

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

**APRIL 8, 2014**

Warren County Municipal Center

1340 State Rt. 9

Lake George, NY 12845

Immediately following Governance Committee Meeting

**CALL TO ORDER**

Chairman Mark M. Finkle called the meeting to order at 10:07 A.M.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**Present:** Board Chairman Mark M. Finkle; First Vice Chair Thomas Stover; Second Vice Chair Albert J. Hayes; Board Member David W. Berkstresser and; Executive Director Michael A. Clark; General Counsel Robert P. Leslie; Chief Fiscal Officer Richard J. Ferrara; Chief Engineer Robert Foltan; Hudson River Area Administrator John Hodgson.

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

Chairman Finkle asked for a motion to revise the meeting agenda to reflect a discussion during the Board Meeting regarding the tentative contract with Bergmann Associates concerning the Indian Lake 1<sup>st</sup> Engineering Assessment and to add an Executive Session to discuss collective bargaining between the Regulating District and the CSEA local representing Regulating District employees as well as current pending litigation.

Mr. Hayes made a motion to revise the proposed meeting agenda to reflect an Executive Session to discuss collective bargaining with the CSEA local and current pending litigation. Mr. Stover seconded it and the motion was unanimously approved.

**PUBLIC COMMENT PERIOD**

Chairman Finkle solicited comments from the public. Hearing none.

**APPROVAL OF THE MARCH 11, 2014 BOARD MEETING MINUTES**

Chairman Finkle asked for a motion to adopt the March 11, 2014 Regular Meeting Minutes. Mr. Berkstresser advanced the motion to approve the Board's March 11, 2014 Regular Meeting Minutes. Mr. Hayes seconded it and the motion was unanimously approved.

## **EXECUTIVE DIRECTOR'S REPORT**

Mr. Clark provided his report. Mr. Clark noted that PERB's appointed Fact Finder is waiting for the Board's consideration of the potential settlement on a new employment contract for the Regulating District's CSEA local. Mr. Clark briefly commented upon negotiations with the various litigants facing the Regulating District.

## **CONTRACTS**

### **RESOLUTION TO ACCEPT BERGMANN ASSOCIATE'S PROPOSAL TO COMPLETE INDIAN LAKE FIRST ENGINEERING ASSESSMENT**

Mr. Foltan discussed the finalization of the contract with Bergmann Associates. He noted that the Board adopted resolution 13-45-12 awarding the work for the First Engineering Assessment at Indian Lake Dam to Bergmann Associates contingent upon the successful negotiation of contract terms and conditions. Mr. Foltan noted that alternations to Bergmann's characterization of the scope of work, and thus the time associated with the tasks as re-described, made possible a significant reduction in Bergmann's initial proposed contract price. The parties have now concluded successful negotiation of contract terms & conditions and Mr. Foltan recommended that the Board authorizes the Executive Director to execute a contract with Bergmann Associates for a not to exceed amount of \$ 169,156.00. He noted that the contract 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.

Mr. Berkstresser moved to adopt the Resolution to accept Bergmann Associate's proposal to complete the Indian Lake First Engineering Assessment. Mr. Hayes seconded and the Resolution was unanimously adopted.

## **COMMITTEE REPORTS GOVERNANCE COMMITTEE**

Committee Chairman Hayes introduced the Board to the following three Resolutions:

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

Mr. Berkstresser moved to adopt the Resolution to satisfy the necessary annual review of the Regulating District's Investment Policy. Mr. Stover seconded it and the Resolution was unanimously adopted.

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

Mr. Berkstresser moved to adopt the Resolution to satisfy the necessary annual review of the Regulating District's Procurement Policy. Mr. Stover seconded it and the Resolution was unanimously adopted.

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

Mr. Berkstresser moved to adopt the Resolution to satisfy the necessary annual review of the Regulating District's Disposition of Property Guidelines. Mr. Stover seconded it and the Resolution was unanimously adopted.

**STAFF REPORTS**

Mr. Leslie presented his report to the Board. Mr. Leslie noted that the NYS Attorney General's has sought additional time to oppose removal of the Regulating District's affirmative suit against Erie Boulevard Hydropower L.P. to U.S.D.C. for the N.D.N.Y.

Mr. Leslie reminded the Board and senior staff of JCOPE's May 15<sup>th</sup> deadline for submission of Financial Disclosure Statements.

Mr. Ferrara presented his report to the Board. Mr. Ferrara noted that District financials and cash flows are attached for the Board's review. Current HRA assessment receivables are up to date excepting the share attributable to the State. BRA assessment receivables collected to date remains \$1,089,685 of \$1,170,936.

Mr. Ferrara related that in consultation with the Empire State Development's Division of Minority and Women's Business Development he has contacted over twenty MWBE firms to assess interest in performing certified audit services for the current fiscal year through year ending June 30, 2016. Mr. Ferrara noted that only two firms have responded and that one of the firms is quite a bit more expensive than the other and the Regulating District's current contractor. As the lower cost MWBE firm has not responded to requests for confirmation regarding their qualifications, Mr. Ferrara indicated that his recommendation to the Board at the May meeting may be to continue with the Regulating District's current outside auditing firm at least for the current fiscal year.

Mr. Ferrara presented to the Board a schedule of expenses incurred by Mr. Finkle during February 2014. Mr. Hayes made a motion to approve the reimbursement of such expenses. Mr. Stover seconded the Motion and the Board adopted the Motion by unanimous vote.

Mr. Foltan presented the Chief Engineer's report to the Board.

In response to a question posed by Mr. Berkstresser, Mr. Foltan related that Regulating District Engineering staff and representatives from its contractor Kleinschmidt have received a verbal confirmation from DEC staff that DEC staff will recommend a hazard reclassification at Hawkinsville which would significantly reduce the scope and cost of remediation projects at the dam.

Mr. Hodgson presented his report to the Board.

In response to a question from Mr. Hayes, Mr. Hodgson, Mr. Ferrara and Mr. Clark indicated that seasonal labor to assist operation and maintenance activities at Conklingville and in Mayfield would be helpful.

**RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR MEETING FOR MAY 13, 2014 BOARD MEETING**

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 13, 2014 at the Mayfield Municipal Complex, 28 North School Street Mayfield, NY 12117 at 10:00 A.M.

Mr. Berkstresser moved to adopt the Resolution. Mr. Stover seconded it and the Resolution was unanimously adopted.

**EXECUTIVE SESSION**

Chairman Finkle called for a motion to adjourn to Executive Session to discuss collective bargaining and litigation issues. The Chairman indicated that the Board would not conduct further business after the Executive Session and invited the Executive Director, Chief Fiscal Officer, Chief Engineer and General Counsel to join the Board in Executive Session.

Mr. Hayes advanced the motion, Mr. Stover seconded. The Board adjourned to Executive Session at 10:45 A.M. and returned at 12:34 P.M.

**ADJOURNMENT**

There being no further business to come before the Board, Mr. Hayes moved to adjourn the meeting. Mr. Stover seconded it. The motion was unanimously approved. The meeting adjourned at 12:34 P.M.

**RESOLUTIONS**

**14-7-4 RESOLUTION TO ACCEPT BERGMANN ASSOCIATE’S PROPOSAL TO COMPLETE INDIAN LAKE FIRST ENGINEERING ASSESSMENT**

Mr. Berkstresser moved to adopt the Resolution to accept Bergmann Associate’s proposal to complete the Indian Lake First Engineering Assessment. Mr. Hayes seconded and the Resolution was unanimously adopted.

**14-8-4 RESOLUTION TO SATISFY ANNUAL REVIEW AND APPROVAL OF THE REGULATING DISTRICT’S INVESTMENT POLICY**

Mr. Berkstresser moved to adopt the Resolution to satisfy the necessary annual review of the Regulating District’s Investment Policy. Mr. Stover seconded it and the Resolution was unanimously adopted.

**14-9-4 RESOLUTION TO SATISFY ANNUAL REVIEW AND APPROVAL OF THE REGULATING DISTRICT'S PROCUREMENT POLICY**

Mr. Berkstresser moved to adopt the Resolution to satisfy the necessary annual review of the Regulating District's Procurement Policy. Mr. Stover seconded it and the Resolution was unanimously adopted.

**14-10-4 RESOLUTION TO ANNUALLY REVIEW AND APPROVE THE REGULATING DISTRICT'S DISPOSITION OF PROPERTY GUIDELINES – PURSUANT TO SECTION 2896(1) OF THE PUBLIC AUTHORITIES LAW**

Mr. Berkstresser moved to adopt the Resolution to satisfy the necessary annual review of the Regulating District's Disposition of Property Guidelines. Mr. Stover seconded it and the Resolution was unanimously adopted.

**14-11-4 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR MEETING FOR MAY 13, 2014 BOARD MEETING**

Mr. Berkstresser moved to adopt the Resolution. Mr. Stover seconded it and the Resolution was unanimously adopted

Respectfully submitted,

Richard J. Ferrara  
Secretary/Treasurer