

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

JULY 22, 2013

10:00 A.M.

Hamilton County – Public Health Nursing Service
139 White Birch Lane
Indian Lake, New York 12842

CALL TO ORDER

Chairman David W. Berkstresser called the meeting to order at 10:25 A.M. The Chairman apologized for the need to reschedule the meeting from the 9th to the 22nd of July.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Board Chairman David W. Berkstresser; First Vice Chair Mark M. Finkle; Second Vice Chair Albert J. Hayes; Board Member Thomas Stover 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.

Excused:

MOTION TO ADOPT OR REVISE THE MEETING AGENDA

Chairman Berkstresser asked for a Motion to revise the meeting agenda to reflect an Executive Session to discuss litigation and ratification of a collective bargaining agreement. Mr. Clark noted that, as instructed, management has prepared a number of Resolutions for the Board's consideration to appoint a Senior Administrative Assistant and Maintenance Specialist as well as making two other personnel moves to better facilitate Regulating District operations. Mr. Ferrara noted the need for the Board to consider a resolution authorizing the Executive Director to retain a risk management consulting firm in connection with the Regulating District's commercial liability insurance. Mr. Stover made a Motion to adopt the proposed meeting agenda with revision. Mr. Finkle seconded it and the motion was unanimously approved.

EXECUTIVE SESSION

Chairman Berkstresser called for a motion to adjourn to Executive Session to discuss personnel issues. The Chairman invited the Executive Director, Chief Fiscal Officer, 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 10:30 A.M. and returned at 10:55 A.M.

PUBLIC COMMENT PERIOD

Chairman Berkstresser solicited comments from the public, hearing none.

APPROVAL OF THE JUNE 11, 2013 BOARD MEETING MINUTES

Chairman Berkstresser noted that his review of the June 11, 2013 Minutes revealed that those Minutes omitted a recitation of the Board's instruction to staff in Executive Session to recall up to three employees with the intention that at least two be employed as of July 11, 2013. Chairman Berkstresser explained that, based on a unanimous vote taken in Executive Session, the Board as a whole deemed it necessary, in light of recent events including the pending retirement of the Black River Area Administrator and recent precipitation totals, to fill those positions to avoid public safety concerns that might arise due to inadequate staffing levels. The Chairman asked that the June 11, 2013 Meeting Minutes be revised to reflect this vote taken in Executive Session. A motion was made by Mr. Hayes to approve the Minutes of the Board's June 11, 2013 regular board meeting as revised. Mr. Stover seconded it and the motion was unanimously approved.

EXECUTIVE DIRECTOR'S REPORT

Mr. Clark provided his report. Mr. Clark reported that staff worked with the Town of Indian Lake to ensure adequate water releases to support this year's ADK Whitewater Challenge.

Mr. Clark noted his participation in NYS Society of Professional Engineers continuing education courses. Mr. Clark also reported on staff's progress with respect to beaver near the Indian Lake Dam.

Next Mr. Clark reported the Black River Area Administrator's retirement on July 13th and noted that in the interim, before the Board makes a decision with regard to the BRA Administrator's replacement, he directed the Hudson River Area Administrator to assume the Black River Area Administrator's duties in addition to his current duties.

Mr. Clark noted that negotiations with a representative from CSEA and the Regulating District's CSEA represented employees had arrived at a proposed settlement of contract negotiations.

Finally, Mr. Clark noted compliance with the Board's June 11th directive to add staff and proposed the following resolutions ratifying personnel actions:

RESOLUTION TO RECALL CHERYL JAQUISH AS A SENIOR ADMINISTRATIVE ASSISTANT IN THE HUDSON RIVER AREA OF THE HUDSON RIVER-BLACK RIVER REGULATING DISTRICT

Mr. Clark noted that he and the Chief Fiscal Officer have determined that in order to fulfill the tasks associated with general administration at the General Board Office and the Sacandaga Field Office in the Hudson River Area it is in the best interests of the District to recall a Senior Administrative Assistant. Pursuant to the Recall Agreement executed shortly after the Board's May 2010 action reducing the Regulating District's Hudson River Area staff, Cheryl Jaquish is the employee who was in the affected Job Title within the Bargaining Unit with the most seniority. While said agreement has expired, Mr. Clark recommended that the Board none-the-

less honor that agreement due to the recent expiration of that agreement. Mr. Clark recommended that the Board authorize the recall of Cheryl Jaquish as a full time Senior Administrative Assistant effective July 11, 2013.

Mr. Hayes made a motion to adopt a resolution to recall Cheryl Jaquish. Mr. Stover seconded and the resolution was adopted unanimously.

RESOLUTION TO RECALL DAVID IOELE AS A MAINTENANCE SPECIALIST IN THE HUDSON RIVER AREA OF THE HUDSON RIVER-BLACK RIVER REGULATING DISTRICT

Mr. Clark noted that he and the Chief Fiscal Officer have determined that in order to fulfill the tasks associated with Maintenance at the Sacandaga Field Office it is in the best interests of the District to recall a Maintenance Specialist in the Hudson River Area. Pursuant to the Recall Agreement executed shortly after the Board's May 2010 action reducing the Regulating District's Hudson River Area staff, David Ioele is the employee who was in the affected Job Title within the Bargaining Unit with the most seniority. While said agreement has expired, Mr. Clark recommended that the Board none-the-less honor that agreement due to the recent expiration of that agreement. Mr. Clark recommended that the Board authorize the recall of David Ioele as a full time Maintenance Specialist effective July 11, 2013.

Mr. Hayes made a motion to adopt a resolution to recall David Ioele. Mr. Finkle seconded and the resolution was adopted unanimously.

RESOLUTION TO APPROVE THE PROMOTION OF RANDY T. PALMATEER TO FOREMAN IN THE HUDSON RIVER AREA

Chairman Berkstresser asked Executive Director Michael Clark to provide the Board with a summary of the discussion conducted during Executive Session with respect to the duties, responsibilities and conduct of Randy T. Palmateer, a Maintenance Specialist in the Hudson River Area. Mr. Clark explained the duties assigned to Mr. Palmateer, provided the Board with a glowing account of Mr. Palmateer's performance, and recommended that the Board consider elevating Mr. Palmateer to the Foreman title. Mr. Palmateer's salary shall be \$48,189.00, which is Step 6, effective for the payroll encompassing July 22, 2013.

Mr. Finkle moved to adopt the Resolution to approve the promotion of Randy T. Palmateer to Foreman. Mr. Stover seconded the motion and the Board adopted the motion unanimously.

RESOLUTION TO APPROVE THE PROMOTION OF STEPHANIE RUZYCKY TO SENIOR FIELD ASSISTANT IN THE HUDSON RIVER AREA

Chairman Berkstresser asked Executive Director Michael Clark to provide the Board with a summary of the discussion conducted during Executive Session with respect to the duties, responsibilities and conduct of Stephanie Ruzycky, a Field Assistant in the Hudson River Area. Mr. Clark explained the duties assigned to Mrs. Ruzycky, provided the Board with a glowing account of Mrs. Ruzycky's performance, and recommended that the Board consider elevating Mrs. Ruzycky to the Senior Field Assistant title. As Mrs. Ruzycky's current salary is above the

service rate for the new title under the Collective Bargaining Agreement, the promotion would have no impact on her salary. Rather, Mrs. Ruzycky will receive a one-time stipend of 5% of her current annual salary or \$2,531.10 in accordance with such agreement.

Mr. Hayes moved to adopt the Resolution to approve the promotion of Stephanie Ruzycky to Senior Field Assistant. Mr. Finkle seconded the motion and the Board adopted the motion unanimously.

CONTRACTS

RESOLUTION TO APPROVE A THIRTEETH AMENDMENT TO THE RETAINER AGREEMENT FOR LEGAL SERVICES IN CONNECTION TO ONGOING LITIGATION WITH ERIE BOULEVARD HYDROPOWER, L.P. AND NIAGARA MOHAWK POWER CORPORATION

Mr. Leslie proposed that the Regulating District Board authorize the Executive Director to execute a Thirteenth Amendment to the Erie/Nimo Retainer Agreement (Legal Services Contract C022004) to extend the term of the contract. The contract's "not-to-exceed" amount would not be changed. Justin Driscoll of Brown & Weinraub represents the Regulating District in the defense of the twenty-three State Court based NiMo assessment challenges and NiMo's Federal Court challenge to the assessments and the access permit system. The cases are on-going; with the Federal Court challenge moving into the Discovery phase. Mr. Leslie noted that the amendment to the Contract is subject to approval by the Office of the Attorney General and the Office of the State Comptroller.

Mr. Hayes made a motion to adopt the Resolution to authorize the Executive Director to execute a Thirteenth amendment to the Erie/Nimo legal services contract. Mr. Stover seconded and the Resolution was adopted by unanimous vote.

RESOLUTION AUTHORIZING THE REGULATING DISTRICT TO RETAIN A CONSULTING FIRM FOR INSURANCE AND RISK MANAGEMENT SERVICES

Mr. Ferrara noted that the Regulating District has utilized the services of The Compass Company, Inc., to provide insurance and risk management services in order to properly manage potential loss exposures and reduce certain identified risks through the purchase of appropriate insurance at the least cost to the Regulating District. He noted that while The Compass Company, Inc. has performed these services in a satisfactory manner in the past, it is necessary to renew that company's proposed Service Agreement for the continued services. He proposed authorizing the Regulating District to retain The Compass Company, Inc., to provide insurance and risk management services at a not to exceed amount of \$12,500.00. Mr. Ferrara explained that the fee included a one-time \$7,000.00 fee to conduct a request for proposal solicitation for the selection of a qualified agent/broker firm to provide insuring services effective for premium year beginning July 1, 2014.

Mr. Finkle made a Motion to adopt the Resolution to authorize the Executive Director to retain a consulting firm for insurance and risk management services. Mr. Hayes seconded and the Resolution was adopted by unanimous vote.

STAFF REPORTS

Mr. Leslie presented his report to the Board.

Mr. Leslie confirmed that Albany County has paid the \$1,034,698 2012-2013 Assessment.

Mr. Leslie noted that National Grid/Niagara Mohawk has failed to pay 09-10, 10-11 & 11-12 HRBRRD Black River Area Assessments on parcels 6A (Tax Map No. 73.76.1-16, Pamalia) and 26 (Tax Map No. 75.12-2-1, Rutland; 75.12-2-4, Rutland; and 76.06-2-1.1, Champion). In early 2013, National Grid paid the 2012-2013 HRBRRD Assessment on these parcels. Beginning in April 2013, his office took the lead to get Jefferson County to address National Grid's non-payment. Attempts to secure a meeting with the County Attorney or the County Administrator have proved unsuccessful. As have two Freedom of Information Law requests to secure documentation evidencing the County's collection efforts, if any, to date. Mr. Leslie is conferring with the NYS Attorney General's Office to consider next moves.

Mr. Leslie noted no significant movement on litigation facing the Regulating District. He noted his participation in several on-line continuing education courses offered by the NYS Attorney General's Office.

Mr. Ferrara presented his report to the Board.

At the close of fiscal May 2013, general fund balances for the HRA and BRA were approximately \$1,731,233 and \$197,359 respectively. Regulating District transactional processing and reporting for the fiscal month of June was completed in an accurate and timely fashion.

Mr. Ferrara noted that all of the past-due and current County Assessments are up-to-date. County Assessments for the second year of the current three year cycle are scheduled for mailing. Noteworthy disbursements for the month include the \$500K lump sum payment to Saratoga County pursuant to the Apportionment Consent Agreement. Noteworthy receipts include Erie Boulevard's \$95,193 monthly payment which includes the required annual adjustment.

Mr. Ferrara noted that with the close of the Fiscal Year, pre-closing activities are underway in preparation for the up-coming independent field audit. Said audits are due to commence in the 3rd week in August.

Mr. Ferrara reported to the Board on the ongoing PC upgrade initiative. He noted that the rollout, while delayed, remains necessary as several of the HRBRRD's computers are well beyond the 4-5 year schedule for replacement.

Finally, Mr. Ferrara noted that the cost of commercial liability insurance for the current Fiscal year ending June 30, 2014 has come in at a reduced premium amount of \$182,687. This reduces the increase over last year from 11.8% to 4.6%.

Mr. Foltan presented the Chief Engineer's report to the Board. Mr. Foltan noted that at the Board's December 2012 Meeting it authorized the solicitation of bids for the completion of concrete repairs on the gate outlets at Stillwater dam. The proposed work includes removing deteriorated concrete and restoring concrete surfaces with hand-troweled mortar and formed concrete. Regulating District staff has estimated a total probable cost of \$66,000. The bids came back at \$178,710, \$229,999.96 and \$247,757.10. Mr. Foltan recommended that the Board reject all bids and develop a monitoring plan to satisfy the Federal Energy Regulatory Commission's requests.

Chairman Berkstresser asked for a Motion to reject the bids for the completion of the concrete repair on the gate outlets at Stillwater Dam and to direct staff to develop a monitoring plan. Mr. Finkle advanced the Motion. Mr. Stover seconded and the Motion passed unanimously.

Mr. Hodgson presented his report to the Board. Mr. Hodgson presented to the Board new guidance documents depicting allowable floating and rolling dock configurations for use in the Great Sacandaga Lake access system.

Chairman Berkstresser asked for a Motion for the Board to adopt the new dock specification. Mr. Stover made a Motion to adopt guidance entitled 'Allowable Floatable or Rolling Dock Configurations for Access Permit Area 20 Feet in Width or Less', and Allowable Floatable or Rolling Dock Configurations on Access Permit Areas Greater than 20 Feet in Width'. Mr. Hayes seconded and the Motion passed unanimously.

RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE SEPTEMBER 10, 2013 BOARD MEETING

Chairman Berkstresser asked for a Motion to adopt a Resolution setting the Tuesday, September 10, 2013 Board Meeting at the Lowville Town Offices, 5533 Bostwick Street, Lowville, New York 13367 at 10:00 A.M.

Mr. Hayes moved to adopt the Resolution. Mr. Finkle seconded it and the Resolution was unanimously adopted.

EXECUTIVE SESSION

Chairman Berkstresser called for a motion to adjourn to Executive Session to discuss litigation and the proposed collective bargaining agreement. The Chairman invited the Executive Director, Chief Fiscal Officer 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 12:00 P.M. and returned at 12:43 P.M.

RESOLUTION AUTHORIZING EXECUTIVE DIRECTOR TO EXECUTE AGREEMENT BY AND BETWEEN THE HUDSON RIVER-BLACK RIVER REGULATING DISTRICT AND THE CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., AFSCME LOCAL 1000, AFL-CIO, HUDSON RIVER-BLACK RIVER REGULATING DISTRICT LOCAL 120

Chairman Berkstresser asked for a Motion to ratify the CSEA contract. Mr. Finkle advanced the Motion. Mr. Hayes seconded. Chairman Berkstresser asked for a roll call vote.

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| David Berkstresser | No |
| Mark Finkle | No |
| Thomas Stover | No |
| Albert J. Hayes | No |

The roll call vote was four no with a majority rejecting the resolution.

ADJOURNMENT

There being no further business to come before the Board, Mr. Finkle moved to adjourn the meeting. Mr. Stover seconded it. The motion was unanimously approved. The meeting adjourned at 12:47 P.M.

RESOLUTIONS

13-22-07 RESOLUTION TO RECALL CHERYL JAQUISH AS A SENIOR ADMINISTRATIVE ASSISTANT IN THE GENERAL BOARD AREA OF THE HUDSON RIVER-BLACK RIVER REGULATING DISTRICT

Mr. Hayes moved to adopt the Resolution to recall Cheryl Jaquish. Mr. Stover seconded and the resolution was adopted unanimously.

13-23-07 RESOLUTION TO RECALL DAVID IOELE AS A MAINTENANCE SPECIALIST IN THE HUDSON RIVER AREA OF THE HUDSON RIVER-BLACK RIVER REGULATING DISTRICT

Mr. Hayes moved to adopt the Resolution to recall David Ioele. Mr. Finkle seconded and the resolution was adopted unanimously.

13-24-07 RESOLUTION TO APPROVE THE PROMOTION OF RANDY T. PALMATEER TO FOREMAN IN THE HUDSON RIVER AREA

Mr. Finkle moved to adopt the Resolution to approve the promotion of Randy T. Palmateer to Foreman. Mr. Stover seconded the Motion and the Board adopted the Motion unanimously.

13-25-07 RESOLUTION TO APPROVE THE PROMOTION OF STEPHANIE RUZYCKY TO SENIOR FIELD ASSISTANT IN THE HUDSON RIVER AREA

Mr. Hayes moved to adopt the Resolution to approve the promotion of Stephanie Ruzicky to Senior Field Assistant. Mr. Finkle seconded the Motion and the Board adopted the Motion unanimously.

13-26-07 RESOLUTION TO APPROVE A THIRTEETH AMENDMENT TO THE RETAINER AGREEMENT FOR LEGAL SERVICES IN CONNECTION TO ONGOING LITIGATION WITH ERIE BOULEVARD HYDROPOWER, L.P. AND NIAGARA MOHAWK POWER CORPORATION

Mr. Hayes made a Motion to adopt the Resolution to authorize the Executive Director to execute a Thirteenth amendment to the Erie/Nimo legal services contract. Mr. Stover seconded and the Resolution was adopted by unanimous vote.

13-27-07 RESOLUTION AUTHORIZING THE REGULATING DISTRICT TO RETAIN A CONSULTING FIRM FOR INSURANCE AND RISK MANAGEMENT SERVICES

Mr. Finkle made a Motion to adopt the Resolution to authorize the Executive Director to retain a consulting firm for insurance and risk management services. Mr. Hayes seconded and the Resolution was adopted by unanimous vote.

13-28-07 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE SEPTEMBER 10, 2013 BOARD MEETING

Mr. Hayes moved to adopt the Resolution. Mr. Finkle seconded it and the Resolution was unanimously adopted.

Respectfully submitted,

Richard J. Ferrara
Secretary/Treasurer