

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

**Inlet Town Office**

**160 Route 28**

**Inlet, New York 13360**

June 9, 2015

Immediately following the Finance Committee Meeting  
which will immediately follow the 10:00 A.M. Audit Committee Meeting

**CALL TO ORDER**

Chairman Mark M. Finkle called the meeting to order at 10:34 A.M.

**ROLL CALL**

**Present:** Board Chairman Mark M. Finkle; First Vice-Chair Albert J. Hayes; Second Vice-Chair David W. Berkstresser, and Board Members Anthony M. Neddo, Jeffrey Rosenthal and Robert A. Moore; Executive Director Michael A. Clark; General Counsel Robert P. Leslie; Chief Fiscal Officer Richard J. Ferrara; Chief Engineer Robert Foltan; Administrator John Hodgson; and Compliance Officer Stephanie Ruzycky.

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

Chairman Finkle asked for a motion to revise the meeting agenda to reflect consideration of a Resolution to authorize the Executive Director to increase a contract with GEI by \$5,841.00. Mr. Neddo made a motion to adopt the meeting agenda as revised. Mr. Berkstresser seconded and the Board unanimously approved the motion.

**PUBLIC COMMENT**

Chairman Finkle solicited comments from the public. Two speakers addressed reservoir levels in the Black River Area. A third speaker addressed the benefits derived through releases timed for White-Water Rafting excursions.

**APPROVAL OF THE MAY 12, 2015 REGULAR BOARD MEETING MINUTES**

Chairman Finkle asked for a motion to adopt the May 12, 2015 Regular Board Meeting Minutes. Mr. Rosenthal advanced the motion to approve the Meeting Minutes. Mr. Neddo seconded and the motion was unanimously approved.

**EXECUTIVE DIRECTOR'S REPORT**

Mr. Clark provided his report. He updated the Board on progress with EFC regarding funding for Hawkinsville and Conklingville. Mr. Clark noted that prospects for funding through EFC for Conklingville is likely only if the project can be linked to water quality in the Hudson

River. Mr. Finkle asked for clarification on the cost to finance the project and whether costs would be greater were the Regulating District to have to forgo funding through EFC. Mr. Ferrara explained that the favorable bond rating enjoyed by EFC and the 30 year timeframe for repayment of a loan/bond through EFC would represent a significant savings to the Regulating District when compared to other avenues for financing. Mr. Clark explained that he and the Chief Engineer submitted the Technical Memo required by EFC in support of an application through EFC for Section 319 funding through EPA for the Conklingville project.

## **CONTRACTS/REPORTS**

### **RESOLUTION TO APPROVE INSURANCE PROPOSAL FOR POLICY YEAR JULY 1, 2015 THROUGH JUNE 30, 2016**

Mr. Ferrara explained that the Regulating District's current commercial insurance coverage is set to expire on June 30, 2015. He explained that through a formal solicitation process the Board had previously approved a Resolution awarding Cool Insuring Agency the Regulating District's insurance program to provide the Regulating District with comprehensive insurance coverage for the policy year July 1, 2014 through June 30, 2015. Mr. Ferrara noted that the proposal also includes a three year option covering policy years ending in June 2016, 2017 and 2018. Mr. Ferrara set forth Cool Insuring's \$191,992.99 quote for an extension of coverage and recommended the Board accept the insurance proposal for the next fiscal year. Mr. Rosenthal questioned whether the quote had to have 'out-year options' for 2016, 2017, & 2018. Mr. Ferrara noted that the cost to re-bid the insurance quote each year would not likely bring cost savings. Mr. Rosenthal asked whether the Regulating District has explored pooling our assets with other like agencies/authorities. Mr. Ferrara indicated that he would explore that option.

Mr. Berkstresser made a motion to adopt the Resolution to approve the insurance policy for fiscal year July 1, 2015 through June 30, 2016 with the options for 2016, 2017, & 2018. Mr. Neddo seconded. The motion was adopted by a 5-1 vote; with Mr. Rosenthal voting against.

### **RESOLUTION AUTHORIZING RENEWAL OF AN AGREEMENT WITH UNITED STATES GEOLOGICAL SURVEY**

Mr. Foltan reminded the Board that each year the Regulating District enters into an agreement with the United States Geological Survey (USGS) to fund a number of gauge stations within the watershed. He reminded the Board that at the April meeting he recommended that the next contract with USGS eliminate funding for two of those gauge stations. Mr. Foltan related that he had negotiated a new funding agreement with USGS covering 2015-2018 and that USGS has advanced a contract covering the reduced number of gauges. The total contract price is \$467,930.00. USGS will cover \$141,460. The Regulating District's three-year cost for the 2015-2018 agreement would be \$326,470. The Regulating District's share represents a \$50,388 decrease from the USGS proposal for funding of all gauges for 2015-2018 and a \$10,468 decrease in cost from the 2012-2015 agreement.

Mr. Rosenthal made a motion to adopt the Resolution authorizing renewal of the agreement with the USGS. Mr. Berkstresser seconded and the Board adopted the motion by unanimous vote.

**RESOLUTION TO ACCEPT BID AND ISSUE CONDITIONAL AWARD OF WORK FOR 2<sup>nd</sup> GEOTECHNICAL INVESTIGATION WORK AT CONKLINGVILLE DAM**

Mr. Foltan reminded the Board, that to fulfill a FERC requirement, the Regulating District entered into Contract C032007 with GEI to oversee a subsurface investigation at the Conklingville Dam. GEI developed a geotechnical plan. Thereafter, the Board awarded the Phase I geotechnical investigation work to Boart Longyear. GEI has recommended that the Regulating District proceed with Phase II of the investigation. As per the Board's directive, staff sought qualified MWBE firms to complete the Phase II subsurface investigation work. Staff received bids on May 27<sup>th</sup> and determined that Aztech Technologies, Inc. is the lowest responsible and reliable bidder. Mr. Foltan recommended that the Board award the 2<sup>nd</sup> Phase geotechnical investigation work to Aztech Technologies, Inc. for a lump sum of \$90,352.22. He noted that the contract is subject to review and approval by the Office of the NYS Attorney General. Mr. Clark noted that, given the right circumstances, the geo-technical analysis could result in a FERC Order to commence remedial action...and that such work could prove costly. Mr. Berkstresser voiced the consensus of the Board by noting that the safety of the structures comes first. Mr. Berkstresser then asked if staff could discern why there was only one bid submitted. Mr. Foltan noted that the project's location may play a factor. Mr. Clark explained that the technical nature of the project and the specialized equipment necessary also likely had a role in limiting those willing to bid.

Mr. Rosenthal made a motion to adopt the Resolution authorizing the Executive Director to accept the Aztech Technologies, Inc. bid and to issue a conditional award of work for the 2<sup>nd</sup> phase geotechnical investigation work at Conklingville. Mr. Hayes seconded and the Board adopted the motion by unanimous vote.

**RESOLUTION TO ACCEPT GEI PROPOSAL TO PERFORM THIRD PART 12 INDEPENDENT CONSULTANT ADDITIONAL SERVICES AT THE CONKLINGVILLE DAM**

Mr. Foltan presented the Board with a Resolution authorizing the Executive Director to enter into an amendment to Contract C022014 with GEI Consultants Inc., P.C. (GEI). He noted that the Board had adopted Resolution 14-14-06 awarding the safety inspection work to GEI and that Lee Wooten, a Professional Engineer with GEI, had met with Regulating District personnel and a FERC representative at the Dam on December 18, 2014. Mr. Foltan indicated that at that time several inches of snow covered the ground and dam embankment. Mr. Foltan explained that the FERC representative required that a second inspection be undertaken at a time when the dam was not covered with snow. Mr. Wooten completed the supplemental inspection on April 16<sup>th</sup>, and completed the Part 12 Safety Inspection Report for submission to FERC by the May 1, 2015 due date. Mr. Wooten then submitted a fee proposal for the costs of the additional inspection. Mr. Foltan recommended the Board authorize the increase in the contract price by \$5,841.00 to \$30,269.00 to cover the cost of the additional inspection services.

Mr. Moore made a motion to approve the Resolution to authorize the Executive Director to enter into an amendment to contract C022014. Mr. Neddo seconded the motion which the Board then adopted by unanimous vote.

## **AUDIT COMMITTEE REPORT**

Audit Committee Chairman Berkstresser reported on the Committee's June 9<sup>th</sup> meeting.

### **RESOLUTION TO AMEND AUDIT SERVICES AGREEMENT C012014 WITH KBL, LLC**

Audit Committee Chair Berkstresser reminded the Board that it had approved Resolution 14-12-05 which awarded a \$22,500 contract for audit services work covering the Regulating District's fiscal year ending June 30, 2014 to KBL, LLC. He noted that the contract called for a one (1) year option for fiscal year ending June 30, 2015 for not to exceed amount of \$23,500.00. He recommended that the Board exercise the option for fiscal year ending June 30, 2015 for a total not to exceed payment, including travel expenses, of \$23,500.00 and add an option for fiscal year ending June 30, 2016 for a total not to exceed payment, including travel expenses, of \$24,475.00. Mr. Ferrara noted that given the discretionary nature of this service offering (does not exceed \$50K), he did not believe a full solicitation would add any additional value for this professional service.

Mr. Berkstresser moved to adopt the Resolution to authorize the Executive Director to exercise the 2015 option for a not to exceed amount of \$23,500 and negotiate an option for the fiscal year ending June 30, 2016 for a not to exceed amount of \$24,475. Mr. Hayes seconded. The Board carried the motion by unanimous vote.

## **FINANCE COMMITTEE REPORT**

Finance Committee Chairman Neddo reported on the Committee's June 9<sup>th</sup> meeting.

### **RESOLUTION APPROVING A BUDGET FOR THE HUDSON RIVER-BLACK RIVER REGULATING DISTRICT FOR THE PERIOD JULY 1, 2015 THROUGH JUNE 30, 2018 AND A FOURTH YEAR PROPOSED FINANCIAL PLAN FOR THE PERIOD JULY 1, 2018 THROUGH JUNE 30, 2019**

Mr. Neddo reported on the Finance Committee's consideration of the draft 2015-2018 Triennial budget.

Mr. Berkstresser moved to adopt the resolution approving the Regulating District's July 2015 through June 30 2018 budget and the fourth year financial plan. 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 BLACK RIVER AREA FOR THE FIRST YEAR (JULY 1, 2015 – JUNE 30, 2016) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2015**

Committee Chairman Neddo presented the Board with a recommendation to approve the Annual Assessment for Storage Reservoirs in the Black River Area totaling \$1,151,618.00 for the first year of the Budget period beginning July 1, 2015.

Mr. Rosenthal 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 first year (July 1, 2015 – June 30, 2016) of the three year budget period beginning July 1, 2015. Mr. Berkstresser 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 FIRST YEAR (JULY 1, 2015 – JUNE 30, 2016) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2015**

Committee Chairman Neddo presented the Board with a recommendation to approve the Annual Assessment for Storage Reservoirs in the Hudson River Area totaling \$2,994,100.00 for the first year of the Budget period beginning July 1, 2015.

Mr. Rosenthal 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 first year (July 1, 2015 – June 30, 2016) of the three year budget period beginning July 1, 2015. Mr. Hayes 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 FIRST YEAR (JULY 1, 2015 – JUNE 30, 2016) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2015**

Committee Chairman Neddo presented the Board with a recommendation to approve the State Share for the operation and maintenance of Storage Reservoirs in the Hudson River Area totaling \$853,278.00 for the first year of the Budget period beginning July 1, 2015. Mr. Ferrara presented a revised Resolution depicting an updated figure and reflecting that the period covered was the first rather than the third year of the Budget.

Mr. Rosenthal made a motion to adopt the Resolution to approve the State Share as amended for the operation and maintenance of storage reservoirs in the Hudson River Area for the first year (July 1, 2015 – June 30, 2016) of the three year budget period beginning July 1, 2015. 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 contacted outside counsel on the NiMo and Captain Nauti litigation matters and that both confirm it remains quiet on the litigation front. Outside Counsel on the NiMo case, where the Regulating District awaits outcomes of the competing dispositive motions in NiMo's federal court challenge, indicated that he expects a decision before the Court faces its next six month report to Congress with respect to

the case on the Court's docket. Mr. Leslie reported that he worked with the Chief Engineer to secure a timetable from FERC for its determination on the administrative proceeding concerning the commencement of HWB payments; but such effort met with little success. He also reported that he had prepared and submitted responses to Questionnaires related to the use of the Attorney General and Outside Counsel in litigation matters. As a result of that effort, he and Mr. Ferrara determined to undertake a comprehensive review of the Regulating District's Procurement Policy. Mr. Leslie thanked Ms. Ruzycky for her assistance drafting the policy revisions. Mr. Leslie indicated that he expects the draft revisions to be ready for the Executive Director's review and the Board's consideration at the July meeting.

Chairman Finkle asked whether Mr. Leslie has received any comment and/or whether any Member of the Board sought changes to the Board's draft decision on the Sansevera appeal; hearing none. Mr. Rosenthal noted that the draft decision accurately reflected his thoughts on the matter and moved to decide the matter in the manner indicated in the draft decision. Mr. Neddo seconded and the Board decided by unanimous vote to deny Mr. & Mrs. Sansevera's appeal. Chairman Finkle directed staff to issue access permit 14601 to the Lot 22 Group.

Mrs. Ruzycky presented her report to the Board. She noted that the 1st quarter utilization report is due July 15<sup>th</sup>. The 1<sup>st</sup> quarter 2015-2016 MWBE utilization includes the purchase of a Ford Fusion at \$24,409.40; a Ford F-250 at \$25,907.14; uniforms at \$1,441.75; vehicle decals and uniform patches at \$950.00 and a contract with Clark Engineering at \$4,173.08.

Mr. Ferrara presented his report to the Board. He noted that at the close of fiscal May 31, 2015, the general fund balances for the HRA and BRA were estimated to be \$861,412 and \$592,934 respectively. He noted that District transactional processing and reporting for the fiscal month of May was completed in an accurate and timely fashion. District bank reconciliations are complete through April 30, 2015.

Mr. Ferrara noted that significant disbursements for the period include: the Regulating District's monthly health insurance at \$58,326.70 and bi-weekly payroll through May 20, 2015 at \$452,594.19.

Mr. Ferrara presented affidavits evidencing necessary and reasonable Board expenses incurred by Anthony Neddo in the amount of \$281.22 in the course of his duties as a Board member. Chairman Finkle asked for a Motion to approve payment of such expenses. Mr. Hayes so moved. Mr. Berkstresser seconded and the Board passed the motion by unanimous vote.

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

Mr. Hodgson presented his report to the Board. Chairman Finkle read a letter he had received applauding the time and effort that Mr. Hodgson and his staff had taken to address a work permit application to address repair work occasioned by erosion at the Sunset Bay Vacation report. The letter's author thanked Mr. Hodgson for his and his staff's valuable guidance and assistance. Mr. Hodgson thanked the Chair but added that most of the credit should be directed toward Stephanie Ruzycky.

## **BOARD MEMBER QUESTIONS AND COMMENTS**

### **RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR BOARD MEETING FOR JULY 28, 2015**

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 28, 2015 at the at the Northampton Town Hall, 412 South Main Street, Northville, NY 12134 at 10:00 A.M. Chairman Finkle asked for a motion to set the meeting as indicated.

Mr. Rosenthal moved to adopt the Resolution setting the date, time and place of the next meeting. Mr. Hayes seconded it and the Resolution was unanimously adopted.

### **ADJOURNMENT**

There being no further business to come before the Board, Mr. Rosenthal moved to adjourn the meeting. Mr. Berkstresser seconded it. The motion was unanimously approved. The meeting adjourned at 11:42 P.M.

### **RESOLUTIONS**

#### **15-19-06 RESOLUTION TO APPROVE INSURANCE PROPOSAL FOR POLICY YEAR JULY 1, 2015 THROUGH JUNE 30, 2016**

Mr. Berkstresser made a Motion to adopt the Resolution to approve the insurance policy for fiscal year July 1, 2015 through June 30, 2016. Mr. Neddo seconded and the motion was adopted by a 5-1 vote.

#### **15-20-06 RESOLUTION AUTHORIZING RENEWAL OF AN AGREEMENT WITH UNITED STATES GEOLOGICAL SURVEY**

Mr. Rosenthal made a motion to adopt the Resolution authorizing renewal of the agreement with the USGS. Mr. Berkstresser seconded and the Board adopted the motion by unanimous vote.

#### **15-21-06 RESOLUTION TO ACCEPT BID AND ISSUE CONDITIONAL AWARD OF WORK FOR 2<sup>nd</sup> GEOTECHNICAL INVESTIGATION WORK AT CONKLINGVILLE DAM**

Mr. Rosenthal made a motion to adopt the Resolution authorizing the Executive Director to accept the Aztech Technologies, Inc. bid and to issue a conditional award of work for the 2<sup>nd</sup> Phase geotechnical investigation work at Conklingville. Mr. Hayes seconded and the Board adopted the motion by unanimous vote.

**15-22-06 RESOLUTION TO ACCEPT GEI PROPOSAL TO PERFORM THIRD PART 12 INDEPENDENT CONSULTANT ADDITIONAL SERVICES AT THE CONKLINGVILLE DAM**

Mr. Moore made a motion to approve the Resolution to authorize the Executive Director to enter into an amendment to contract C022014. Mr. Neddo seconded the motion which the Board then adopted by unanimous vote.

**15-23-06 RESOLUTION TO AMEND AUDIT SERVICES AGREEMENT C012014 WITH KBL, LLC**

Mr. Berkstresser moved to adopt the Resolution to authorize the Executive Director to exercise the 2015 option for a not to exceed amount of \$23,500 and negotiate an option for the fiscal year ending June 30, 2016 for a not to exceed amount of \$24,475. Mr. Hayes seconded. The Board carried the motion by unanimous vote.

**15-24-06 RESOLUTION APPROVING A BUDGET FOR THE HUDSON RIVER-BLACK RIVER REGULATING DISTRICT FOR THE PERIOD JULY 1, 2015 THROUGH JUNE 30, 2018 AND A FOURTH YEAR PROPOSED FINANCIAL PLAN FOR THE PERIOD JULY 1, 2018 THROUGH JUNE 30, 2019**

Mr. Berkstresser moved to adopt the resolution approving the Regulating District's July 2015 through June 30 2018 budget and the fourth year financial plan. Mr. Hayes seconded and the Board adopted the motion by unanimous vote.

**15-25-06 RESOLUTION TO APPROVE THE ANNUAL ASSESSMENT FOR THE OPERATION AND MAINTENANCE OF STORAGE RESERVOIRS IN THE BLACK RIVER AREA FOR THE FIRST YEAR (JULY 1, 2015– JUNE 30, 2016) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2015**

Mr. Rosenthal 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 first year (July 1, 2015 – June 30, 2016) of the three year budget period beginning July 1, 2015. Mr. Berkstresser seconded and the Board adopted the motion by unanimous vote.

**15-26-06 RESOLUTION TO APPROVE THE ANNUAL ASSESSMENT FOR THE OPERATION AND MAINTENANCE OF STORAGE RESERVOIRS IN THE HUDSON RIVER AREA FOR THE FIRST YEAR (JULY 1, 2015 – JUNE 30, 2016) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2015**

Mr. Rosenthal 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 first year (July 1, 2015 – June 30, 2016) of the three year budget period beginning July 1, 2015. Mr. Hayes seconded and the Board adopted the motion by unanimous vote.



**15-27-06 RESOLUTION TO APPROVE THE STATE SHARE FOR THE OPERATION AND MAINTENANCE OF STORAGE RESERVOIRS IN THE HUDSON RIVER AREA FOR THE FIRST YEAR (JULY 1, 2015 – JUNE 30, 2016) OF THE THREE YEAR BUDGET PERIOD BEGINNING JULY 1, 2015**

Mr. Rosenthal 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 First Year (July 1, 2015 – June 30, 2016) of the three year budget period beginning July 1, 2015. Mr. Berkstresser seconded and the Board adopted the motion by unanimous vote.

**15-28-06 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE REGULAR BOARD MEETING FOR JULY 28, 2015**

Mr. Rosenthal moved to adopt the Resolution setting the date, time and place of the next meeting. Mr. Hayes seconded it and the Resolution was unanimously adopted.

Respectfully submitted,

Richard J. Ferrara  
Secretary/Treasurer

Mark M. Finkle  
Board Chairman