

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

Hudson River-Black River Regulating District
Sacandaga Field Office
737 Bunker Hill Road
Mayfield, NY 12117

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

February 12, 2019

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 Jeffrey Rosenthal; Second Vice-Chair Kenneth DeWitt; Board Member Albert J. Hayes; 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 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. Chairman Finkle asked for a motion to revise the meeting agenda to reflect an Executive Session noting that the Board would return to do business after the Executive Session. Mr. Rosenthal made a motion to adopt the agenda as revised. Mr. DeWitt seconded. The Board approved the motion by unanimous vote.

EXECUTIVE SESSION

Chairman Finkle called for a motion to adjourn to Executive Session to discuss personnel issues. Chairman Finkle noted that the Board will likely conduct business upon its return from Executive Session. Mr. Hayes advanced the motion, Mr. Finkle seconded. The Board Chair invited Mr. Ferrara, Mr. Hodgson and Counsel to participate in the Executive Session.

The Board adjourned to Executive Session at 10:21 A.M. and returned at 10:46 A.M.

PUBLIC COMMENT

Chairman Finkle opened the floor to public comment; hearing none.

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

Mr. Hodgson presented a Resolution authorizing the promotion of David Ioele to Forman. Mr. Hodgson explained that Mr. Ioele had been promoted from Maintenance Specialist to Assistant Foreman in July 2018 but that, upon the hire of a new maintenance specialist, Mr. Ioele has taken on additional supervisory duties. As such, Mr. Hodgson recommended that the Board promote Mr. Ioele to the Forman position at Step 6 of 7 for that position (\$53,202).

Chairman Finkle asked for a Motion to adopt the resolution. Mr. Hayes made a motion to adopt the resolution promoting Mr. Ioele to Forman, effective December 13, 2018; at an annual salary of \$53,202 which is “step 6” pursuant to the base salary schedule effective 7/1/2018 of the collective bargaining agreement covering the period dated July 1, 2016 through June 30, 2020. Mr. Rosenthal seconded and the Board adopted the resolution through unanimous vote.

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

Mr. Ferrara presented a resolution reclassifying Anna Tracy, the District’s Accounting Administrative Assistant, as Senior Administrative Assistant. Mr. Ferrara noted that Ms. Tracy has satisfactorily completed over one year of service in the Accounting Administrative Assistant role; that based on her financial and accounting experience the higher salary is warranted; and that he believes payment of the lower salary is a weakness in the District’s internal controls. District Counsel objected to the reclassification as without sufficient basis suggesting that Ms. Tracy had taken the Accounting Administrative Assistant position at the salary offered; and that, absent a promotion to a new title or the recitation of new duties imposed upon the incumbent, pursuant to the collective bargaining agreement the incumbent should progress through the existing salary schedule for the Accounting Administrative Assistant to that item’s job rate. Mr. Ferrara countered that he did not understand the resistance, but offered to insert an additional WHEREAS clause in the Resolution articulating responsibility for general ledger transactions.

Chairman Finkle asked for a Motion with respect to the resolution proposed. Mr. DeWitt made a Motion to adopt the resolution as revised authorizing the promotion of Anna Tracy to Senior Administrative Assistant at an annual salary of \$45,501 which is the starting rate effective 7/1/2018 of the collective bargaining agreement covering the period dated July 1, 2016 through June 30, 2020. Mr. Hayes seconded and the Board adopted the resolution through unanimous vote.

APPROVAL OF THE DECEMBER 11, 2018 REGULAR MEETING MINUTES

Chairman Finkle asked for a motion to adopt the December 11, 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. Mr. Hodgson noted that he had received a note from a seventh lake resident applauding the Chief Engineer's efforts to maintain lake levels through this trying weather season. Mr. Hodgson reported that he was invited to attend Governor Cuomo's State of the State address and that he attended Saratoga County's Local Emergency Planning Committee meeting. Mr. Hodgson reported that he has assigned to the Compliance Officer responsibility for crafting the Regulating District's Continuity of Operations Plan and that he has asked all staff to render assistance when asked. He noted that staff await final approval from the Office of General Services regarding the acceptance of credit card payments for the access permit system fees. Mr. Hodgson noted that staff are working on the next quarterly newsletter. Mr. Hodgson noted two impending retirements and suggested that both positions be filled in a manner to allow the incumbents an opportunity to train their successors. Finally, Mr. Hodgson expressed a need for a second plant operator at the Conklingville dam. He asked the Board to authorize all three new positions.

Chairman Finkle asked for motions authorizing Mr. Hodgson to solicit resumes for a new CFO; a new Administrative Assistant, and a new plant operator.

Mr. DeWitt made a motion authorizing the Interim Executive Director to immediately solicit resumes from candidates to fill the Chief Fiscal Officer position with the expectation that the new hire would commence work before Mr. Ferrara's announced retirement date to afford some overlap. Mr. Rosenthal seconded and the Board adopted the motion by unanimous vote.

Mr. Hayes made a motion authorizing the Interim Executive Director to solicit resumes in June or July from candidates to fill an Administrative Assistant position with the expectation that the new hire would commence work in July to afford overlap before the incumbent's expected retirement in January 2020. Mr. DeWitt seconded and the Board adopted the motion by unanimous vote.

Mr. DeWitt made a motion authorizing the Interim Executive Director to immediately solicit resumes from candidates to fill a vacant plant operator position. Mr. Hayes seconded and the Board adopted the motion by unanimous vote.

RESOLUTION TO ACCEPT HDR PROPOSAL TO COMPLETE 4TH PART 12D SAFETY INSPECTION AT CONKLINGVILLE DAM

Mr. Foltan presented a Resolution to the board explaining that the Federal Energy Regulatory Commission (FERC) requires an Independent Consultant Safety Inspection of Conklingville Dam, and that an Independent Consultant Inspection Report be completed every five years. The 4th Part 12D Independent Consultant Safety Inspection Report for Conklingville must be submitted to FERC by February 1, 2020. At the November 13, 2018 Board meeting, the Board authorized staff to procure engineering services to complete the Fourth Conklingville Dam Independent Consultant Safety Inspection.

Mr. Foltan reminded the board that consistent with state procurement guidelines and Section 136-a of the State Finance Law, staff have 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 have evaluated three of the most highly qualified firms, which submitted Annual Statement of Qualifications, based upon corporate and personnel experience demonstrated by the professional firms as it pertains to our project needs and services required. Specifically, staff reviewed the Annual Statement of Qualifications for experience completing Federal Energy Regulatory Commission Part 12D safety inspections. The evaluation team comprised Robert Foltan and Michael Mosher. Each team member evaluated the Annual Statement of Qualifications of the firms. Each team member evaluated 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 FERC Part 12D independent consultant safety inspections.

Mr. Foltan reported that the evaluation team determined that Henningson, Durham & Richardson Architecture and Engineering, P.C., Inc. (HDR) is the highest qualified firm to complete the work for the project. As such, HDR was asked to submit a proposal to complete the work.

Mr. Foltan explained that HDR proposes to use Mr. Adam Jones, P.E. as the Independent Consultant. Mr. Jones is a New York Registered Professional Engineer with over 39 years of engineering experience specializing in dam, structural, and geotechnical engineering. Mr. Jones has previously been approved by the Federal Energy Regulatory Commission (FERC) to conduct Part 12 Independent Consultant Safety Inspections and has completed inspections as an Independent Consultant on numerous projects.

HDR's scope of services includes a site visit, inspection, data and document review, and development of a Part 12D inspection report. HDR proposes to complete the work for a not-to-exceed fee of \$34,950.

Mr. Foltan recommends the Board adopt a Resolution accepting HDR's proposal to complete the 4th Part 12D Independent Consultant Safety Inspection of the Conklingville Dam and authorize the formation of a contract for the completion of the work, and authorize the Interim Executive Director to execute an agreement in an amount not to exceed \$34,950.

Chairman Finkle asked for a motion to adopt the Resolution accepting HDR's proposal to complete the 4th Part 12D Independent Consultant Safety Inspection of the Conklingville Dam and authorize the formation of a contract for the completion of the work, and authorize the Interim Executive Director to execute an agreement in an amount not to exceed \$34,950. Mr. Rosenthal so moved and Mr. DeWitt seconded. The Board approved the motion by unanimous vote.

RESOLUTION TO EXTEND CONTRACT C032013 – INDIAN LAKE 1ST ENGINEERING ASSESSMENT

Mr. Foltan presented a Resolution to the board to extend contract C022013's term through December 31, 2019. The Contract concerns Indian Lake's first engineering assessment. He reminded the board that through Resolution 13-45-12, the board awarded the work for the First Engineering Assessment at Indian Lake Dam to Bergmann Associates for a not to exceed amount of \$169,156.00. The board subsequently approved Amendment #1 for \$9,420.00, Amendment #2 for \$119,890.00, and Amendment #3 for \$7,335.00 increasing the not to exceed amount to \$305,801.00. Mr. Foltan recommended extending the contract three (3) additional years to complete the work. He noted that the contract extension 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.

Chairman Finkle asked for a motion to adopt the Resolution extending contract C022013 to December 31, 2021. Mr. Hayes so moved and Mr. DeWitt seconded. The Board approved the motion by unanimous vote.

RESOLUTION TO OPT-IN TO COVERAGE UNDER NEW YORK'S PAID FAMILY LEAVE POLICY AND TO AUTHORIZE EMPLOYEE CONTRIBUTIONS AFTER 90 DAYS NOTICE TO THE REGULATING DISTRICT'S UNREPRESENTED EMPLOYEES

Mr. Hodgson presented a Resolution to the Board to extend to the Regulating District's non-represented employees coverage under New York's paid family leave policy and asked Mr. Leslie to explain its terms. Mr. Leslie explained that provision of this benefit through the New York State Insurance Fund (NYSIF) will require that the Regulating District also procure a disability benefits policy through NYSIF and recommended that the board authorize the collection of the necessary premiums from the Regulating District's unrepresented employees. Mr. Ferrara noted that the cost of the disability benefits policy would be negligible.

Mr. Leslie recited that Governor Cuomo signed into law the nation's strongest and most comprehensive paid family leave policy. Today, working families no longer have to choose between caring for their loved ones and risking their economic security. Paid family leave provides eligible employees job-protected, paid time off to: **Bond** with a newly born, adopted or fostered child, **Care** for a family member with a serious health condition, or **Assist** loved ones when a spouse, domestic partner, child or parent is deployed abroad on active military service. He further explained that New York's family leave program is administered through regulations promulgated by the New York State Workers' Compensation Board; that public employers, such as the Hudson River – Black River Regulating District, can opt-in to coverage under the act at any time, and that the board may elect to pay for the cost of coverage or elect weekly employee payroll deductions. Further, he noted that once a public employer has obtained coverage, the employer submits an application to the New York State Workers' Compensation Board, and provides notice to its unrepresented employees at least 90 days before collecting employee contributions, when such contributions will be required. Mr. Leslie explained that New York designed paid family leave to be easy for employers to implement, with three key tasks: **Obtain**

paid family leave coverage; **Collect** employee contributions to pay for their coverage; **Complete** the employer portion of the paid family leave request form when a worker applies for leave.

Mr. Leslie pointed out that the Regulating District's CSEA Local may collectively bargain with the Regulating District for the provision of family leave benefits and that the Regulating District board will have to take up the issue as part of the next CSEA contract period.

He noted that the New York State Insurance Fund (NYSIF), which issues the Regulating District's workers' compensation policy, has an approved paid family leave policy rider for issuance in New York, but that in order for NYSIF to provide paid family leave coverage to the District, the District would need to also secure a disability benefits policy from the NYSIF. Coverage must be maintained for at least **one year** and may only be canceled after providing 12 months' notice to all affected unrepresented employees and to the Workers' Compensation Board. The employee contribution for 2019 is 0.153% of an employee's gross after tax wages each pay period and the maximum annual contribution is \$107.97 provided that an employee earning less than the Statewide Average Weekly Wage (SAWW) of \$1,357.11 will contribute less than the annual cap of \$107.97, consistent with their actual wages.

Mr. Leslie recommended that the board opt-in to coverage under New York's paid family leave policy; direct the Interim Executive Director or designee to add a disability benefits policy to the District's workers' compensation coverage secured through the NYSIF, to secure coverage through a paid family leave rider to the Regulating District's disability benefits policy with the NYSIF, to alert the Regulating District's unrepresented employees to the collection of employee contributions for such coverage, and, consistent with the State policy, to begin collecting such contributions no sooner than 90 days from the date of this Resolution.

Chairman Finkle asked for a motion to opt-in to coverage under New York's paid family leave policy; direct the Interim Executive Director or designee to add a disability benefits policy to the District's workers' compensation coverage secured through the NYSIF, to secure coverage through a paid family leave rider to the Regulating District's disability benefits policy with the NYSIF, to alert the Regulating District's unrepresented employees to the collection of employee contributions for such coverage, and, consistent with the State policy, to begin collecting such contributions no sooner than 90 days from the date of this Resolution. Mr. Rosenthal so moved. Mr. DeWitt seconded and the board adopted the Resolution through a unanimous vote.

STAFF REPORTS

Mr. Leslie presented his report. Mr. Leslie reported that staff inspections revealed that a portion of a private garage sits upon lands of the State of New York subject to the Regulating District's jurisdiction. Counsel, the Interim Executive Director and the Chief Engineer remain engaged in a discussion with the private land-owner's attorney regarding the final disposition of the structure in question. Mr. Leslie noted that he offered the Interim Executive Director and Board Chair advice/counsel on personnel issues during the reporting period.

Ms. Ruzycky presented her report to the Board. She noted that the 2018/2019 MWBE Goal Plan Update has been approved, that the online payment application has been submitted to Elavon for review and that she has completed the quarterly internal control audits.

Mr. Ferrara presented his report to the Board. He noted that at the close of fiscal January 31, 2019, the general fund balances for the HRA and BRA were approximately \$2,958,723 and \$2,130,668 respectively. He noted that District's transactional processing and reporting are current. District bank reconciliations are complete through December 31, 2018.

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 2,940 cubic feet per second (cfs). Precipitation during the month of December 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 167% and 135% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 112% and 126% of historic average, respectively.

The December average daily release from Stillwater Reservoir was approximately 540 cfs. Monthly total precipitation measured 81%, 70%, and 73% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of December 25th. Precipitation in the month of December was below average at Stillwater, Old Forge and Sixth Lake. The monthly inflow to Stillwater Reservoir was approximately 123% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.18 and 0.39 billion cubic feet, respectively, in December. Release of water from Stillwater Reservoir averaged 121% of historic discharge.

Mr. Foltan noted that the January average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 3,870 cubic feet per second (cfs). Precipitation during the month of January was above normal across the Great Sacandaga Lake and Indian Lake watersheds. The monthly inflow to Great Sacandaga Lake and Indian Lake reservoir was approximately 160% and 110% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 135% and 129% of historic average, respectively.

The January average daily release from Stillwater Reservoir was approximately 600 cfs. Monthly total precipitation measured 126%, 132%, and 137% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of January 28th. Precipitation in the month of January was above average at Stillwater, Old Forge and Sixth Lake. The monthly inflow to Stillwater Reservoir was approximately 108% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.14 and 0.33 billion cubic feet, respectively, in January. Release of water from Stillwater Reservoir averaged 124% of historic discharge.

Mr. Foltan took a moment to explain to the Board the datum change implemented by USGS. He pointed the Board and the public to the District's website for more detail.

Mr. Hodgson presented the Administrator's report. Mr. Hodgson reported that he visited the Watertown office to get Megan Cole settled in to her new position. He explained that NYS DEC has taken an interest in the manner in which the Regulating District places Rip Rap recommending the placement of new rock rather than the dislodgment and replacement of rock

on site. He also noted that he is working with the Chief Engineer and staff at Conklingville to address concerns regarding regular routine operation of the dow valves.

BOARD MEMBER COMMENTS

Mr. Ferrara reported that he had been informed by the Bank of America that additional fraudulent checks have been posted against the Regulating District's BOA account. He indicated that BOA is addressing this activity as a company-wide issue and that the Regulating District will be held harmless.

RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR MEETING FOR MARCH 12, 2019

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 12, 2019 at the Sacandaga Field Office, 737 Bunker Hill Road, Mayfield, New York 12117 at 10:00 A.M.

Mr. Rosenthal moved to adopt the Resolution setting the date, time and place of the next meeting. Mr. DeWitt 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. Rosenthal seconded. The meeting adjourned at 11:33 A.M.

RESOLUTIONS

19-01-02 RESOLUTION TO PROMOTE DAVID IOELE TO FOREMAN IN THE HRA OF THE HUDSON RIVER – BLACK RIVER REGULATING DISTRICT

Chairman Finkle asked for a Motion to adopt the resolution. Mr. Hayes made a motion to adopt the resolution promoting Mr. Ioele to Forman, effective December 13, 2018; at an annual salary of \$53,202 which is "step 6" pursuant to the base salary schedule effective 7/1/2018 of the collective bargaining agreement covering the period dated July 1, 2016 through June 30, 2020. Mr. Rosenthal seconded and the Board adopted the resolution through unanimous vote.

19-02-02 RESOLUTION TO RECLASSIFY ANNA TRACY AS SENIOR ADMINISTRATIVE ASSISTANT IN THE HRA OF THE HUDSON RIVER – BLACK RIVER REGULATING DISTRICT

Chairman Finkle asked for a Motion with respect to the resolution proposed. Mr. DeWitt made a Motion to adopt the resolution as revised authorizing the promotion of Anna Tracy to Senior Administrative Assistant at an annual salary of \$45,501 which is the starting rate effective 7/1/2018 of the collective

bargaining agreement covering the period dated July 1, 2016 through June 30, 2020. Mr. Hayes seconded and the Board adopted the resolution through unanimous vote.

19-03-02 RESOLUTION TO ACCEPT HDR PROPOSAL TO COMPLETE 4TH PART 12D SAFETY INSPECTION AT CONKLINGVILLE DAM

Chairman Finkle asked for a motion to accept HDR's proposal and to authorize the interim Executive Director to execute a contract for the completion of the work in an amount 'not to exceed' \$34,950. Mr. Rosenthal so moved and Mr. DeWitt seconded. The Board approved the motion by unanimous vote.

19-04-02 RESOLUTION TO EXTEND CONTRACT C032013 – INDIAN LAKE 1ST ENGINEERING ASSESSMENT

Chairman Finkle asked for a motion to adopt the Resolution extending contract C022013 to December 31, 2021. Mr. Hayes so moved and Mr. DeWitt seconded. The Board approved the motion by unanimous vote.

19-05-02 RESOLUTION TO OPT-IN TO COVERAGE UNDER NEW YORK'S PAID FAMILY LEAVE POLICY AND TO AUTHORIZE EMPLOYEE CONTRIBUTIONS AFTER 90 DAYS NOTICE TO THE REGULATING DISTRICT'S UNREPRESENTED EMPLOYEES

Chairman Finkle asked for a motion to opt-in to coverage under New York's paid family leave policy; direct the Interim Executive Director or designee to add a disability benefits policy to the District's workers' compensation coverage secured through the NYSIF, to secure coverage through a paid family leave rider to the Regulating District's disability benefits policy with the NYSIF, to alert the Regulating District's unrepresented employees to the collection of employee contributions for such coverage, and, consistent with the State policy, to begin collecting such contributions no sooner than 90 days from the date of this Resolution. Mr. Rosenthal so moved. Mr. DeWitt seconded and the board adopted the Resolution through a unanimous vote.

19-06-02 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR MEETING FOR MARCH 12, 2019

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

Respectfully submitted,
Richard J. Ferrara,
Secretary/Treasurer
Mark M. Finkle
Board Chairman