

**HUDSON RIVER-BLACK RIVER REGULATING DISTRICT
BOARD MEETING
HRBRRD Black River Area Office
Dulles Office Bldg.
317 Washington Street, Room 614
Watertown, New York 13601
April 10, 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 10:18 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. Ferrara noted that, during his report to the Board, the Executive Director also intended to introduce a Resolution authorizing the employment of interns. 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. Rosenthal made a motion to adopt the agenda as revised. Mr. Berkstresser 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 MARCH 13, 2018 REGULAR MEETING MINUTES

Chairman Finkle asked for a motion to adopt the March 13, 2018 regular meeting minutes. Mr. Hayes 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 the lease for the reduced office space at 350 Northern Boulevard has been signed and is awaiting Attorney General and Office of the State Comptroller approval. The Regulating District awaits the landlord's completion of the improvements to ready the new space. Mr. Smullen noted that the Great Sacandaga Lake Advisory Committee met on March 16th at the Edinburg Town Hall to discuss the Harnessing Nature video project and approval of the Fulton County Sheriff's purchase of a drone for lake safety. He reported that planning for the New York Navel Militia Exercise (Rapid Gunwale '18) continues and included a site visit on March 15th involving the Saratoga and Fulton County Sheriff's Departments. Mr. Smullen reminded the Board that the exercise will be a multi-jurisdictional security exercise centered on the Conklingville Dam to be held in September of 2018. The next such meeting is to be scheduled for late April. Mr. Smullen noted that the Adirondack Watershed Institute, out of Paul Smiths College, is seeking funding for additional Lake Stewards for locations along the Great Sacandaga Lake.

RESOLUTION AUTHORIZING THE EMPLOYMENT OF INTERNS IN SATISFACTION OF GOVERNOR CUOMO'S "NEW YORK LEADERS – STUDENT INTERN PROGRAM"

Mr. Smullen presented a Resolution to the Board. He noted that in 2017, the Regulating District's Board approved Resolution 17-17-05 authorizing the Executive Director to hire three (3) interns pursuant to the NYS Leaders Internship Program. He noted that the internship program was an effective and efficient way to provide a learning experience to college students and support the Regulating Districts summer operations and that staff desire to continue the program for the summer of 2018. Mr. Ferrara asked that the Board authorize the temporary employment of three (3) student candidates, effective May 3, 2018 and ending on or about August 22, 2018, at a rate of \$14.50 per hour for each.

Chairman Finkle asked for a motion adopting the Resolution. Mr. Hayes made a motion to authorize the temporary employment of three (3) student candidates, effective May 3, 2018 and ending on or about August 22, 2018, at a rate of \$14.50 per hour for each and asked that he be permitted to sit in on the final interviews. Mr. Rosenthal seconded and the Board unanimously approved the motion.

CONTRACTS/NONE

STAFF/COMMITTEE REPORTS

GOVERNANCE COMMITTEE REPORT

RESOLUTION TO SATISFY ANNUAL REVIEW AND APPROVAL OF THE REGULATING DISTRICT'S INVESTMENT POLICY

Committee Chair Rosenthal noted that section 2925 of the Public Authority Law requires every public benefit corporation to adopt by Resolution comprehensive investment guidelines that detail the corporation's operative policy and instructions to the Board and management regarding the investing, monitoring and reporting of funds of the corporation. He noted that the Governance Committee reviewed the Regulating District's Investment Policy earlier and that the Committee recommended that no changes be made to the policy.

Chairman Finkle asked for a motion adopting the Resolution. Mr. Rosenthal made a motion to recommend approval of the Resolution to satisfy the annual review and approval of the Regulating District's Investment Policy. Mr. Hayes seconded and the Board unanimously approved the motion.

RESOLUTION TO SATISFY ANNUAL REVIEW AND APPROVAL OF THE REGULATING DISTRICT'S PROCUREMENT POLICY

Committee Chair Rosenthal noted that section 2879(1) of the Public Authority Law requires every public benefit corporation to adopt by Resolution procurement guidelines that detail the corporation's operative policy and instructions to the Board and management regarding procurement. He noted that the Governance Committee reviewed the Regulating District's Procurement Policy earlier and that the Committee recommended that no changes be made to the policy.

Chairman Finkle asked for a motion adopting the Resolution. Mr. Rosenthal made a motion to recommend approval of the Resolution to satisfy the annual review and approval of the Regulating District's Procurement Policy. Mr. Berkstresser seconded and the Board unanimously approved the motion.

RESOLUTION TO ANNUALLY REVIEW AND APPROVE THE REGULATING DISTRICT'S DISPOSITION OF PROPERTY GUIDELINES PURSUANT TO SECTION 2896(1) OF THE PUBLIC AUTHORITIES LAW

Committee Chair Rosenthal noted that section 2896(1) of the Public Authority Law requires every public benefit corporation to adopt by Resolution an annual review of the Disposition of Property Guidelines that detail the corporation's operative policy and instructions to the Board and management regarding the disposition of property. He noted that the Governance Committee reviewed the Regulating District's Disposition of Property Policy earlier and that the Committee recommended that no changes be made to the policy.

Chairman Finkle asked for a motion adopting the Resolution. Mr. Rosenthal made a motion to recommend approval of the Resolution to satisfy the annual review and approval of the Regulating District's Disposition of Property Policy. Mr. Berkstresser seconded and the Board unanimously approved the motion.

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 5th. Erie's opportunity to file a petition for certiorari with the U.S. Supreme Court expired on March 22nd. As such, for the first time in Mr. Leslie's nearly nine year tenure, the next monthly report will likely contain no reference to either litigation regarding assessments, reports on the progress of pending apportionment revisions, or discussion of the status of FERC Headwaters Benefits Determinations. Mr. Leslie reported that the year-long process to complete the transaction to purchase the piece of land adjacent to the Hawkinsville Dam is also nearing completion. The closing itself will take place through the mail. Mr. Leslie noted that on behalf of the records access officer, counsel/staff addressed one (1) FOIL request during the reporting period and that there were no appeals.

Ms. Ruzycky presented her report to the Board. She noted that the HRBRD's MWBE Program FY1718 3rd Quarter Utilization Report has been accepted by ESD. The 4th Quarter Report is due April 15th. To date quarter utilization is \$31,319.07. The Service-Disabled Veteran-Owned Business (SDVOB) FY1718 4th Quarter Reports are due April 30th. Utilization to date is \$2,429.85. She noted that May 18th is 'Green your Commute Day' and that the Regulating District intends to participate.

Mr. Ferrara presented his report to the Board. He noted that at the close of fiscal March 31, 2018, the general fund balances for the HRA and BRA were approximately \$3,141,701 and \$1,722,127 respectively. He noted that District's transactional processing and reporting are current. District bank reconciliations are complete through February 28, 2018. Mr. Ferrara laid out a timetable for the Board's Budget review and approval.

Mr. Foltan presented the Chief Engineer's report to the Board. Mr. Foltan noted that the March average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 3,720 cubic feet per second (cfs). Precipitation during the month of March was above below across the Great Sacandaga Lake watershed and the Indian Lake watershed. The monthly inflow to Great Sacandaga Lake and Indian Lake reservoir was approximately 57% and 60% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 184% and 149% of historic average, respectively.

The March average daily release from Stillwater Reservoir was approximately 680 cfs. Monthly total precipitation measured 90%, 79%, 67% of historic average at Stillwater, Old

Forge, and Sixth Lake, respectively, as of March 25th. Precipitation in the month of March was below average at Stillwater, Sixth Lake and Old Forge. The monthly inflow to Stillwater Reservoir was approximately 71% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.12 and 0.28 billion cubic feet, respectively, in March. Release of water from Stillwater Reservoir averaged 165% of historic discharge.

Mr. Hodgson presented his report to the Board. Mr. Hodgson reported that Hudson River Area staff installed a new furnace and attended confined space training at Conklingville. He noted that 95% of the 2018 access permit system renewals have been returned and that staff have mailed renewal reminders. Mr. Rosenthal inquired about compliance with the Board's prior determination regarding encroachments at the Decker permit area. Mr. Hodgson noted that Mr. Decker had submitted adequate plans with his work permit application and that as the weather turns, the necessary work is set to begin.

RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE ORGANIZATIONAL AND REGULAR MEETING FOR MAY 8, 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, May 8, 2018 at the Inlet Town Offices, 160 Rt. 28, Inlet, New York 13360 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.

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. Rosenthal advanced the motion, Mr. DeWitt seconded. After a period, the Executive Director invited Counsel to witness votes to be taken in Executive Session.

Mr. Smullen noted that he had requested of the Board that it grant him a leave of absence from the Executive Director position as countenanced by Public Officer's Law section 3-c. Mr. Rosenthal moved to grant Mr. Smullen's request for a leave of absence through the beginning of November. Mr. DeWitt seconded and the Board adopted the Motion by a 5-0 vote.

Counsel asked that in light of the vacancy at the Executive Director position, whether the Chairman anticipated the appointment of an interim Executive Director. Over Counsel's strenuous objection, the Board Chair indicated that he wished to assume the Executive Director role on a part-time basis and at a compensation level to be determined in the future. Counsel noted the inherent conflict in voting one's self into a compensated position and in simultaneously serving in the supervisory role of Board Chair and the subordinate role of Executive Director; whether compensated or not. Mr. Berkstresser moved to appoint Mark M. Finkle to the uncompensated role of Executive Director on an interim part-time basis during the pendency of

Mr. Smullen's leave of absence. Mr. Hayes seconded and the Board adopted the Motion by a 5-0 vote.

The Board adjourned to Executive Session at 10:39 A.M. and returned at 11:08 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 11:08 A.M.

RESOLUTIONS

18-06-04 RESOLUTION AUTHORIZING THE EMPLOYMENT OF INTERNS IN SATISFACTION OF GOVERNOR CUOMO'S "NEW YORK LEADERS – STUDENT INTERN PROGRAM"

Chairman Finkle asked for a motion adopting the Resolution. Mr. Hayes made a motion to authorize the temporary employment of three (3) student candidates, effective May 3, 2018 and ending on or about August 22, 2018, at a rate of \$14.50 per hour for each. Mr. Rosenthal seconded and the Board unanimously approved the motion.

18-07-04 RESOLUTION TO SATISFY ANNUAL REVIEW AND APPROVAL OF THE REGULATING DISTRICT'S INVESTMENT POLICY

Chairman Finkle asked for a motion adopting the Resolution. Mr. Rosenthal made a motion to recommend approval of the Resolution to satisfy the annual review and approval of the Regulating District's Investment Policy. Mr. Hayes seconded and the Board unanimously approved the motion.

18-08-04 RESOLUTION TO SATISFY ANNUAL REVIEW AND APPROVAL OF THE REGULATING DISTRICT'S PROCUREMENT POLICY

Chairman Finkle asked for a motion adopting the Resolution. Mr. Rosenthal made a motion to recommend approval of the Resolution to satisfy the annual review and approval of the Regulating District's Procurement Policy. Mr. Berkstresser seconded and the Board unanimously approved the motion.

18-09-04 RESOLUTION TO ANNUALLY REVIEW AND APPROVE THE REGULATING DISTRICT'S DISPOSITION OF PROPERTY GUIDELINES PURSUANT TO SECTION 2896(1) OF THE PUBLIC AUTHORITIES LAW

Chairman Finkle asked for a motion adopting the Resolution. Mr. Rosenthal made a motion to recommend approval of the Resolution to satisfy the annual

review and approval of the Regulating District's Disposition of Property Policy. Mr. Berkstresser seconded and the Board unanimously approved the motion.

18-10-04 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE ORGANIZATIONAL AND REGULAR MEETING FOR MAY 8, 2018

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