

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

Utica State Office Building

207 Genesee Street

Utica, NY 13501

February 2, 2016

Immediately following 10:00 AM Organizational Meeting

CALL TO ORDER

Chairman Mark M. Finkle called the meeting to order at 10:08 A.M.

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

Excused: Jeffrey Rosenthal

MOTION TO ADOPT OR REVISE THE MEETING AGENDA

Chairman Finkle asked for a motion to revise the meeting agenda to: add a Resolution to amend the webcasting agreement; consider a GIS Mapping proposal; and to add an Executive Session to discuss personnel and collective bargaining. Mr. Hayes made a motion to adopt the agenda as revised. Mr. Berkstresser seconded. The Board unanimously approved the motion.

PUBLIC COMMENT

Chairman Finkle solicited comments from the public. Hearing none.

APPROVAL OF THE DECEMBER 8, 2015 REGULAR BOARD MEETING MINUTES

Chairman Finkle asked for a motion to adopt the December 8, 2015 Regular Board Meeting Minutes. Mr. Hayes advanced the motion to approve the Meeting Minutes. Mr. Neddo seconded and the motion was unanimously approved.

REPORT OF THE ACTING EXECUTIVE DIRECTOR

Mr. Ferrara presented his report. He noted that staff remain focused on the EFC funding application concerning the work at Conklingville Dam. The application has been submitted and staff await EFC comments. Staff also continue to work on the Black River Area Apportionment. Mr. Ferrara noted that, although staff had intended to do the data collection and analysis in-house, difficulties working with new software suggest that the District may need to seek help

from an outside contractor. Mr. Berkstresser inquired about the progress of talks regarding the Reservoir Operating Agreement at Stillwater.

CONTRACTS/REPORTS

AMENDMENT #2 TO KBL, LLC, AUDIT SERVICES AGREEMENT CONTRACT C012014

Mr. Ferrara presented the Board with a draft Resolution to amend the Audit services Agreement with KBL, LLC to authorize an additional \$7,500 in fees incurred in connection with the audit performed for the fiscal year ending June 30, 2015. Mr. Ferrara noted that KBL, LLC performed significant additional work in connection with the audit of the consolidated financial statements for the District for fiscal year June 30, 2014 and 2015. Specifically, in November 2013 the Government Accounting Standards Board ("GASB") issued Statement 71 to address amounts associated with contributions made by a state or local government employer or non-employer contributing entity to a defined benefit pension plan after the measurement date of the government's beginning net pension liability. The above is effective for the District's year ended June 30, 2014 audit.

Mr. Ferrara noted that Statement 71 is one of the more significant pieces of literature passed by the profession in the government space in years and is quite expansive in terms of its contents. As it relates to the audit for the District, an assessment of the Statement's impact on the District was performed for both the 2013 and 2014 year. This included KBL going through the Statement to identify those areas that were specifically applicable to the District from both the basic financial statement standpoint and the supporting notes to the financial statements. In addition, it required significant time being spent to find the applicable information from NYS and other sources and then recalculating and framing this information in a format that would meet the requirements of the Statement. This resulted in a change in the 2013 year to reflect the applicable liability in addition to determining the correct liability to be reflected in 2014. Lastly, the content of Statement 71 is rather voluminous and KBL had to take the time to go through it to determine which sections were specifically applicable to the District and then draft the appropriate footnote disclosure that would meet the basic financial reporting disclosure requirements specific to the District. All of the above required a significant amount of time spent by KBL. Accordingly, Mr. Ferrara recommended the Board authorize payment of these additional fees in the amount of \$7,500.00 which represents 50% of the actual costs incurred by KBL.

Mr. Moore made a motion to adopt a Resolution approving a second amendment to the Audit Services Agreement with KBL, LLC to increase the contract amount for contract C012014 by \$7,500. Mr. Berkstresser seconded and the Board adopted the resolution by unanimous vote.

RESOLUTION TO AUTHORIZE THE PURCHASE OF A TRACTOR BUCKET ATTACHMENT FOR THE TRACTOR AT THE CONKLINGVILLE DAM

Mr. Hodgson presented the Board with a draft Resolution explaining that the tractor at Conklingville Dam does not have a bucket. Mr. Hodgson indicated that the purchase of a bucket for the existing tractor at the Dam would eliminate the need to transport equipment back and

forth between the Sacandaga Field Office and the dam. He noted that staff solicited and received three (3) bids for a tractor bucket and that the lowest bid came from H&M Equipment in the amount of \$5,589.00.

Mr. Hayes made a motion to approve the Resolution authorizing an expenditure of \$5,589.00 for the purchase of a bucket attachment for the tractor at Conklingville. Mr. Berkstresser seconded and the Board adopted the Resolution by unanimous vote.

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXERCISE LEASE EXTENSION AMENDMENT #6 WITH DAVID L. GRUENBERG, AS THE TEMPORARY RECEIVER OF RENTS & PROFITS (ACTING ON BEHALF OF SKY FOUR REALTY LLC) FOR THE ALBANY OFFICE

Mr. Ferrara noted that the lease for the Regulating District's Albany office is due for renewal. The current lease, last addressed by the Board in Resolution 14-35-11, authorizes the Executive Director to enter into a one year lease option amendment with the Building's receiver of rents and profits, David L. Gruenberg. Mr. Ferrara recommended that the Board permit the Acting Executive Director to enter in to an amendment modifying Paragraph 2 Term, in said agreement to state "commencing on March 1, 2016 and ending February 28, 2018", and accept the increase in the annual lease cost from \$31,725.00 to \$32,312.50 for March 1, 2016 – February 28, 2017 (1.9% increase) and from \$32,312.50 to \$32,900.00 for March 1, 2017 – February 28, 2018 (1.9% increase), as specified in Paragraph 3. Mr. Ferrara 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. Hayes made a motion to approve the Resolution authorizing negotiation and execution of an amendment to the lease on the terms indicated. Mr. Neddo seconded and the Board adopted the Resolution by unanimous vote.

RESOLUTION TO APPROVE 1st AMENDMENT TO GRANICUS WEBCASTING SERVICES AGREEMENT

Mr. Ferrara presented the Board with a draft Resolution through which the Board could approve an amendment to the webcasting agreement between the Regulating District and its vendor, Granicus. He noted that the Board awarded the webcasting services work to Granicus pursuant to Resolution 11-17-06 and shortly thereafter entered into an agreement for services. Mr. Ferrara suggested that, in addition to District's existing solution, he would recommend that the Board add the Granicus Portable Encoder to the contract. He described the Portable Encoder and noted that the upfront \$7,500 expense and ongoing increase of \$300 per month is already provided for as part of the current (3) year budget. Mr. Ferrara also noted that the amendment would extend the term of the Agreement and require the review and approval of the NYS Attorney General and the Office of the State Comptroller.

Mr. Berkstresser made a motion to adopt the Resolution approving an amendment to the webcasting agreement with Granicus. Mr. Hayes seconded and the Board adopted the Resolution by unanimous vote.

GIS MAPPING OF BLACK RIVER AREA PROPERTIES – BLACK RIVER AREA APPORTIONMENT

Mr. Foltan noted that Board has directed staff to begin a re-apportionment in the Black River area. He explained that the foundation of an apportionment will be the development of an inventory of the real properties adjoining the Moose, Beaver, and Black River. Mr. Foltan proposed that this inventory, which will include real property tax mapping and associated property tax parcel data, be combined with flood plain, road, and ortho-imagery to produce a set of geographic information system (GIS) maps. Mr. Foltan noted that the GIS maps of the rivers within the Black River Area, downstream of the Stillwater, Sixth Lake and Old Forge dam, will serve as the basis for the assessment of benefited properties in the Black River area. Mr. Foltan further explained that in an effort to expedite the development of the GIS maps, he requested a proposal from Ryan Biggs – Clark Davis Engineering & Surveying, P.C. to compile the information and data necessary to generate the maps and produce the parcel data inventory. Mr. Foltan recommended that the Board, by motion, accept the Ryan Biggs proposal to complete the work, under a current engineering and surveying services contract with the Regulating District, for \$21,440.

Mr. Neddo noted that the Ryan Biggs proposal does not include mapping of the Black River upstream of Lyons Falls and downstream of the Hawkinsville Dam. Mr. Neddo asked if Mr. Foltan plans to capture within the Black River Area Apportionment the expenditure of upwards of \$1 Million to remediate the Hawkinsville Dam. Mr. Foltan noted that such expenditure could be included and that the Apportionment could be fashioned to result in assessment against identified beneficiaries downstream of Hawkinsville. Mr. Foltan indicated he thought that Ryan Biggs might be amenable to including the wider scope of GIS mapping for roughly a 10% premium over the existing proposal.

Mr. Berkstresser made a motion to authorize the Acting Executive Director to conditionally award the GIS Mapping work to Ryan Biggs – Clark Davis Engineering & Surveying, P.C. conditioned on the expansion of the scope to include that portion of the Black River Downstream of Hawkinsville, to form a contract to complete the work, and to authorize the Acting Executive Director to execute an agreement in the amount not to exceed \$25,000. Mr. Moore seconded and the Board adopted the motion by unanimous vote.

STAFF/COMMITTEE REPORTS

Mr. Leslie presented his report to the Board. Mr. Leslie reported that Erie Boulevard Hydropower, L.P. and the Boralex Companies have appealed FERC's November 19th Order through the United States Court of Appeals for the D.C. Circuit. The NYS Attorney General has filed a 'Motion to Intervene' on the Regulating District's behalf. Mr. Leslie also noted that the Regulating District continues to await Niagara Mohawk's draft of the comprehensive settlement agreement consistent with the terms of the executed term sheet.

Ms. Ruzycky presented her report to the Board. She noted that she submitted the 3rd Quarter Utilization report to Empire State Development noting that MWBE utilization was \$80,231.21 (37.1%) for the quarter. Year to date spend is 26.9%. She also reported submission of the Regulating District's Annual Goal Plan update. Finally, Ms. Ruzycky alerted the Board that she submitted the Regulating District's Service-Disabled Veteran-Owned Business Act goal plan (6%) to the Office of General Services.

Mr. Ferrara presented his report to the Board. He noted that, as estimated for his report prepared in early January, at the close of fiscal December 31, 2015, the general fund balances for the HRA and BRA were approximately \$2,793,896 and \$1,423,700 respectively. He noted that District transactional processing and reporting for the fiscal month of December 2015 was completed in an accurate and timely fashion. District bank reconciliations are complete through December 31, 2015. Mr. Ferrara briefly discussed an effort to upgrade the access permit system database from 'Access' to another, more modern program.

Mr. Ferrara presented an affidavit evidencing \$752.22 in necessary and reasonable Board expenses incurred by Anthony Neddo and Robert Moore in the course of their duties as a Board members. Chairman Finkle asked for a Motion to approve payment of such expenses. Mr. Hayes so moved. Mr. Berkstresser seconded and the Board passed the motion by unanimous vote.

Mr. Foltan presented the Chief Engineer's report to the Board. Mr. Foltan noted that reservoir releases and elevations are on target despite 40-60% of historic average precipitation. Mr. Foltan then delivered the Indian Lake dam engineering assessment report completed by Bergmann Associates in October 2015. Notable compliance issues in the report include the need for additional low level outlet discharge capacity, and increased spillway overturning and sliding resistance.

Mr. Foltan related that in August 2010 the Board hired Paul C. Rizzo Engineering – New York, PLLC (Rizzo) to complete a Liquefaction and Deformation Analysis of the Stillwater Dam as required by the Federal Energy Regulatory Commission (FERC) in response to a recommendation included in the Sixth Part 12D Independent Consultant Safety Inspection Report. Mr. Foltan noted that the work centered on an evaluation of the stability of the north embankment dam. He noted that Rizzo completed the final report and submitted it to FERC in August 2014. In August 2015, FERC accepted Rizzo's report and conclusion that the north embankment dam has adequate factors of safety under post seismic loading. Mr. Foltan related that following the Seventh Part 12D independent consultant safety inspection, and FERC's annual inspection, on December 10, 2015, FERC informed the Regulating District of the need to complete additional work including a slope stability analysis with seismic loading of the south embankment dam. Mr. Foltan opined that the additional analysis required by FERC is similar to that completed by Rizzo on the north embankment and that, as such, Rizzo appears to be the most highly qualified firm to complete the additional analysis. Mr. Foltan sought authorization to request a proposal from Paul C. Rizzo Engineering – New York, PLLC to complete a slope stability analysis of the Stillwater Reservoir south embankment dam. Mr. Foltan opined that he will be in a position to present Rizzo's proposal to the Board (anticipated in March 2016) for its acceptance prior to commencement of the additional work. Mr. Moore made a motion to authorize the Chief Engineer to request a proposal from Paul C. Rizzo Engineering – New York, PLLC to complete a slope stability analysis of the Stillwater Reservoir south embankment dam. Mr. Neddo seconded and the Board adopted the motion by unanimous vote.

Mr. Hodgson presented his report to the Board. He reported that the Sacandaga Field Office has received nearly 2300 permit renewals to date and that, as can be expected with the weather, Rip Rap activities have ceased for the season. He also reported completion of the annual emergency action plan training. Mr. Hodgson related that during January staff received

many reports and subsequently investigated a major ground disturbance on four access permit areas in Mayfield. Representatives from DEC, the APA, the State Police, the Army Corp of Engineers, and the State Historic Preservation Office have been contacted and are coordinating an enforcement response.

BOARD MEMBER QUESTIONS AND COMMENTS

Chairman Finkle re-affirmed his commitment to have staff prepare a column for a local newspaper. Chairman Finkle also mentioned that he has been contacted by several permit holders with respect to the Committee to be formed to address insurance requirements imposed upon associations seeking access permits at Great Sacandaga Lake. Mr. Finkle indicates he would convene the committee shortly.

RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR BOARD MEETING FOR MARCH 1, 2016

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, March 1, 2016 at the Utica State Offices Utica, NY 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. Berkstresser seconded it and the Resolution was unanimously adopted.

EXECUTIVE SESSION

Chairman Finkle called for a motion to adjourn to Executive Session to discuss personnel issues and collective bargaining. The Chairman invited the Acting Executive Director/Chief Fiscal Officer and General Counsel to join the Board. Chairman Finkle noted that the Board did anticipate conducting business upon its return from Executive Session. Mr. Hayes advanced the motion, Mr. Neddo seconded. The Board adjourned to Executive Session at 11:04 A.M. and returned at 11:48 A.M.

ADJOURNMENT

There being no further business to come before the Board, Mr. Moore moved to adjourn the meeting. Mr. Neddo seconded it. The motion was unanimously approved. The meeting adjourned at 11:48 A.M.

RESOLUTIONS

16-01-02 AMENDMENT #2 TO KBL, LLC, AUDIT SERVICES AGREEMENT CONTRACT C012014

Mr. Moore made a motion to adopt a Resolution approving a second amendment to the Audit Services Agreement with KBL, LLC to increase the contract amount for

contract C012014 by \$7,500. Mr. Berkstresser seconded and the Board adopted the Resolution by unanimous vote.

16-02-02 RESOLUTION TO AUTHORIZE THE PURCHASE OF A TRACTOR BUCKET ATTACHMENT FOR THE TRACTOR AT THE CONKLINGVILLE DAM

Mr. Hayes made a motion to approve the Resolution authorizing an expenditure of \$5,589.00 for the purchase of a bucket attachment for the tractor at Conklingville. Mr. Berkstresser seconded the motion and the Board approved the motion by unanimous vote.

16-03-02 RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXERCISE LEASE EXTENSION AMENDMENT #6 WITH DAVID L. GRUENBERG, AS THE TEMPORARY RECEIVER OF RENTS & PROFITS (ACTING ON BEHALF OF SKY FOUR REALTY LLC) FOR THE ALBANY OFFICE

Mr. Hayes made a motion to approve the Resolution authorizing negotiation and execution of an amendment to the lease on the terms indicated. Mr. Neddo seconded and the Board adopted the Resolution by unanimous vote.

16-04-02 RESOLUTION TO APPROVE 1st AMENDMENT TO GRANICUS WEBCASTING SERVICES AGREEMENT

Mr. Berkstresser made a motion to adopt the Resolution approving an amendment to the webcasting agreement with Granicus. Mr. Hayes seconded and the Board adopted the Resolution by unanimous vote.

16-05-02 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR BOARD MEETING FOR MARCH 1, 2016

Mr. Hayes moved to adopt the Resolution setting the date, time and place of the next meeting. Mr. Berkstresser seconded it and the Resolution was unanimously adopted.

Respectfully submitted,

Richard J. Ferrara,
Secretary/Treasurer

Mark M. Finkle
Board Chairman