic versions.

Mr. Rosenthal moved to adopt the resolution to authorize the Executive Director to execute an agreement with Thomson Reuters for a 36-month term at a monthly fee of \$213 with a year over year increase during the minimum term of 2%. Mr. DeWitt seconded and the Board adopted the resolution by unanimous vote.

STAFF REPORTS

Mr. Leslie presented his report. He noted his work with the Area Administrator and Field Office Staff to memorialize the control environment governing the operation of the access permit system and his work to gather documents relevant to the control environmental affecting human resource operations. Mr. Leslie noted that he has addressed document requests posed by the Regulating District's insurance carrier's defense team with respect to the Scribner Notice of Claim involving Captain Nauti's Sunset Grill. The insurance carrier's assigned counsel continues to lead the investigation; including the conduct of a hearing to elicit facts necessary to determine the extent, if any, of the Regulating District's potential liability.

Ms. Ruzycky presented her report to the Board. She noted her continued work with Interactive Media Consulting, LLC (IMC) regarding permit database issues and website functionality. Ms. Ruzycky noted MWBE utilization for the 2nd quarter was \$110,127.22.

Mr. Maniccia presented his report to the Board. He noted that at the close of fiscal October 31, 2019, the general fund balances for the HRA and BRA were approximately \$2,589,370 and \$2,604,077 respectively. He noted that District's transactional processing and reporting are current. District bank reconciliations are complete through September 30, 2019.

Mr. Foltan presented the Chief Engineer's report to the Board. Mr. Foltan noted that the October average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 1,870 cubic feet per second (cfs). Precipitation during the month of October was above normal across the Great Sacandaga Lake and Indian Lake watersheds. The monthly inflow to Great Sacandaga Lake and Indian Lake reservoir was approximately 167% and 125% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 96% and 129% of historic average, respectively. Mr. Foltan acknowledged the end of October rain event; noting that Great Sacandaga Lake peaked at 770.23' and is now receding.

The October average daily release from Stillwater Reservoir was approximately 437 cfs. Monthly total precipitation measured 151%, 161%, and 165% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of October 27th. Precipitation in the month of October was above average at Stillwater, Old Forge and Sixth Lake. The monthly inflow to Stillwater Reservoir was approximately 157% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.63 and 0.20 billion cubic feet, respectively, in October. Release of water from Stillwater Reservoir averaged 136% of historic discharge.

Mr. Hodgson presented the Administrator's report. He noted that HRA and BRA staff conducted monthly dow valve tests. He noted that the end of October rain event has brought a halt to shoreline erosion control/Rip Rap efforts. Such efforts will continue as weather permits. During the down-time, staff have moved-on to the removal of trees at the base of Conklingville.

RESOLUTION SCHEDULING DATE AND TIME OF THE REGULAR MEETING FOR DECEMBER 10, 2019

Chairman Finkle asked for a motion to adopt a Resolution setting the date, place and time for the next meeting of the Board of the Hudson River-Black River Regulating District for Tuesday, December 10, 2019 at the Warren County Municipal Center, 1340 U.S. 9, Lake George, NY 12845. The meeting will be scheduled for 10:00 A.M.

Mr. Hayes moved to adopt the Resolution setting the date, time and place of the next meeting. Mr. DeWitt 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. Rosenthal seconded. The meeting adjourned at 10:55 A.M.

RESOLUTIONS

19-44-11 RESOLUTION TO AWARD MANAGED NETWORK SERVICES AGREEMENT TO LOGICAL NET CORPORATION

Mr. DeWitt moved to adopt the resolution authorizing a three (3) year Managed Network Services agreement to Logical Net Corporation, for a not to exceed amount of \$43,237.00. Mr. Rosenthal seconded and the Board adopted the resolution by unanimous vote.

19-45-11 RESOLUTION TO APPOINT AN INTERNAL CONTROL OFFICER

Mr. Hayes moved to adopt the resolution appointing Timothy Maniccia to serve as the Regulating District's internal control officer as part of his duties as the Regulating District's Chief Fiscal Officer. Mr. DeWitt seconded and the Board adopted the resolution by unanimous vote.

19-46-11 RESOLUTION AUTHORIZING THE REGULATING DISTRICT TO RETAIN A CONSULTING FIRM FOR INSURANCE AND RISK MANAGEMENT SERVICES

Mr. DeWitt moved to adopt the resolution to authorize the Regulating District to retain Marshall & Sterling Insurance and to provide insurance and risk management services by the terms and conditions set forth in their proposal for an amount not to exceed amount \$10,000.00. Mr. Rosenthal seconded and the Board adopted the resolution by unanimous vote.

19-47-11 RESOLUTION TO ACCEPT ATLANTIC TESTING LABORATORIES, LIMITED'S (ATL) PROPOSAL TO COMPLETE SUBSURFACE SOIL SAMPLING AT STILLWATER DAM IN SUPPORT OF SEISMIC STABILITY ANALYSES WORK BEING COMPLETED BY PAUL C. RIZZO ENGINEERING – NEW YORK , PLLC

Mr. Rosenthal moved to adopt the resolution to accept the proposal submitted by ATL and to authorize the Executive Director to execute an agreement in an amount not to exceed \$84,084.00. Mr. DeWitt seconded and the Board adopted the resolution by unanimous vote.

19-48-11 RESOLUTION TO AUTHORIZE A THREE-YEAR SUBSCRIPTION FOR ONLINE LEGAL RESEARCH THROUGH THOMSON REUTERS

Mr. Rosenthal moved to adopt the resolution to authorize the Executive Director to execute an agreement with Thomson Reuters for a 36-month term at a monthly fee of \$213 with a year over year increase during the minimum term of 2%. Mr. DeWitt seconded and the Board adopted the resolution by unanimous vote.

19-49-11 RESOLUTION SCHEDULING DATE AND TIME OF THE REGULAR MEETING FOR DECEMBER 10, 2019

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

Robert P. Leslie,
Secretary

Mark M. Finkle
Board Chairman