

**HUDSON RIVER-BLACK RIVER REGULATING DISTRICT  
BOARD MEETING MINUTES  
January 11, 2022**

Sacandaga Field Office  
737 Bunker Hill Road  
Mayfield, NY 12117

Hudson River Area Office  
575 Broadway, Fl. 3  
Albany, NY 12207

**Remote Conference-In Information**

Participants were invited to join the meeting via computer, tablet or smartphone.

<https://global.gotomeeting.com/join/857076053>

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**CALL TO ORDER**

Chairman Mark M. Finkle called the meeting to order at 10:17 A.M.

**ROLL CALL**

**Present:** Board Members Albert Hayes, and Timothy Reagan; General Counsel Robert Leslie; and Compliance Officer Stephanie Ruzycky.

**Video Feed:** Board Chairman Mark M. Finkle; Second Vice-Chair Kenneth DeWitt; Board Members Richard Bird and Alfred J. Candido Jr.; Executive Director John Callaghan; Chief Engineer Robert Foltan; and Chief Fiscal Officer Timothy Maniccia.

**Excused:** First Vice-Chair Jeff Rosenthal

**MOTION TO ADOPT OR REVISE THE MEETING AGENDA**

Chairman Finkle asked for a motion to revise the agenda to remove item 8(d). Mr. Reagan made the motion to revise the agenda. Mr. DeWitt seconded. The Board approved the revised agenda by unanimous vote.

**PUBLIC COMMENT**

Chairman Finkle opened the meeting to public comment. A representative from the Sacandaga Protection Committee thanked the Board for revising the meeting agenda.

**APPROVAL OF THE NOVEMBER 9, 2021 REGULAR BOARD MEETING MINUTES**

Chairman Finkle asked for a motion to adopt the November 9, 2021 regular board meeting minutes. Mr. DeWitt advanced the motion to approve the regular meeting minutes. Mr. Reagan seconded and the Board approved the motion by unanimous vote.

## **REPORT OF THE EXECUTIVE DIRECTOR**

Mr. Callaghan presented his report. Mr. Callaghan reported that, along with staff, he met with IMC Consulting on 12/20/21 to review changes with the online permit system in advance of for the upcoming renewal season, and to ensure readiness and success of the program. Mr. Callaghan reported that, in this second year of the on-line renewal effort, staff are witnessing a heavy volume of on-line renewals. Metrics show that staff have reached over 5,400 persons through social media and that over 3,000 individuals have opened emails distributed to the access permit holding community. Mr. Callaghan noted that nearly 1,000 permittees have chosen to renew on-line in the one week since renewal notices were posted.

### **PRESENTATION: KLEINSCHMIDT PROJECT SUMMARY – HAWKINSVILLE DAM REMEDIATION**

Tyler Kreider, P.E. of Kleinschmidt presented an overview of that firm's effort at Hawkinsville Dam including a summary of the salient events, reports and analysis leading to the firm's dam remediation plan recommendation. Mr. Kreider described the actions recommended for the eastern and western abutments, and detailed Kleinschmidt's recommendations for the Regulating District's future operation and maintenance obligations.

### **CONTRACTS/ACTIONS**

#### **RESOLUTION TO APPROVE SIXTH AMENDMENT TO CONTRACT C012012 WITH KLEINSCHMIDT ASSOCIATES, PA, PC**

Mr. Foltan presented the resolution to the Board; first reciting the history of contract C012012 for the Hawkinsville project. Mr. Foltan noted that in an effort to secure the most economical method of funding the construction project, and to realign the anticipated costs with the Regulating District's current three-year assessment cycle, the Regulating District postponed construction until 2022. The postponement and today's presentation were both unanticipated by Kleinschmidt and resulted in additional project management and coordination expense. Mr. Foltan reported that Kleinschmidt has also requested an adjustment to the hourly rates for the outstanding tasks (Construction Phase services) which will be completed in 2022. Kleinschmidt has provided a scope of work and fee proposal and Mr. Foltan recommended that the Board authorize the Executive Director to execute this sixth amendment to contract C012012 in the amount of \$7,000.00, increasing the total not to exceed amount to \$223,564.00. Mr. Foltan noted that the contract amendment will be subject to review and approval by the Office of the NYS Attorney General and the Office of the NYS Comptroller.

Mr. Bird moved to adopt the resolution authorizing the Executive Director to execute a sixth amendment to contract C012012 accepting Kleinschmidt's proposed: *Amendment #6 Revised Scope of Services* proposal and authorizing the Executive Director to increase the contract price by \$7,000 to a total contract price of \$223,564. Mr. DeWitt seconded and the Board approved the motion adopting the resolution by unanimous vote.

#### **RESOLUTION TO ACCEPT AMENDMENT #3 TO THE HENNINGSON, DURHAM & RICHARDSON ARCHITECTURE AND ENGINEERING, P.C. (HDR) CONTRACT (C032018) CONKLINGVILLE DAM FOURTH PART 12D INDEPENDENT SAFETY INSPECTION**

Mr. Foltan presented the resolution to the Board; first reciting the history of contract C032018 for Part 12D work at Conklingville. Mr. Foltan explained that HDR has now completed development of the protocol for recognizing storm events which could impact the previous approved Site Specific Probable Maximum Precipitation (SSPMP) study and summarized its recommendation in a Technical Memorandum dated April 27, 2020. HDR also completed verification of the project discharge rating curve and project Probable Maximum Precipitation analysis; submitting two additional Technical Memorandum reports on March 19, 2021. Mr. Foltan reported that he submitted all three Technical Memorandum to FERC for review and noted that FERC accepted HDR's protocol ("storm screening procedure") for recognizing storm events which could impact the previous-approved Site Specific Probable Maximum Precipitation study and concurred with HDR's findings and recommendation to perform further evaluation of at least two known storm events using the storm screening procedure. FERC has recommended the consultant review recent storm events which have occurred within the storm search domain since the completion of HDR's April 2020 evaluation, including consideration of Tropical Storm Ida (which impacted the region Aug 31 to Sept 2, 2021). Mr. Foltan recommended that the Board accept HDR's proposal to complete the work necessary to respond to the FERC's recommendations and seeks Board authorization to amend the scope and fee of Contract C032018 to increase Contract C032018 by \$14,000 to a not-to exceed amount of \$162,840. Mr. Foltan noted that the contract amendment will be subject to review and approval by the Office of the NYS Attorney General and the Office of the NYS Comptroller.

Mr. Reagan moved to adopt the resolution accepting HDR's proposal to complete certain work in response to recommendations made in furtherance of the 4<sup>th</sup> Part 12D safety inspection report and authorizing the Executive Director to execute a third amendment to Contract C032018, in the amount of \$14,000.00, bringing the not-to-exceed contract value to \$162,840.00. Mr. DeWitt seconded and the Board approved the motion adopting the resolution by unanimous vote.

**RESOLUTION TO AWARD APPRASIAL SERVICES WORK TO VARLEY APPRIASAL GROUP, INC.**

Mr. Callaghan presented the resolution to the Board. He explained that in an effort to negotiate a fair price for a new Ground Lease and Water Usage Agreement with Stillwater Associates, staff have identified a licensed real estate appraiser who is a member of the American Society of Appraisers from among the nine (9) firms contacted to gauge qualification, interest and ability to perform these services. He noted that Varley Appraisal Group, Inc. was the sole qualified entity to provide a cost proposal to provide these services within the required timeframe, and has provided a quote of \$5,650. Mr. Callaghan note that funds sufficient to compensate Varley Appraisal Group, Inc. have been included in the Regulating District's Fiscal Year 2021-22 budget that was approved by the Board at its June 8, 2021 meeting via Resolution 21-26-06 and recommended that the Board award the appraisal services work to the firm.

Mr. Bird moved to adopt the resolution awarding appraisal services work to Varley Appraisal Group, Inc. and authorizing the Executive Director to enter into the contemplated contract for an amount not to exceed \$5,650. Mr. Candido seconded and the Board adopted the motion by unanimous vote.

## **STAFF/COMMITTEE REPORTS**

### **FINANCE COMMITTEE REPORT**

#### **RESOLUTION TO CONTRACT WITH HARRIS BEACH PLC TO PROVIDE BOND COUNSEL SERVICES IN CONNECTION WITH THE ANTICIPATED ISSUANCE OF SERIAL BONDS**

Committee Chair Kenneth DeWitt presented the resolution to the Board noting that the Board had witnessed staff's presentation during the Finance Committee meeting. Mr. Maniccia had noted that the Board's budget included funds from bond proceeds to pay for infrastructure investments in Fiscal Year 2022-23. He had further explained that bond proceeds will fund improvements to the Hawkinsville and Indian Lake dams. Staff issued a Request for Proposals (RFP) for Bond Counsel Services on October 8, 2021 and received five proposals. Mr. Maniccia had explained that a team including the Chief Fiscal Officer, Counsel and the Compliance Officer evaluated the five RFPs based on the technical and cost criteria set forth in the RFP and that Harris Beach PLLC received the highest total score. Mr. DeWitt announced that the Finance Committee recommends that the Board conditionally award Bond Counsel Services to the firm and authorize the Executive Director to enter into a contract for an amount not to exceed \$30,000. Mr. DeWitt noted that the contract will be subject to review and approval by the NYS Attorney General.

Mr. Hayes made a motion to adopt the resolution to conditionally award Bond Counsel Services to Harris Beach PLLC and authorize the Executive Director to execute a contract for a not to exceed amount of \$30,000 plus approved disbursements. Mr. Reagan seconded and the Board approved the motion adopting the resolution by unanimous vote.

### **STAFF REPORTS**

Mr. Leslie presented his report. Staff continue to discuss the valuation of the Regulating District's 56 feet of head at Conklingville with the appraisal consultant. Counsel, the Chief Fiscal Officer & the Executive Director continue to work with Stillwater Associates to address the expiring Reservoir Operating Agreement at Stillwater reservoir. The Executive Director has secured an appraisal firm to value the Stillwater hydro plant. The Compliance Officer secured a Title company to investigate liens and UCC filings against the subject properties. Counsel participated in the GOER Equal Employment Opportunity and Workplace Discrimination Training made mandatory for agency leadership. Counsel addressed five (5) FOIL requests during the reporting period. There were no appeals.

Ms. Ruzycky presented her report. Ms. Ruzycky conducted the quarterly IC Compliance audit at BRAO and attended VETCON, MWBE Forum, and GreenNY Forums. She noted that the Regulating District remains in normal operations (post-COVID-19 Safety Plan) with all employees reporting regularly. During the reporting period, staff continue to work with GOER, Executive Chamber colleagues, CSEA and staff to implement the "vaccination or weekly testing" policy adopted by the State of New York; achieving full compliance.

Mr. Maniccia presented his report to the Board. Therein he noted that at the close of December 31, 2021, the general fund balances for the HRA and BRA were approximately \$4,680,488 and \$2,053,517 respectively, an improvement of \$769,941 over the same period a year ago. He noted that significant disbursements for the period include: pension, payroll, and health

insurance. Mr. Maniccia noted that the Regulating District's transactional processing and reporting are current. Further, Mr. Maniccia directed the Board to page 114 of the Board packet noting that staff have now completed, or taken every available action to complete, the Inspector General's list of recommendations stemming from their April 8, 2021 investigation report questioning the former Chief Fiscal Officer's retention of funds upon retirement.

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 3,560 cubic feet per second (cfs). Precipitation during the month of December was above average across the Great Sacandaga Lake watershed and above average across the Indian Lake watershed. The monthly inflow to Great Sacandaga Lake and Indian Lake reservoir was approximately 97% and 85% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 134% and 112% of historic average, respectively.

The December average daily release from Stillwater Reservoir was approximately 440 cfs. Monthly total precipitation measured 117%, 129%, and 127% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of December 14<sup>th</sup>. Precipitation in the month of December was above average at Stillwater, Old Forge and Sixth Lake. The monthly inflow to Stillwater Reservoir was approximately 94% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.25 and 0.38 billion cubic feet, respectively, in December. Release of water from Stillwater Reservoir averaged 98% of historic discharge.

## **RESOLUTION SCHEDULING DATE, PLACE AND TIME OF THE REGULAR MEETING FOR MARCH 8, 2022**

Chair Finkle asked for a motion to adopt a resolution setting the next Regular Meeting of the Board of the Hudson River-Black River Regulating District to be held on Tuesday, March 8, 2022 virtually and in person at Old Forge, the Peter Kiernan Plaza, 575 Broadway, Third Floor, in Albany, NY and at the Sacandaga Field Office, 737 Bunker Hill Road, Mayfield NY at 10 AM.

Mr. Bird moved to adopt the resolution setting the date and time of the next meeting. Mr. Hayes seconded and the Board approved the motion adopting the resolution by unanimous vote.

## **ADJOURNMENT**

Mr. Hayes moved to adjourn the meeting. Mr. Reagan seconded. The meeting adjourned at 11:05 A.M.

## **RESOLUTIONS**

### **22-01-01 RESOLUTION TO APPROVE SIXTH AMENDMENT TO CONTRACT C012012 WITH KLEINSCHMIDT ASSOCIATES, PA, PC**

Mr. Bird moved to adopt the resolution authorizing the Executive Director to execute a sixth amendment to contract C012012 accepting Kleinschmidt's proposed: *Amendment #6 Revised Scope of Services* proposal and authorizing the Executive Director to increase the contract price by \$7,000 to a total contract price of \$223,564. Mr. DeWitt seconded and the Board approved the motion adopting the resolution by unanimous vote.

**22-02-01 RESOLUTION TO ACCEPT AMENDMENT #3 to the HENNINGSON, DURHAM & RICHARDSON ARCHITECTURE AND ENGINEERING, P.C. (HDR) CONTRACT (C032018) CONKLINGVILLE DAM FOURTH PART 12D INDEPENDENT SAFETY INSPECTION**

Mr. Reagan moved to adopt the resolution accepting HDR's proposal to complete certain work in response to recommendations made in furtherance of the 4<sup>th</sup> Part 12D safety inspection report and authorizing the Executive Director to execute a third amendment to Contract C032018, in the amount of \$14,000.00, bringing the not-to-exceed contract value to \$162,840.00. Mr. DeWitt seconded and the Board approved the motion adopting the resolution by unanimous vote.

**22-03-01 RESOLUTION TO AWARD APPRIASAL SERVICES WORK TO VARLEY APPRIASAL GROUP, INC.**

Mr. Bird moved to adopt the resolution awarding appraisal services work to Varley Appraisal Group, Inc. and authorizing the Executive Director to enter into the contemplated contract for an amount not to exceed \$5,650. Mr. Candido seconded and the Board approved the motion adopting the resolution by unanimous vote.

**22-04-01 RESOLUTION TO CONTRACT WITH HARRIS BEACH PLC TO PROVIDE BOND COUNSEL SERVICES IN CONNECTION WITH THE ANTICIPATE ISSUANCE OF SERIAL BONDS**

Mr. Hayes made a motion to adopt the resolution to conditionally award Bond Counsel Services to Harris Beach PLLC and authorize the Executive Director to execute a contract for a not to exceed amount of \$30,000 plus approved disbursements. Mr. Reagan seconded and the Board approved the motion adopting the resolution by unanimous vote.

**22-05-01 RESOLUTION SCHEDULING DATE, PLACE AND TIME OF THE REGULAR MEETING FOR MARCH 8, 2022**

Mr. Bird moved to adopt the resolution setting the date and time of the next meeting. Mr. Hayes seconded and the Board approved the motion adopting the resolution by unanimous vote.

Robert P. Leslie  
Secretary

Mark M. Finkle  
Board Chairman