

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

**Northampton Town Hall
412 South Main Street
Northville, NY 12134**

July 10, 2018
10:00 AM

CALL TO ORDER

Chairman Mark M. Finkle called the meeting to order at 10:00 A.M.

ROLL CALL

Present: Board Chairman Mark M. Finkle; First Vice-Chair David W. Berkstresser; Second Vice-Chair Albert J. Hayes; Board Members Jeffrey Rosenthal and Kenneth DeWitt; Interim Executive Director John Hodgson; General Counsel Robert P. Leslie; Chief Engineer Robert Foltan; Chief Fiscal Officer Richard J. Ferrara; and Compliance Officer Stephanie Ruzycky.

MOTION TO ADOPT OR REVISE THE MEETING AGENDA

Chairman Finkle asked for a motion to adopt or revise the meeting 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 comments. Four speakers addressed the Board about the impacts which could be felt should a piece of legislation mandating that the Regulating District conduct a study of its beneficiaries and real property tax apportionment become law.

APPROVAL OF THE JUNE 12, 2018 REGULAR MEETING MINUTES

Chairman Finkle asked for a motion to adopt the June 12, 2018 regular meeting minutes. Mr. Rosenthal advanced the motion to approve the regular meeting minutes. Mr. DeWitt seconded and the Board approved the motion by unanimous vote.

REPORT OF THE INTERIM EXECUTIVE DIRECTOR

Mr. Hodgson presented his report. He noted that work on the Albany office move continues to move forward and that work also continues on the reduction of office space in Watertown. Mr. Hodgson reported that Commander McKnight from the NYS Naval Militia completed the June 14th communication exercise in preparation for the planned September 8th exercise on Great Sacandaga Lake. Mr. Hodgson alerted the Board that a bill which passed both

houses of the legislature will, if signed by the Governor, require the Regulating District to conduct a study to determine beneficiaries and the payment of taxes. He noted that the compliance officer offered training to staff in the following areas: sexual harassment; workplace violence prevention; & driver safety.

RESOLUTION TO PROMOTE DAVID IOELE TO ASSISTANT FORMAN IN THE HRA OF THE HUDSON RIVER – BLACK RIVER REGULATING DISTRICT

Mr. Hodgson introduced a Resolution to the Board to promote David Ioele to Assistant Forman. Mr. Hodgson noted that, upon the HRA Forman’s recent retirement, it is in the Regulating District’s interest to fill the position of Assistant Forman and recommended that the Board choose David Ioele to fill that role. Mr. Hodgson noted that Mr. Ioele has successfully performed as a Maintenance Specialist for over 15 years and has demonstrated the skill necessary to be effective in the position as Assistant Forman.

Chairman Finkle asked for a motion to adopt the Resolution appointing David Ioele as the Assistant Forman in the Hudson River Area. Mr. Rosenthal moved to appoint David Ioele as the Assistant Forman at the service rate for that position (\$50,378.00) pursuant to the CBA dated July 1, 2016 through June 30, 2020. Mr. Berkstresser seconded and the Board approved the motion by unanimous vote.

RESOLUTION TO PROMOTE ANNA TRACY TO SENIOR ADMINISTRATIVE ASSISTANT IN THE HRA OF THE HUDSON RIVER – BLACK RIVER REGULATING DISTRICT

Mr. Ferrara introduced a Resolution to the Board to promote Anna Tracy to Senior Administrative Assistant. Mr. Ferrara indicated that since her hire date in December 2017 Anna Tracy has successfully completed a six month probationary period in the Administrative Assistant position. Mr. Ferrara recommended that, based on the scope of duties performed, Anna Tracy be promoted from the hiring rate for an Administrative Assistant (\$39,328) to the hiring rate for the Senior Administrative Assistant position (\$45,501.00). Mr. Rosenthal questioned whether such a promotion is permitted. The Board Chair tabled the Resolution for consideration at a later date.

CONTRACTS

RESOLUTION TO CONDITIONALLY AWARD THE WORK ASSOCIATED WITH THE CONKLINGVILLE DAM SPILLWAY EXPLORATION

Mr. Foltan presented a Resolution to the Board. He explained that staff proposes to conduct concrete and foundation rock sampling at Conklingville Dam spillway in support of the engineering remediation and design work being completed by Schnabel Engineering. Staff advertised a request for bids to complete the exploration work on June 15. Bids were due on Monday, July 9, 2018.

Mr. Foltan noted that approximately forty (40) construction firms requested and received a copy of the Invitation for Bids (IFB) document and that the Regulating District received two (2) bids. Pursuant to Section 1-18 of the IFB, staff determined Atlantic Testing Laboratories, Inc. to be the apparent low bidder. Mr. Foltan recommended that the Board conditionally award the work associated with the Conklingville Dam Spillway Exploration work to Atlantic Testing Laboratories and authorize the Interim Executive Director to execute an agreement for an amount not to exceed \$282,750.00 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 approving the Resolution. Mr. DeWitt made a motion to adopt the Resolution conditionally awarding the work associated with the Conklingville Dam Spillway Exploration work to Atlantic Testing Laboratories and authorizing the Interim Executive Director to execute an agreement for an amount not to exceed \$282,750.00. Mr. Hayes seconded the motion and the Board adopted the Resolution by unanimous vote.

RESOLUTION ADOPTING THE DISTRICT'S DUE PROCESS PROCEDURE FOR PERMIT HOLDERS AT THE GREAT SACANDAGA LAKE

Mr. Leslie presented a Resolution to the Board noting that by Resolution 04-42-12 adopted in December 2004, the Board provided general information or guidance to assist Access Permit Holders in complying with Title 6, Part 606 of the Official Compilation of Codes, Rules and Regulations of the State of New York, (More commonly known as title 6 NYCRR Part 606 Rules and Regulations Governing the Use, Operation and Maintenance of Great Sacandaga Lake). By Resolution 10-04-01, adopted in January 2010, the Board revised that guidance to no longer require that an access permit holder be present at the appeal hearing, but to rather require that the access permit holder, and staff, provide the Board (and each other) with any written argument and/or photos upon which that party would plan to rely at least ten days before the appeal hearing. The process outlined by such guidance has helped to ensure a transparent appeal process and to ensure that the parties and the Board are well informed regarding the issues on appeal.

Mr. Leslie asked that the Board consider staff's proposal to truncate the four step process into a three step appeal process. The current guidance provides for a determination by the Area Administrator, followed by an appeal to the Chief Engineer, a second appeal to the Executive Director, and finally an appeal to the Board. As both the Area Administrator and the Chief Engineer inform the Executive Director of the issues involved in an appeal, staff believe that eliminating an appeal to the Executive Director will streamline the administration of the access permit system without infringing upon the transparency and consistency governing that process. The Board discussed the proposal. Mr. Leslie noted that the Board's policy on the adoption of policies would afford precedent for the Board to consider the modification of this guidance over a period of months.

Chairman Finkle asked the Board to ruminate on the proposed change to this guidance and that staff put the matter on the agenda at the next meeting.

RESOLUTION TO APPROVE THIRD AMENDMENT TO CONTRACT C012012 WITH KLEINSCHMIDT ASSOCIATES, PA, PC

Mr. Foltan presented a Resolution to the Board. He explained that on January 31, 2013 the Board conditionally awarded the Hawkinsville Dam Remediation and Removal Final Study to Kleinschmidt Associates, PA, PC (Kleinschmidt). Kleinschmidt started Phase I work on October 1, 2013 to evaluate remediation alternatives. In September 2014 the Board elected to complete certain recommended and necessary repairs of the dam to bring the dam into compliance with DEC regulations. Phase II engineering services involved preliminary design, permitting, final design, and construction observation. Kleinschmidt completed the preliminary and final design, and provided the necessary permit application submission documents to facilitate Department of Environmental Conservation (DEC) and Army Corps of Engineers (ACE) permit application review in 2016. Comments received from the DEC warranted a redesign of the facility's outlet structure. ACE provided comments regarding the proposed earth berm and associated wetland impacts, including the need to complete a Wetland Mitigation Plan if the project were to be completed as initially designed. With a probable cost of more than \$100,000, completion of a Wetland Mitigation Plan was not considered an advantageous solution. Instead, a re-design of the earth berm to avoid wetland impacts was identified as the best solution. Kleinschmidt has provided a Scope and Fee to revise the design of the Hawkinsville Dam remediation to include changes to the outlet structure and earth berm, and additional work to revise permit applications. Mr. Foltan recommended that the Board accept Kleinschmidt's proposal to complete a re-design to address the DEC desired outlet changes and a re-design of the earth berm to avoid wetland mitigation for a "not-to-exceed" price of \$19,514.

Chairman Finkle asked for a motion approving the Resolution. Mr. Rosenthal made a motion to adopt the Resolution accepting Kleinschmidt's Proposal for Engineering Services and to authorize the Interim Executive Director to enter into an agreement amending the contact to include Amendment 3 - Scope of Services, increasing the contract price by \$19,514, to a total contract price of \$186,764. Mr. Berkstresser seconded the motion and the Board adopted the Resolution by unanimous vote.

STAFF REPORTS

Mr. Leslie presented his report to the Board. He noted that in the waning days of this year's legislative session, a bill affecting the Regulating District (introduced in the State Senate by Senator Marchione and in the Assembly by Assemblyman McDonald) passed both houses. The bill, if it were to become law, would require the Regulating District to complete a comprehensive study regarding the beneficiaries of the District and real property tax apportionments to establish a standard methodology for the determination of any future apportionments. The Regulating District would have to conduct the study and issue a report to the Governor, Comptroller and State legislative leaders by January 1, 2020. In addition, the Regulating District would be required to submit annual reports to the Governor. He noted that there are no updates regarding the Notice of Claim filed by the Watertown firefighter or the final payment to Kingsbury. On the other hand, the transfer of land from the Black River Environmental Improvement Association to the Regulating District for a parcel of land adjacent to the Hawkinsville Dam has closed. Using final site design plans under development by

Kleinschmidt, counsel will work with DEC to secure a temporary revocable permit allowing use of DEC's fishing access site parking lot in connection with the Dam rehabilitation. Mr. Ferrara indicated that he finalized the lease for Suite 307 at 350 Northern Blvd. and delivered it to the Office of the State Comptroller for approval.

Ms. Ruzycky presented her report to the Board. Ms. Ruzycky noted that the first and second lowest bidders for the Sacandaga Field Office roof project appear uninterested in the project. She recommended that the project go back out to bid. She noted that the first quarter fiscal year 2017/2018 utilization is due July 15th and that the current quarter utilization is \$1,702.04. Ms. Ruzycky reported that the Service-Disabled Veteran-Owned Business (SDVOB) 1st Quarter report is due July 31st and that the current quarter utilization is \$952.52. She noted that she received 22 applications for the Maintenance Specialist position and 8 applications for the Engineering Assistant position.

Mr. Ferrara presented his report to the Board. He noted that at the close of fiscal June 30, 2018, the general fund balances for the HRA and BRA were approximately \$3,840,119 and \$1,824,919 respectively. He noted that District's transactional processing and reporting are current. District bank reconciliations are complete through May 30, 2018.

Mr. Foltan presented the Chief Engineer's report to the Board. Mr. Foltan noted that the June average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 1,190 cubic feet per second (cfs). Precipitation during the month of June was below normal across the Great Sacandaga Lake and Indian Lake watersheds. The monthly inflow to Great Sacandaga Lake and Indian Lake reservoir was approximately 28% and 26% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 57% and 47% of historic average, respectively.

The June average daily release from Stillwater Reservoir was approximately 300 cfs. Monthly total precipitation measured 67%, 30%, and 45% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of June 24th. Precipitation in the month of June was below average at Stillwater, Sixth Lake and Old Forge. The monthly inflow to Stillwater Reservoir was approximately 35% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.02 and 0.07 billion cubic feet, respectively, in June. Release of water from Stillwater Reservoir averaged 71% of historic discharge.

Mr. Hodgson presented the Administrator's report. He explained that he worked with the Sacandaga Beach Association and the Sport Island Pub with regard to a citation issued by the Department of Health. He noted that the cameras are operational at Sixth Lake and at Indian Lake and soon will be operational at Old Forge. Mr. Hodgson reported the preliminary results of the FERC inspection at Stillwater and noted that the effort to repair the Prentiss loader on the workboat is progressing.

RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR MEETING FOR SEPTEMBER 13, 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, September 13, 2018 at the Lowville Town Offices, 5535 Bostwick Street, Lowville, NY 13367 at 10:00 A.M.

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

ADJOURNMENT

Chairman Finkle called for a motion to adjourn the meeting. Mr. Berkstresser advanced the motion. Mr. Hayes seconded. The meeting adjourned at 11:41 A.M.

RESOLUTIONS

18-26-07 RESOLUTION TO PROMOTE DAVID IOELE TO ASSISTANT FORMAN IN THE HRA OF THE HUDSON RIVER – BLACK RIVER REGULATING DISTRICT

Chairman Finkle asked for a motion to adopt the Resolution appointing David Ioele as the Assistant Forman in the Hudson River Area. Mr. Rosenthal moved to appoint David Ioele as the Assistant Forman at the service rate for that position (\$50,378.00) pursuant to the CBA dated July 1, 2016 through June 30, 2020. Mr. Berkstresser seconded and the Board approved the motion by unanimous vote.

18-27-07 RESOLUTION TO CONDITIONALLY AWARD THE WORK ASSOCIATED WITH THE CONKLINGVILLE DAM SPILLWAY EXPLORATION

Chairman Finkle asked for a motion approving the Resolution. Mr. DeWitt made a motion to adopt the Resolution conditionally awarding the work associated with the Conklingville Dam Spillway Exploration work and authorizing the Interim Executive Director to execute and agreement for an amount not to exceed \$282,750. Mr. Hayes seconded the motion and the Board adopted the Resolution by unanimous vote.

18-28-07 RESOLUTION TO APPROVE THIRD AMENDMENT TO CONTRACT C012012 WITH KLEINSCHMIDT ASSOCIATES, PA, PC

Chairman Finkle asked for a motion approving the Resolution. Mr. Rosenthal made a motion to adopt the Resolution accepting Kleinschmidt's Proposal for Engineering Services and to authorize the Interim Executive Director to enter into an agreement amending the contact to include Amendment 3 - Scope of Services, increasing the contract price by \$19,514, to a total contract price of \$186,764. Mr.

Berkstresser seconded the motion and the Board adopted the Resolution by unanimous vote.

**18-29-07 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE
REGULAR MEETING FOR SEPTEMBER 13, 2018**

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

Respectfully submitted,

Richard J. Ferrara,
Secretary/Treasurer

Mark M. Finkle
Board Chairman