

**HUDSON RIVER-BLACK RIVER REGULATING DISTRICT**  
**BOARD MEETING MINUTES**  
Sacandaga Field Office Conference Room  
737 Bunker Hill Road  
Mayfield, NY 12117  
**June 13, 2023**

**Remote Conference-In Information**

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

<https://global.gotomeeting.com/join/652870325> or via phone.

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**CALL TO ORDER**

Chairman Mark M. Finkle called the meeting to order at 10:31 A.M.

**ROLL CALL**

**Present:** Board Chair Mark M. Finkle; First Vice-Chair Kenneth F. DeWitt, Second Vice-Chair Alfred J. Candido, Jr.; Board Members Albert J. Hayes, Richard Bird, Timothy J. Reagan and Nicole T. Allen; Executive Director John C. Callaghan; General Counsel Robert P. Leslie; Chief Engineer Robert S. Foltan; Chief Fiscal Officer Timothy M. Maniccia; and Director of Administrative Services Stephanie V. Ruzycky.

**Video Feed:**

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

Chair Finkle asked for a motion to adopt or revise the meeting agenda. Mr. Hayes made a motion to adopt the agenda. Mr. Bird seconded. The Board approved the motion in a unanimous vote.

**PUBLIC COMMENT**

Chair Finkle opened the meeting to public comment hearing none.

**APPROVAL OF THE MAY 9, 2022 REGULAR BOARD MEETING MINUTES**

Chair Finkle asked for a motion to adopt the May 9, 2023 regular board meeting minutes. Mr. DeWitt advanced the motion to approve the regular meeting minutes. Mr. Hayes seconded and Ms. Allen abstained. The Board approved the motion by unanimous vote.

**REPORT OF THE EXECUTIVE DIRECTOR**

Mr. Callaghan presented his report to the Board. Mr. Callaghan highlighted staff action pursuant to the recent NYS Division of Budget Bulletin D-1148 entitled "*FY 2024 Performance Advances and Longevity Payments for Management/Confidential Employees*" effective May 5, 2023. Mr. Callaghan noted that, pursuant to Resolution 15-17-05 adopted at the May 2015

meeting, which placed each of the Regulating District's management confidential (M/C) staff at a specific grade and step pursuant to salary schedules administered by the Governor's Office of Employee Relations (GOER) and linked M/C raises for Regulating District employees to future schedules as adopted by the GOER, the CFO has executed the appropriate salary actions for applicable M/C employees. Mr. Callaghan noted this morning's dedication of the Regulating District's very own life jacket loaner station at the Sacandaga Field Office and then welcomed Safe Lake Initiative partners including law enforcement agencies involved in a joint law enforcement training exercise and boating safety awareness public information event in conjunction with safe boating week. He also worked with Great Sacandaga Lake Advisory Council (GSLAC) to finalize and take delivery of new waterproof charts for the Great Sacandaga Lake for 2023.

## **CONTRACTS/ACTIONS**

### **RESOLUTION AUTHORIZING THE EXPENDITURE OF \$7,200 FOR SIDEWALK REPLACEMENT AT SACANDAGA FIELD OFFICE MAIN ENTRANCE**

Mr. Callaghan presented a resolution to authorize the expenditure of \$7,200 to replace the sidewalk at the main entrance to the Sacandaga Field Office. Noting that the safety of the public and Regulating District employees at Regulating District facilities is paramount, Mr. Callaghan explained that the sidewalk at the main (public) entrance to SFO is badly deteriorated. He explained that the sidewalk's configuration reflects other infrastructure at the entrance no longer in place and that both the safety and the overall experience of visitors to the SFO can be enhanced by effecting necessary repairs to the sidewalk at the main entrance. Staff contacted five (5) contractors to solicit quotes to complete the work. Three contractors declined to quote the work due to being oversubscribed. Two responded and of the two quotes provided, Smith Sons Construction, LLC of Mayfield provided the low bid at \$7,200. Mr. Callaghan recommended the Board authorize the expenditure of \$7,200 to Smith Sons Construction, LLC for replacement of the sidewalk at the main entrance to SFO and authorize the following transfer in the Fiscal Year 2022-23 budget:

<b>Account Number</b>	<b>Account Name</b>	<b>Increase</b>	<b>Decrease</b>
5650-0200	Repairs to Structures	\$7,200	
5770-0200	Contingencies		\$7,200

Chair Mark Finkle asked for a motion to adopt the resolution authorizing the expenditure of \$7,200 to fund the sidewalk replacement and to authorize the necessary budget transfer. Mr. Candido so moved. Mr. Hayes seconded and the Board approved the motion by unanimous vote.

## **STAFF/COMMITTEE REPORTS**

### **FINANCE COMMITTEE REPORT**

#### **RESOLUTION TO APPROVE THE ANNUAL ASSESSMENT FOR THE OPERATION AND MAINTENANCE OF STORAGE RESERVOIRS IN THE BLACK RIVER AREA FOR THE THIRD YEAR (JULY 1, 2023 - JUNE 30, 2024) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2021**

Finance Committee Chair Kenneth DeWitt presented the annual assessment for the operation and maintenance of storage reservoirs in the Black River area for the period July 1, 2023 through June 30, 2024 pursuant to Environmental Conservation Law, Article 15, Title 21, Sections 15-2123 and 15-2125, and requested that the Board approve a resolution setting the annual assessment (\$1,141,728.00) accordingly. The Black River area assessment is attached.

Chair Mark Finkle asked for a motion to adopt the resolution setting the July 1, 2023 through June 30, 2024 Black River area assessment (\$1,141,728.00). Mr. Reagan so moved. Ms. Allen seconded and the Board approved the motion by unanimous vote.

**RESOLUTION TO APPROVE THE STATE SHARE FOR THE OPERATION AND MAINTENANCE OF STORAGE RESERVOIRS IN THE BLACK RIVER AREA FOR THE THIRD YEAR (JULY 1, 2023 - JUNE 30, 2024) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2021**

Committee Chair Kenneth DeWitt presented a resolution setting the state share for the operation and maintenance of storage reservoirs in the Black River area for the period of July 1, 2023 – June 30, 2024 pursuant to Environmental Conservation Law, Article 15, Title 21, Sections 15-2123 and 15-2125, and requested that the Board approve a resolution setting the Black River area state share (\$289,554.00) accordingly. The Black River area state share statement is attached.

Chair Mark Finkle asked for a motion to adopt the resolution setting the Black River area state share for the third year (July 1, 2023 - June 30, 2024) of the three year budget period (July 1, 2021 - June 30, 2024) in the amount of \$289,554.00. Mr. Hayes so moved. Mr. Candido seconded and the Board approved the motion by unanimous vote.

**RESOLUTION TO APPROVE THE ANNUAL ASSESSMENT FOR THE OPERATION AND MAINTENANCE OF STORAGE RESERVOIRS IN THE HUDSON RIVER AREA FOR THE THIRD YEAR (JULY 1, 2023 - JUNE 30, 2024) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2021**

Finance Committee Chair DeWitt presented a resolution setting the annual assessment for the operation and maintenance of storage reservoirs in the Hudson River area for the period July 1, 2023 through June 30, 2024 pursuant to Environmental Conservation Law, Article 15, Title 21, Sections 15-2123 and 15-2125, and requested that the Board approve a resolution setting the annual assessment (\$3,113,850) accordingly. The Hudson River area assessment is attached.

Chair Mark Finkle asked for a motion to adopt the resolution setting the July 1, 2023 through June 30, 2024 Hudson River area assessment (\$3,113,850). Mr. Hayes so moved. Ms. Allen seconded and the Board approved the motion by unanimous vote.

**RESOLUTION TO APPROVE THE STATE SHARE FOR THE OPERATION AND MAINTENANCE OF STORAGE RESERVOIRS IN THE HUDSON RIVER AREA FOR THE THIRD YEAR (JULY 1, 2023 - JUNE 30, 2024) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2021**

Finance Committee Chair DeWitt presented a resolution setting the state share for the operation and maintenance of storage reservoirs in the Hudson River area for the period of July 1, 2023 – June 30, 2024 pursuant to Environmental Conservation Law, Article 15, Title 21, Sections 15-2123 and 15-

2125, and requested that the Board approve a resolution setting the Hudson River area state share (\$960,446.00) accordingly. The Hudson River area state share statement is attached.

Chair Mark Finkle asked for a motion to adopt the resolution setting the Hudson River area state share for the third year (July 1, 2023 - June 30, 2024) of the three year budget period (July 1, 2021 - June 30, 2024) in the amount of \$960,446.00. Mr. Hayes so moved. Mr. Reagan seconded and the Board approved the motion by unanimous vote.

## **GOVERNANCE COMMITTEE REPORT**

### **RESOLUTION TO AWARD THE REGULATING DISTRICT'S INSURANCE PROGRAM FOR POLICY YEAR JULY 1, 2023 THROUGH JUNE 30, 2024**

Governance Committee Chair Candido presented a resolution to award the Regulating District's insurance program for policy year July 1, 2023 through June 30, 2024. Committee Chair Candido noted that the New York State Office of General Services, Bureau of Risk and Insurance Management dedicates staff to provide professional services and guidance on risk coverage and insurance needs for government agencies, authorities and public benefit corporations. He explained that the Bureau has competed the competitive procurement process for a wide range of insurance coverage; including General Liability, Umbrella-Excess Liability Property, Employment Practices Liability, Cyber/Data Breach Coverage and other coverage previously utilized by the Regulating District. Mr. Candido recommended that the Board determine that the insurance program for the policy year of July 1, 2023 through June 30, 2024 is a necessary service and that the Board award the Regulating District's insurance program for the policy year July 1, 2023 through June 30, 2024 to the New York State Office of General Services, Bureau of Risk and Insurance Management.

Chair Mark Finkle asked for a motion to adopt the resolution to award the Regulating District's insurance program for policy year July 1, 2023 through June 30, 2024 to the New York State Office of General Services, Bureau of Risk and Insurance Management. Mr. DeWitt so moved and Mr. Hayes seconded. The Board approved the motion adopting the resolution by unanimous vote.

### **RESOLUTION TO APPROVE INSURANCE PROPOSAL FOR POLICY YEAR JULY 1, 2023 THROUGH JUNE 30, 2024**

Governance Committee Chair Candido presented a resolution to approve the insurance proposal for policy year July 1, 2023 through June 30, 2024. Building upon the Resolution awarding the New York State Office of General Services, Bureau of Risk and Insurance Management the Regulating District's insurance program for the policy year ending June 30, 2024, Mr. Candido, the Executive Director and Chief Fiscal Officer recommended that the Board accept the insurance proposal developed by the Bureau for the annual premium amount of \$236,518.25; which includes the cost of insurance coverage and the cost recovery fee charged by the Bureau (but excludes Stamping and other fees charged by insurance carriers and expected to be minimal).

Chair Mark Finkle asked for a motion to adopt the resolution awarding the Regulating District's insurance coverage contract for the period July 1, 2023 through June 30, 2024 to the New York State Office of General Services, Bureau of Risk and Insurance Management for the annual premium

amount of \$236,518.25. Mr. Hayes so moved and Mr. DeWitt seconded. The Board approved the motion adopting the resolution by unanimous vote.

#### **RESOLUTION APPROVING A FIFTH AMENDMENT TO THE RESERVOIR OPERATING AGREEMENT AT CONKLINGVILLE**

Committee Chair Candido presented a resolution to authorize the Executive Director to enter into a fifth amendment extending the Reservoir Operating Agreement between the Hudson River – Black River Regulating District Board (“*Regulating District*”) and Erie Boulevard Hydropower, L.P., (“*Erie*”). He noted that the original agreement, dated July 1, 2003, later amended by an agreement dated May 19, 2006, and further amended by agreements dated June 16, 2021, June 29, 2022 and December 21, 2022, expires on June 30, 2023. Mr. Candido further explained that the said Reservoir Operating Agreement continues a long-term relationship with Erie and its predecessors in interest including previous Reservoir Operating Agreements with the Regulating District in 1927, 1939, 1949, 1971, 1980 and 2003. Mr. Candido noted that the Regulating District secured from Walden Environmental Engineering, PLLC, an appraisal of the fair market value of the Regulating District’s 56 feet of head used by Erie at Conklingville and that the Regulating District intends to rely upon that appraisal in the negotiation of a new long-term replacement to the expiring Reservoir Operating Agreement. He acknowledged that the Federal Energy Regulatory Commission (“FERC”) has yet to rule upon competing Petitions filed by the Regulating District and Erie seeking assistance resolving a dispute which impacts negotiations toward a new agreement and recommended that the Board authorize the Executive Director to enter into an agreement extending the current Reservoir Operating Agreement’s term by six months to December 31, 2023 to afford FERC time to rule and Erie to complete its analysis of the Regulating District’s Walden appraisal and/or supply its own appraisal.

Mr. Bird made a motion to adopt the resolution authorizing the Executive Director to enter into an agreement extending the current Reservoir Operating Agreement at Conklingville by six months to December 31, 2023. Mr. Hayes seconded and the Board approved the motion adopting the resolution by unanimous vote.

#### **RESOLUTION APPROVING AN EIGHTH AMENDMENT TO THE GROUND LEASE AND WATER USAGE AGREEMENT AT STILLWATER**

Governance Committee Chair Alfred J. Candido, Jr. presented a resolution to authorize the Executive Director to enter into an eighth amendment to extend by three months the Ground Lease and Water Usage Agreement with Stillwater Associates. He explained that the current agreement is set to expire on June 30<sup>th</sup> and that, barring entry into a new agreement, the original agreement requires the Regulating District to purchase the existing plant for fair market value. Mr. Candido explained that the parties have secured review of their respective appraisals by a third appraiser and have also secured a final appraisal by that appraiser. He noted that the three month extension will afford the parties additional time to finalize negotiations based upon this final fair market appraisal.

Mr. DeWitt made a motion to adopt the resolution which authorizes the Executive Director to execute an Eighth Amendment to the Ground Lease and Water Usage Agreement extending the extended term three months to September 30, 2023. Ms. Allen seconded and the Board adopted the motion by unanimous vote.

## STAFF REPORTS

Mr. Leslie presented his report. Mr. Leslie noted that the Federal Energy Regulatory Commission (“FERC”) addressed an Erie Boulevard Hydropower L.P. (“Erie”) motion seeking to prevent the Regulating District from diverting flows around E.J. West should Erie cease payments at the June 30, 2023 expiration of the Reservoir Operating Agreement by noting the Regulating District may violate its FERC license should it make such changes during the pendency of the ongoing declaratory order proceedings without prior authorization from the Commission.

Ms. Ruzycky presented her report to the Board. Ms. Ruzycky reported completion of the HRAO compliance audits and her work interviewing and onboarding seasonal laborers. Ms. Ruzycky noted her role managing contract administration.

Mr. Maniccia presented his report to the Board. Therein he noted that at the close of May 31, 2023, the general fund balances for the HRA and BRA were approximately \$6,357,618 and \$2,454,664 respectively. When combined (in the amount of \$8,812,282), this total is \$2,113,163 or 31.6% more than the same period last year. Mr. Maniccia noted that elimination of the requirement to make real property tax payments thanks to a change in statute adopted as part of the State FY 2022-2023 budget explains the increase in Net revenue and the increase in cash and investments in comparison to the same period in the prior year. Significant disbursements for the period include: Payroll, Health Insurance, Bergman Associates and Environmental Services Group. Mr. Maniccia noted that the Regulating District’s transactional processing and reporting are current. Mr. Maniccia also noted that staff have sought to include the Indian Lake project for inclusion in the Environmental Facilities Corporation’s Intended Use Plan under the Clean Water State Revolving Loan Fund.

Mr. Maniccia presented an affidavit evidencing necessary and reasonable Board expenses incurred by Board Chair Mark Finkle (\$105.06) in the course of his duties as a Board Member. Mr. Reagan moved to approve payment of such expenses. Mr. DeWitt seconded and the Board passed the motion in a unanimous vote.

Mr. Foltan presented the Chief Engineer’s report to the Board. Mr. Foltan noted that the May average daily release from the Sacandaga Reservoir (Great Sacandaga Lake) was approximately 3,220 cubic feet per second (cfs). Precipitation during the month of May 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 73% and 84% of historic average, respectively. Monthly release of water from Great Sacandaga Lake and Indian Lake measured 134% and 84% of historic average, respectively.

The May average daily release from Stillwater Reservoir was approximately 310 cfs. Monthly total precipitation measured 33%, 29%, and 57% of historic average at Stillwater, Old Forge, and Sixth Lake, respectively, as of May 23<sup>rd</sup>. Precipitation in the month of May was below average at Stillwater, Old Forge and Sixth Lake. The monthly inflow to Stillwater Reservoir was approximately 82% of historic average. The inflow to Sixth Lake and Old Forge Reservoir totaled 0.10 and 0.21 billion cubic feet, respectively, in May. Release of water from Stillwater Reservoir averaged 65% of historic discharge.

## **RESOLUTION SCHEDULING DATE TIME AND LOCATION OF THE REGULAR MEETING FOR JULY 11, 2023**

Chair Finkle asked for a motion to adopt a resolution setting the date, time and location for the next meeting of the Board of the Hudson River-Black River Regulating District for Tuesday, July 11, 2023 at the Sacandaga Field Office 737 Bunker Hill Road, Mayfield, NY 12117. The meeting will be scheduled for 10:00 A.M.

Mr. Hayes moved to adopt the resolution setting the date, time and location of the next meeting. Mr. DeWitt seconded and the Board adopted the resolution by unanimous vote.

## **ADJOURNMENT**

Chair Finkle called for a motion to adjourn the meeting. Mr. Reagan advanced the motion. Mr. Hayes seconded. The meeting adjourned at 11:01 P.M.

## **RESOLUTIONS**

### **23-25-06 RESOLUTION AUTHORIZING THE EXPENDITURE OF \$7,200 FOR SIDEWALK REPLACEMENT AT SACANDAGA FIELD OFFICE MAIN ENTRANCE**

Chair Mark Finkle asked for a motion to adopt the resolution authorizing the expenditure of \$7,200 to fund the sidewalk replacement and to authorize the necessary budget transfer. Mr. Candido so moved. Mr. Hayes seconded and the Board approved the motion by unanimous vote.

### **23-26-06 RESOLUTION TO APPROVE THE ANNUAL ASSESSMENT FOR THE OPERATION AND MAINTENANCE OF STORAGE RESERVOIRS IN THE BLACK RIVER AREA FOR THE THIRD YEAR (JULY 1, 2023 - JUNE 30, 2024) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2021**

Chair Mark Finkle asked for a motion to adopt the resolution setting the July 1, 2023 through June 30, 2024 Black River area assessment (\$1,141,728.00). Mr. Reagan so moved. Ms. Allen seconded and the Board approved the motion by unanimous vote.

### **23-27-06 RESOLUTION TO APPROVE THE STATE SHARE FOR THE OPERATION AND MAINTENANCE OF STORAGE RESERVOIRS IN THE BLACK RIVER AREA FOR THE THIRD YEAR (JULY 1, 2023 - JUNE 30, 2024) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2021**

Chair Mark Finkle asked for a motion to adopt the resolution setting the Black River area state share for the third year (July 1, 2023 - June 30, 2024) of the three year budget period (July 1, 2021 - June 30, 2024) in the amount of \$289,554.00. Mr. Hayes so moved. Mr. Candido seconded and the Board approved the motion by unanimous vote.

**23-28-06      RESOLUTION TO APPROVE THE ANNUAL ASSESSMENT FOR THE OPERATION AND MAINTENANCE OF STORAGE RESERVOIRS IN THE HUDSON RIVER AREA FOR THE THIRD YEAR (JULY 1, 2023 - JUNE 30, 2024) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2021**

Chair Mark Finkle asked for a motion to adopt the resolution setting the July 1, 2023 through June 30, 2024 Hudson River area assessment (\$3,113,850). Mr. Hayes so moved. Ms. Allen seconded and the Board approved the motion by unanimous vote.

**23-29-06      RESOLUTION TO APPROVE THE STATE SHARE FOR THE OPERATION AND MAINTENANCE OF STORAGE RESERVOIRS IN THE HUDSON RIVER AREA FOR THE THIRD YEAR (JULY 1, 2023 - JUNE 30, 2024) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2021**

Chair Mark Finkle asked for a motion to adopt the resolution setting the Hudson River area state share for the third year (July 1, 2023 - June 30, 2024) of the three year budget period (July 1, 2021 - June 30, 2024) in the amount of \$960,446.00. Mr. Hayes so moved. Mr. Reagan seconded and the Board approved the motion by unanimous vote.

**23-30-06      RESOLUTION TO AWARD THE REGULATING DISTRICT'S INSURANCE PROGRAM FOR POLICY YEAR JULY 1, 2023 THROUGH JUNE 30, 2024**

Chair Mark Finkle asked for a motion to adopt the resolution to award the Regulating District's insurance program for policy year July 1, 2023 through June 30, 2024 to the New York State Office of General Services, Bureau of Risk and Insurance Management. Mr. DeWitt so moved and Mr. Hayes seconded. The Board approved the motion adopting the resolution by unanimous vote.

**23-31-06      RESOLUTION TO APPROVE INSURANCE PROPOSAL FOR POLICY YEAR JULY 1, 2023 THROUGH JUNE 30, 2024**

Chair Mark Finkle asked for a motion to adopt the resolution awarding the Regulating District's insurance coverage contract for the period July 1, 2023 through June 30, 2024 to the New York State Office of General Services, Bureau of Risk and Insurance Management for the annual premium amount of \$236,518.25. Mr. Hayes so moved and Mr. DeWitt seconded. The Board approved the motion adopting the resolution by unanimous vote.

**23-32-06      RESOLUTION APPROVING A FIFTH AMENDMENT TO THE RESERVOIR OPERATING AGREEMENT AT CONKLINGVILLE**

Mr. Bird made a motion to adopt the resolution authorizing the Executive Director to enter into an agreement extending the current Reservoir Operating Agreement at Conklingville by six months to December 31, 2023. Mr. Hayes seconded and the Board approved the motion adopting the resolution by unanimous vote.

**23-33-06      RESOLUTION APPROVING AN EIGHTH AMENDMENT TO THE  
GROUND LEASE AND WATER USAGE AGREEMENT AT STILLWATER**

Mr. DeWitt made a motion to adopt the resolution to authorize the Executive Director to execute an Eighth Amendment to the Ground Lease and Water Usage Agreement extending the extended term three months to September 30, 2023. Ms. Allen seconded and the Board approved the motion adopting the resolution by unanimous vote.

**23-34-06      RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE  
REGULAR MEETING FOR JULY 11, 2023**

Mr. Hayes moved to adopt the resolution setting the date, time and location of the next meeting. Mr. DeWitt seconded and the Board adopted the resolution by unanimous vote.

Robert P. Leslie  
Secretary

Mark M. Finkle  
Board Chairman