

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

Northampton Town Offices
412 South Main Street
Northville, New York 12134
February 14, 2017

Immediately following the Organizational Meeting scheduled for 10:00 AM

CALL TO ORDER

Chairman Mark M. Finkle called the meeting to order at 10:05 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 Ruzycky.

Excused: Jeffrey Rosenthal

MOTION TO ADOPT OR REVISE THE MEETING AGENDA

Chairman Finkle asked for a motion to adopt the meeting agenda. Mr. Neddo made a motion to adopt the agenda. Mr. Berkstresser seconded. The Board unanimously approved the motion.

PUBLIC COMMENT

Chairman Finkle opened the floor to public comments. The Board heard one comment from a representative of the Sacandaga Protection Committee thanking the Board for the effort put forth to publish the quarterly newsletter; inquiring about the timing and availability of the Dam Breach Analysis Report; and advocating for the appointment of two additional Board Members.

APPROVAL OF THE DECEMBER 13, 2016 REGULAR MEETING MINUTES

Chairman Finkle asked for a motion to adopt the December 13, 2016 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 the Governor's appointment of new Director of State Operations James Rubin. Mr. Smullen reported that the Stillwater Reservoir Operating

Agreement with Mercer Companies will be continued for a five year extension, including a 3% escalator per annum for the term. Mr. Smullen noted that after the Board's approval of the Black River Area Apportionment at the December meeting, Senior Staff initiated assessments for Hamilton, Herkimer, Jefferson, Lewis and Oneida Counties, as well as for the hydroelectric operators on the Black, Beaver and Moose Rivers. He noted that as of February 1st, Jefferson County has paid their assessment. Mr. Smullen reported that the first newsletter has been distributed. Subsequent issues will be sent out on a quarterly basis on the 1st of the month in February, April, May, August and November. Mr. Smullen indicated that the primary means of dissemination will be email, with hardcopy mailing secondary, and on-site distribution tertiary. Chairman Finkle asked that interested groups contact the District to seek inclusion in the email distribution list. Mr. Smullen also asked that those groups re-distribute the Newsletter to their followers. Mr. Smullen reported that permit renewals for Great Sacandaga Lake were mailed during the first week in January. Mr. Smullen noted that there has been great interest from potential applicants for a Regulating District sponsored New York Leaders internship for the summer of 2017. A plan to hire summer interns will be presented to the Board at the March meeting. Mr. Smullen noted that the executive director, Chief Financial Officer and the Compliance Officer attended an MWBE meeting hosted by the Governor's Counsel to review performance goals and metrics for 2017.

CONTRACTS

RESOLUTION TO CONDITIONALLY AWARD OLD FORGE AND SIXTH LAKE DAM RECOMMENDATION FOR REMEDIAL MEASURES PROJECT

Mr. Foltan presented the Board with a draft resolution regarding remedial work necessary at the impoundments at Sixth Lake and Old Forge. He note that in September 2016 the Board authorized staff to procure engineering services to complete the design work necessary to bring the Old Forge Dam and Sixth Lake Dam into compliance with Department of Environmental Conservation (DEC) dam safety regulations. Consistent with state procurement guidelines and Section 136-a of the State Finance Law, staff requested and received Annual Statement of Qualifications and performance data from professional engineering firms for the purpose of evaluating qualifications to identify the firm most highly qualified to provide the services required. Staff has evaluated the four most highly qualified firms, each of which submitted Annual Statement of Qualifications; based upon corporate and personnel experience demonstrated by the professional firms as it pertains to project needs and services required. Specifically, staff reviewed the Annual Statement of Qualifications for experience completing engineering design for remediation and repair to concrete spillways, outlets, and earth embankments.

The evaluation team comprised Robert Smullen, Michael Mosher and Robert Foltan. Each team member evaluated the Annual Statement of Qualifications of each firm according to the evaluation system defined in the Regulating District's Annual Statement of Qualifications – Project Based Evaluation procedures. The evaluation included a review of firm experience and personnel experience completing engineering design for remediation and repair to concrete spillways, outlets, and earth embankments. The evaluation team determined that Arcadis Design & Consultancy is the highest qualified firm for the project.

The evaluation team recommends conditionally awarding the work to Arcadis Design & Consultancy. Mr. Foltan sought Board acceptance of the evaluation team recommendation, and authorization to request a scope of work and to negotiate a contract with Arcadis Design & Consultancy subject to Board approval, at a fee which is fair and reasonable to the Regulating District. Mr. Foltan noted that the contract is subject to the review and approval of the NYS Attorney General and the NYS Office of the State Comptroller.

Chairman Finkle asked for a motion adopting the Resolution. Mr. Berkstresser made a motion to adopt the resolution conditionally awarding the old Forge and Sixth Lake Dam remedial measures project to Arcadis Design & Consultancy. Mr. Neddo seconded and the Board adopted the motion by unanimous vote.

RESOLUTION TO ACCEPT GOMEZ AND SULLIVAN ENGINEERS, P.C. PROPOSAL TO PROVIDE ADDITIONAL ENGINEERING SERVICES & APPROVE AMENDMENT #5 TO CONTRACT NO. C092007

Mr. Foltan presented the Resolution to the Board. He noted that in 2007 the Regulating District hired Gomez and Sullivan Engineers, P.C. (Gomez and Sullivan) to complete a dam failure analysis and develop flood inundation mapping for the Conklingville Dam. On April 26, 2010 the Regulating District submitted the Dam Breach Analysis report developed by Gomez and Sullivan, for the Conklingville Dam, to the Federal Energy Regulatory Commission (FERC). In November 2011, due to the substantial income shortfall experienced by the Regulating District, Gomez and Sullivan was directed to suspend work on the project. Gomez and Sullivan was not directed to resume work on the project until December 2012. Between the time of submission of the breach analysis report and the restart of work on this project, the FERC issued its initial comments on the breach analysis report.

Mr. Foltan further noted that FERC issued two letters (dated April 1, 2011 and October 23, 2012) directing the Regulating District to complete additional study, to revise the Dam Breach Analysis, and to issue interim inundation mapping. A portion of the FERC-requested additional studies has been completed by Gomez and Sullivan under the original contract scope of work, providing the Regulating District the opportunity to resubmit a revised Dam Breach Analysis report to FERC on January 5, 2016. Mr. Foltan explained however, completion of the remaining portion of the FERC-requested additional study, including revised inundation mapping, could not be completed until the FERC accepted the resubmitted breach analysis report. The original contract scope of work and fee did not include the effort necessary to complete the additional studies and revised mapping. Gomez and Sullivan has prepared a scope of work and fee proposal to address the FERC's April 2011 and October 2012 comments. Mr. Foltan explained that now Gomez and Sullivan proposes to complete the work necessary to address the FERC April 2011 and October 2012 comments for a "not-to-exceed" fee of \$13,800.

Mr. Foltan noted a second amendment connected to a second FERC request to revise the breach analysis. That was in response to the Regulating District's resubmission of the breach analysis report on January 5, 2016, by letter dated June 9, 2016. Mr. Foltan explained that FERC notified the Regulating District that it had, again, completed a review of the Dam Breach Analysis and, again, had comments on the report. In its June 9, 2016 letter, FERC requested

additional modifications be made to the breach model. Again, the original contract scope of work and fee did not include the effort necessary to address this request for modification of the breach model. Gomez and Sullivan has prepared a scope of work and fee proposal to address the FERC's June 6, 2016 comments. Mr. Foltan explained that Gomez and Sullivan propose to complete the work necessary to address the FERC June 2016 comments for a "not-to-exceed" fee of \$16,900.

Finally, Mr. Foltan addressed the cost of the Regulating District's imposed delay. As Mr. Foltan had mentioned earlier, Gomez and Sullivan was directed to suspend work on the project due to the substantial income shortfall experienced by the Regulating District in 2012. When Gomez and Sullivan was directed to resume work on the project it did so several years after the date on which the original contract fee estimate was based. And, at the time work was resumed, Task budgets were not revised to recognize the increased hourly labor billing rates which would be experienced by Gomez and Sullivan. Actual hourly labor billing rates for the completion of work which was delayed by the Regulating District, as compared to the rates proposed by Gomez and Sullivan in 2008, have resulted in an additional cost of \$18,880.

Mr. Foltan recommends acceptance of Gomez and Sullivan's proposals and seeks Board authorization, by Resolution, to amend the scope of work for Contract C092007 and to increase the project budget by \$49,580, to a total contract price of \$322,670, and authorize the Executive Director to execute the amendment to the Contract.

Chairman Finkle asked for a motion adopting the Resolution. Mr. Berkstresser made a motion to adopt the resolution to amend the scope of work for Contract C092007 and to increase the project budget by \$49,580, to a total contract price of \$322,670, and authorize the Executive Director to execute the amendment to the Contract. Mr. Neddo seconded and the Board adopted the motion by unanimous vote.

RESOLUTION TO APPROVE AMENDMENT #3 AUDIT SERVICES AGREEMENT C012014 WITH KBL, LLC

Mr. Ferrara introduced a resolution to authorize an increase of \$6,750 in the contract amount with the Regulating District's independent auditor. Mr. Ferrara explained that since the inception of the contract with KBL, LLC, a change to the Government Accounting Standards Board (GASB) requirements, as evidenced by GASB 68 and GASB 71, requires significant additional work to protect against an understatement of the Regulating District's contributions to a defined benefit pension plan after the measurement date of the Regulating District's beginning net pension liability.

Chairman Finkle asked for a motion adopting the Resolution. Mr. Berkstresser made a motion to adopt the Resolution authorizing the Executive Director to execute a contract amendment, in the amount of \$6,750 bringing the total contract with KBL, LLC to \$31,225 for the audit year ending June 30, 2016. Mr. Neddo seconded and the Board adopted the motion by unanimous vote.

STAFF REPORTS

Mr. Leslie presented his report to the Board. Mr. Leslie noted that the U.S.C.A. DC Cir. has 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 continue.

Ms. Ruzycky presented her report to the Board. She noted that the third quarter utilization report showed that the MWBE spend was \$6,970.42 achieving 14.7% for the quarter. Year to date is 25.5%. She noted that the MWBE annual goal plan for FY17-18 has been submitted and reflects a 30% goal. The Service-Disabled Veteran-Owned Business (SDVOB) spend during the third quarter was \$2,632.82 (5.5%). The year to date spend represents 3.85%.

Mr. Ferrara presented his report to the Board. He noted that at the close of fiscal January 31, 2017, the general fund balances for the HRA and BRA were approximately \$2,018,976 and \$789,563 respectively. He noted that District's transactional processing and reporting are current. District bank reconciliations are complete through January 31, 2017. Mr. Ferrara noted that the final independent audit is unqualified and has been posted. He noted that the Network security assessment has been completed and delivered. Access Permit Database conversion is complete, but final tweaking continues.

Mr. Ferrara presented Board expenses for Mr. Neddo (\$258.60) and Mr. Berkstresser (\$327.24). Mr. Hayes made a motion to reimburse said expenses. Mr. Finkle 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 December average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 2,970 cubic feet per second (cfs). Precipitation during the month of November was below normal across the Great Sacandaga Lake watershed and above average in the Indian Lake watershed. The monthly inflow to Great Sacandaga Lake and Indian Lake reservoir was approximately 99% and 94% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 111% and 39% of historic average, respectively.

The December average daily release from Stillwater Reservoir was approximately 270 cfs. Monthly total precipitation measured 103%, 110%, 88% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of December 26th. Precipitation in the month of November was above average at Stillwater, and Old Forge and below average at Sixth Lake. The monthly inflow to Stillwater Reservoir was approximately 76% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.13 and 0.35 billion cubic feet, respectively, in December. Release of water from Stillwater Reservoir averaged 59% of historic discharge.

Mr. Foltan noted that the January average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 2,630 cubic feet per second (cfs). Precipitation during the month of January was above normal across the Great Sacandaga Lake watershed and below average in the Indian Lake watershed. The monthly inflow to Great Sacandaga Lake and

Indian Lake reservoir was approximately 144% and 85% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 92% and 168% of historic average, respectively.

The December average daily release from Stillwater Reservoir was approximately 330 cfs. Monthly total precipitation measured 105%, 79%, 85% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of January 24th. Precipitation in the month of January was above average at Stillwater, and below average at Sixth Lake and Old Forge. The monthly inflow to Stillwater Reservoir was approximately 83% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.14 and 0.31 billion cubic feet, respectively, in January. Release of water from Stillwater Reservoir averaged 68% of historic discharge.

Mr. Foltan noted the cessation of the draw-down at Indian Lake commenced to assist the Town of Indian Lake as it worked to complete repairs to its Lake Abanakee Dam.

Mr. Hodgson presented his report to the Board. He reported that staff transferred the BRA snowmobile to the HRA. Mr. Neddo inquired as to whether planned use of the snowmobile by other agencies for emergency response would pose a liability risk to the Regulating District. The ensuing discussion centered upon the scope of use; probable users; and the Board's acceptance of the risk. Mr. Hodgson praised the staff at Stillwater for their fine craftsmanship on the garage project, and Sue Visco for her effort with respect to the access permit system renewals.

RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE ORGANIZATIONAL AND REGULAR MEETING FOR March 14, 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, March 14, 2017 at the Utica State office Building, 207 Genesee Street, Conference Room 205, 2nd Floor, Utica, New York 13501 at 10:00 A.M.

Mr. Berkstresser moved to adopt the Resolution setting the date, time and place of the next meeting. Mr. Hayes 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. Neddo seconded. The meeting adjourned at 10:53 A.M.

RESOLUTIONS

17-1-2 RESOLUTION TO CONDITIONALLY AWARD OLD FORGE AND SIXTH LAKE DAM RECOMMENDATION FOR REMEDIAL MEASURES PROJECT

Chairman Finkle asked for a motion adopting the Resolution. Mr. Berkstresser made a motion to adopt the resolution conditionally awarding the old Forge and Sixth Lake Dam remedial measures project to Arcadis Design & Consultancy. Mr. Neddo seconded and the Board adopted the motion by unanimous vote.

17-2-2 RESOLUTION TO ACCEPT GOMEZ AND SULLIVAN ENGINEERS, P.C. PROPOSAL TO PROVIDE ADDITIONAL ENGINEERING SERVICES & APPROVE AMENDMENT #5 TO CONTRACT NO. C092007

Chairman Finkle asked for a motion adopting the Resolution. Mr. Berkstresser made a motion to adopt the resolution to amend the scope of work for Contract C092007 and to increase the project budget by \$49,580, to a total contract price of \$322,670, and authorize the Executive Director to execute the amendment to the Contract. Mr. Neddo seconded and the Board adopted the motion by unanimous vote.

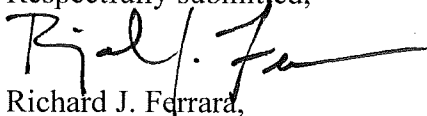
17-3-2 RESOLUTION TO APPROVE AMENDMENT #3 AUDIT SERVICES AGREEMENT C012014 WITH KBL, LLC

Chairman Finkle asked for a motion adopting the Resolution. Mr. Berkstresser made a motion to adopt the Resolution authorizing the Executive Director to execute a contract amendment, in the amount of \$6,750 bringing the total contract with KBL, LLC to \$31,225 for the audit year ending June 30, 2016. Mr. Neddo seconded and the Board adopted the motion by unanimous vote.

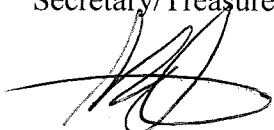
17-4-2 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR MEETING FOR March 14, 2017

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

Respectfully submitted,



Richard J. Ferrara,
Secretary/Treasurer



Mark M. Finkle
Board Chairman