

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

June 10, 2014

Inlet Town Office

160 Rt 28

Inlet, NY 13360

Immediately following Finance 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; Executive Director Michael A. Clark; General Counsel Robert P. Leslie; Chief Fiscal Officer Richard J. Ferrara; Chief Engineer Robert Foltan; Hudson River – Black 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 an Executive Session to discuss collective bargaining and to move item 9a of the agenda to after said Executive Session.

Mr. Berkstresser made a motion to adopt the proposed meeting agenda as revised. Mr. Stover seconded it and the motion was unanimously approved.

**KLEINSCHMIDT’S PRESENTATION OF THE HAWKINSVILLE REMEDIATION AND REMOVAL ALTERNATIVES**

Michael Schimpff, P.E., P.F., P.H. of Kleinschmidt Associates, PA, PC presented Kleinschmidt’s draft report on the Hawkinsville Dam remediation and removal alternative. The Board provided copies of the report to all in attendance and provided several copies of the report to Town officials for distribution from Town offices. Following a PowerPoint presentation (Slides attached as Exhibit “A”), Mr. Schimpff, the Board, and HRBRRD staff entertained questions, concerns and engaged in discussion with those in attendance. Several members of the Board expressed sentiments leaning toward remediation. The Board tabled further discussion pending a more in-depth review of the report.

**PUBLIC COMMENT PERIOD**

Chairman Finkle solicited comments from the public. One speaker addressed the Board regarding whitewater recreational activities.

## **APPROVAL OF THE MAY 13, 2014 BOARD MEETING MINUTES**

Chairman Finkle asked for a motion to adopt the May 13, 2014 Regular Meeting Minutes. Mr. Berkstresser advanced the motion to approve the Board's May 13, 2014 Regular Meeting Minutes. Mr. Stover seconded it and the motion was unanimously approved.

## **EXECUTIVE DIRECTOR'S REPORT**

Mr. Clark provided his report. Mr. Clark noted a series of meetings concerning Albany Engineering's threat to file a Citizen's Suit under the Clean Water Act pertaining to the timing of water releases. He also updated the Board with respect to continuing negotiations with Erie Boulevard Hydropower, L.P. concerning the Regulating District's affirmative suit and Erie's apparent desire to modify/extend the Reservoir Operating Agreement at Conklingville. Mr. Clark also noted meetings/calls with CSEA, staff and the Fact Finder regarding contract negotiations. He noted his attendance at the Black River Watershed Conference at Lowville and his participation in continuing education courses.

## **CONTRACTS**

### **RESOLUTION TO AWARD THE WORK TO PERFORM CONKLINGVILLE DAM THIRD PART 12 INDEPENDENT CONSULTANT SAFETY INSPECTION TO GEI CONSULTANTS, INC., P.C.**

Mr. Foltan explained that the Federal Energy Regulatory Commission (FERC) requires an Independent Consultant Safety Inspection of Conklingville Dam, and an Independent Consultant Inspection Report to be completed every five years. The 3<sup>rd</sup> Part 12D Independent Consultant Safety Inspection Report is due to FERC on February 1, 2015. The Board authorized staff to procure engineering services at its December 2013 meeting. Consistent with state procurement guidelines staff have requested and received Annual Statements of Qualification and Performance from several firms. He noted that the Regulating District's team evaluated firm experience and personal experience completing FERC Part 12D independent consultant safety inspections. The evaluation team determined that GEI Consultants, Inc. P.C. is the most highly qualified firm for the project. Mr. Foltan and the evaluation team recommended that the Board conditionally award the work to GEI Consultants, Inc. P.C. and authorize staff to request a scope of work and to negotiate a contract fee.

Mr. Berkstresser made a Motion to adopt the Resolution to conditionally award the Conklingville 3<sup>rd</sup> Part 12 Safety Inspection to GEI Consultants, Inc. P.C. Mr. Hayes seconded and the Board adopted the Motion by unanimous vote.

### **RESOLUTION TO AMEND HDR PROPOSAL TO PERFORM STILLWATER DAM BREACH ANALYSIS**

Mr. Foltan reminded the Board that it had adopted Resolution 13-06-04 awarding the work for Dam Breach Analysis at the Stillwater Dam to Henningson, Durham & Richardson Architecture and Engineering, P.C. (HDR) contingent upon the successful negotiation of contract

terms and conditions for an amount ‘not to exceed’ \$26,975.00. Mr. Foltan noted that there was a delay in obtaining New York Office of the State Comptroller approval, and that based upon said delay, HDR has increased its fee to \$28,000.00. Mr. Foltan further noted that the new contract will be subject to review and approval of the Office of the New York State Attorney General and the New York State Office of the State Comptroller. Mr. Foltan recommended that the Board authorize the Executive Director to execute an amendment to the HDR contract to reflect the new ‘not to exceed’ amount.

Mr. Stover made a Motion to adopt the Resolution to amend the HDR proposal to perform the Stillwater Dam breach analysis. Mr. Berkstresser seconded and the Board adopted the Motion by unanimous vote.

**RESOLUTION TO AWARD THE REGULATING DISTRICT’S INSURANCE PROGRAM FOR POLICY YEARS JULY 1, 2014 THROUGH JUNE 30, 2017**

Mr. Ferrara related that on February 7, 2008, the Regulating District engaged Patricia McCarthy of The Compass Company, Inc., to perform a formal solicitation of the District’s insurance needs. That effort resulted in the issuance of Request for Proposals (RFP) to eight (8) firms. Of those eight firms, two (2) submitted bids pursuant to the RFP. Upon review of the bids, Patricia McCarthy recommended that the Board award the Regulating District’s Insurance Program to Cool Insuring Agency. Mr. Ferrara led the Board through a review of the RFP bids noting that the current year insurance policy includes additional coverage recommended by Compass Consultants for control/values in gatehouses at a premium of \$2,500. Mr. Ferrara recommended that the Board award the Regulating District’s insurance program for policy years July 1, 2014 through June 30, 2017 to Cool Insuring Agency, Inc.

Mr. Stover made a Motion to adopt the Resolution to award the Regulating District’s insurance program for policy years July 1, 2014 through June 30, 2017 to Cool Insuring Agency, Inc. Mr. Berkstresser seconded and the Board adopted the Motion by unanimous vote.

**RESOLUTION TO APPROVE INSURANCE PROPOSAL FOR POLICY YEAR JULY 1, 2014 THROUGH JUNE 30, 2015**

Mr. Ferrara noted that, in line with the Board’s approval of the Resolution awarding Cool Insuring Agency the Regulating District’s Insurance Program to provide the District with comprehensive insurance for policy year July 1, 2014 through June 30, 2015 and for two (2) option policy years ending June 30, 2016 and June 30, 2017, Cool provided a proposed premium for fiscal year 2014-2015 for the annual premium amount of \$186,717.14. Mr. Ferrara recommended that the Board accept Cool’s insurance proposal for the next fiscal year of July 1, 2014 through June 30, 2015.

Mr. Hayes made a Motion to adopt the Resolution to approve Cool Insuring Agency, Inc.’s proposal for the Policy Year July 1, 2014 through June 30, 2015. Mr. Stover seconded and the Board adopted the Motion by unanimous vote.

**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, 2014 – JUNE 30, 2015) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2012**

Committee Chairman Stover reported to the Board an action taken by the Finance Committee to recommend approval of the Annual Assessment for Storage Reservoirs in the Black River Area totaling \$1,170,935.00 for the third year of the Budget period beginning July 1, 2014. Mr. Stover also recommended that the Secretary be directed to insert a printed copy of this assessment, duly verified, in the Meeting Minutes and to take such action necessary for the collection of said assessments as allowed and required by law.

Mr. Berkstresser made a Motion to adopt the 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, 2014 – June 30, 2015) of the three year budget period beginning July 1, 2012. Mr. Hayes seconded and the Board adopted 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, 2014 – JUNE 30, 2015) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2012**

Committee Chairman Stover reported to the Board an action taken by the Finance Committee to recommend approval of the Annual Assessment for Storage Reservoirs in the Hudson River Area totaling \$2,994,100.00 for the third year of the Budget period beginning July 1, 2014. Mr. Stover also recommended that the Secretary be directed to insert a printed copy of this assessment, duly verified, in the Meeting Minutes and to take such action necessary for the collection of said assessments as allowed and required by law.

Mr. Berkstresser made a Motion to adopt the 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, 2014 – June 30, 2015) of the three year budget period beginning July 1, 2012. Mr. Stover seconded and the Board adopted 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, 2014 – JUNE 30, 2015) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2012**

Committee Chairman Stover reported to the Board an action taken by the Finance Committee to recommend approval of the State Share for the operation and maintenance of Storage Reservoirs in the Hudson River Area totaling \$800,380.00 for the third year of the Budget period beginning July 1, 2014. Mr. Stover also recommended that the Secretary be directed to insert a printed copy of this assessment, duly verified, in the Meeting Minutes and to take such action necessary for the collection of said assessments as allowed and required by law.

Mr. Hayes made a Motion to adopt the 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, 2014 – June 30, 2015) of the three year budget period beginning July 1, 2012. Mr. Berkstresser seconded and the Board adopted the Motion by unanimous vote.

## **STAFF REPORTS**

Mr. Leslie presented his report to the Board. Mr. Leslie noted that he and the Executive Director have been working with DEC to address the concerns raised by Albany Engineering Corp. and to determine if any action to avert a citizen's suit by AEC is warranted.

Mr. Leslie noted that the NYS Attorney General is awaiting Erie Boulevard Hydropower L.P.'s Answer to the Regulating District's affirmative suit in U.S.D.C. for the N.D.N.Y.

Mr. Leslie noted that he reopened the dialog with Jefferson County regarding the collection of past due assessments.

Mr. Ferrara presented his report to the Board. He noted that at the close of fiscal May 31, 2014, the general fund balances for the HRA and BRA were \$752,149 and \$487,324 respectively. He also noted that Regulating District transactional processing and reporting for the month of May was completed in an accurate and timely fashion and that Regulating District bank reconciliations are complete through April 30, 2014. Mr. Ferrara noted that Regulating District financials and cash flows are attached for the Board's review. Mr. Ferrara reported on his initial conference call with the KBL principal responsible for conducting field audit activities connected to the Regulating District's annual audit.

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

Mr. Hodgson presented his report to the Board.

## **RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR MEETING FOR JULY 8, 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, July 8, 2014 at the Mayfield Municipal Complex, 28 North School Street, Mayfield, New York 12117 at 10:00 A.M.

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

## **EXECUTIVE SESSION**

Chairman Berkstresser called for a motion to adjourn to Executive Session to discuss collective bargaining issues. The Chairman indicated that the Board expected to conduct further business after the Executive Session and invited the Executive Director, Chief Fiscal Officer, and General Counsel to join the Board in Executive Session. Mr. Berkstresser advanced the motion,

Mr. Stover seconded. The Board adjourned to Executive Session at 11:51 A.M. and returned at 12:13 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 12:13 P.M.

## **RESOLUTIONS**

### **14-14-06 RESOLUTION TO AWARD THE WORK TO PERFORM CONKLINGVILLE DAM THIRD PART 12 INDEPENDENT CONSULTANT SAFETY INSPECTION TO GEI CONSULTANTS INC., P.C.**

Mr. Berkstresser made a Motion to adopt the Resolution to award the Conklingville 3<sup>rd</sup> Part 12 Safety Inspection to GEI Consultants Inc. P.C. Mr. Hayes seconded and the Board adopted the Motion by unanimous vote.

### **14-15-06 RESOLUTION TO AMEND HDR PROPOSAL TO PERFORM STILLWATER DAM BREACH ANALYSIS**

Mr. Stover made a Motion to adopt the Resolution to amend the HDR proposal to perform the Stillwater Dam breach analysis. Mr. Berkstresser seconded and the Board adopted the Motion by unanimous vote.

### **14-16-06 RESOLUTION TO AWARD THE REGULATING DISTRICT'S INSURANCE PROGRAM FOR POLICY YEARS JULY 1, 2014 THROUGH JUNE 30, 2017**

Mr. Stover made a Motion to adopt the Resolution to award the Regulating District's insurance program for policy years July 1, 2014 through June 30, 2017 to Cool Insuring Agency, Inc. Mr. Berkstresser seconded and the Board adopted the Motion by unanimous vote.

### **14-17-06 RESOLUTION TO APPROVE INSURANCE PROPOSAL FOR POLICY YEAR JULY 1, 2014 THROUGH JUNE 30, 2015**

Mr. Hayes made a Motion to adopt the Resolution to approve Cool Insuring Agency, Inc.'s proposal for the Policy Year July 1, 2014 through June 30, 2015. Mr. Stover seconded and the Board adopted the Motion by unanimous vote.

### **14-18-06 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, 2014 – JUNE 30, 2015) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2012**

Mr. Berkstresser made a Motion to adopt the 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, 2014 – June 30, 2015) of the three year budget period beginning July 1, 2012. Mr. Hayes seconded and the Board adopted the Motion by unanimous vote.

**14-19-06 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, 2014 – JUNE 30, 2015) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2012**

Mr. Berkstresser made a Motion to adopt the 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, 2014 – June 30, 2015) of the three year budget period beginning July 1, 2012. Mr. Stover seconded and the Board adopted the Motion by unanimous vote.

**14-20-06 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, 2014 – JUNE 30, 2015) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2012**

Mr. Hayes made a Motion to adopt the 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, 2014 – June 30, 2015) of the three year budget period beginning July 1, 2012. Mr. Berkstresser seconded and the Board adopted the Motion by unanimous vote.

**14-21-06 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR MEETING FOR JULY 8, 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, July 8, 2014 at the Mayfield Municipal Complex, 28 North School Street, Mayfield, New York 12117 at 10:00 A.M.

Respectfully submitted,

Richard J. Ferrara  
Secretary/Treasurer