

**HUDSON RIVER-BLACK RIVER REGULATING DISTRICT
GOVERNANCE COMMITTEE MEETING**

Adirondack Hotel
1245 Main Street
Long Lake, NY 12847
September 9, 2015
10:00 AM

CALL TO ORDER

Committee Chairman Rosenthal called the meeting to order at 10:00 A.M.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Committee Chairman Jeffrey Rosenthal, Vice-Chairman Albert J. Hayes; Board Chairman as Ex Officio Committee Member Mark M. Finkle; and Board Members David W. Berkstresser and Anthony M. Neddo; Executive Director Michael A. Clark; General Counsel Robert P. Leslie; Chief Engineer Robert S. Foltan; Chief Fiscal Officer Richard J. Ferrara; Administrator John Hodgson; and Compliance Officer Stephanie Ruzycky.

Excused: Robert A. Moore

MOTION TO ADOPT COMMITTEE MEETING AGENDA

Mr. Hayes made a motion to adopt the meeting agenda. Mr. Rosenthal seconded it and the Board approved the motion by unanimous vote.

MOTION TO APPROVE JULY 28, 2015 COMMITTEE MEETING MINUTES

Mr. Hayes made a motion to approve the Minutes of the Committee's July 28, 2015 Meeting. Mr. Rosenthal seconded it and the motion was unanimously approved.

COMMITTEE BUSINESS

A. Old Business –

**a. RESOLUTION TO AMEND THE REGULATING DISTRICT'S
PROCUREMENT POLICY - Mr. Leslie**

- i. At Committee Chairman Rosenthal's request Mr. Ferrara reminded the Board that at the end of May, 2015 the Regulating District responded to a survey of State Authority General Counsels. The survey assessed the procurement processes employed by public authorities when securing outside counsel. Completion of the survey revealed that Authorities are to craft procurement policies that specifically reference and require compliance with each of the several dozen relevant

provisions of Public Authorities Law 2879. While the Regulating District complies with PAL 2879 in the normal course of its procurement efforts, the Regulating District's procurement policy does not reference nor require compliance with each such provision. As such, Counsel, the Compliance Officer, and the CFO re-wrote the Regulating District's procurement policy to incorporate each necessary reference. Mr. Ferrara noted that he has circulated the draft policy to the Office of the State Comptroller for comment. Committee Chair Rosenthal recommended that the Committee table the draft policy pending input from OSC's Contracts Bureau.

- ii. Committee Chairman Rosenthal tabled consideration of the new draft procurement policy.

B. New Business –

a. RESOLUTION TO APPROVE A FIRST AMENDMENT TO LEGAL SERVICES CONTRACT C042014 WITH GIRVIN FERLAZZO, PC IN CONNECTION WITH THE NIMO STATE & FEDERAL CASES –

Mr. Leslie

- i. At Committee Chairman Rosenthal's request, Mr. Leslie noted that Niagara Mohawk continues to challenge both Hudson and Black River area assessments in state supreme court and in the United States District Court. Niagara Mohawk has filed another Article 78 challenge; this time to the Regulating District's 2015-2016 assessments on properties Niagara Mohawk owns in the Black River Area. Mr. Leslie noted that the state court cases remain on hold while Niagara Mohawk pursues its claims in federal court, but that the U.S.D.C., N.D.N.Y. has rendered its decision on the competing motions for summary judgment and that the parties are on a path to trial in January 2016. Mr. Leslie noted that to date, the Regulating District has spent nearly \$1,435,000 on the defense of Niagara Mohawk's claims pursuant to legal services contract CO22004. Over the last year, Girvin Ferlazzo, PC has expended less than \$2,000 of the \$40,000 'not-to-exceed' contract amount for C042014. Staff recommends extending contract C042014 by one year and including within that contract's scope the 2015-2016 Article 78 challenge and the 2015-2016 Notice of Claim so as to permit Girvin Ferlazzo, PC's defense of the federal suit including appeals, and then defense of the state suits, including appeals.
- ii. Mr. Hayes made a Motion to advance to the full Board and to recommend approval of the resolution approving a first (1st) amendment of Legal Services Contract C042014. Mr. Rosenthal seconded the motion which was then approved by the Governance Committee by unanimous vote.

b. RESOLUTION TO ADOPT THE REGULATING DISTRICT'S CONFLICT OF INTEREST POLICY

- i. At Committee Chair Rosenthal's request, Mr. Leslie explained that on August 24, 2015, the NYS Authorities Budget Office released a new Guidance Document suggesting that each NYS Public Authority adopt a Conflict of Interest Policy. The ABO included a draft Conflict of Interest Policy within the guidance document. In order to facilitate a discussion of this matter, Counsel has prepared a draft Conflict of Interest Policy based on the ABO model for the Committee's consideration. Mr. Leslie explained that the draft policy shares language with the Regulating District's Code of Ethics; a document also based upon an ABO model. However, the draft Conflict Policy goes further to offer a fuller definition of a conflict, establish a duty to disclose such conflicts, require that Board members recuse themselves in certain situations, and require that Board minutes reflect how conflicts are resolved. Mr. Leslie recommended that the Committee advance to the full Board and recommend approval of the proposed resolution to adopt the new Conflict of Interest Policy.
- ii. Mr. Hayes made a motion to advance to the full Board and to recommend approval of a Resolution adopting a new Regulating District Conflict of Interest Policy. Mr. Rosenthal seconded the motion which was then approved by the Governance Committee by unanimous vote.

ADJOURNMENT

There being no further business to come before the Governance Committee, Mr. Hayes moved to adjourn the meeting. Mr. Rosenthal seconded the motion. The Board approved the motion by unanimous vote. The Governance Committee meeting adjourned at 10:07 A.M.

Respectfully submitted,

Richard J. Ferrara
Secretary/Treasurer

Mark M. Finkle
Board Chairman