

**HUDSON RIVER-BLACK RIVER REGULATING DISTRICT  
BOARD MEETING  
DECEMBER 10, 2013**

**Immediately following the Audit Committee Meeting scheduled for 10:00 A.M.**

**Dulles State Office Building**

317 Washington Street, Room 100 (Conf. Room #1)  
Watertown, New York 13601

**CALL TO ORDER**

Chairman David W. Berkstresser called the meeting to order at 10:17 A.M.

**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.

**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, personnel and collective bargaining. Mr. Stover made a motion to adopt the proposed meeting agenda with revision. Mr. Hayes seconded it and the motion was unanimously approved.

**PUBLIC COMMENT PERIOD**

Chairman Berkstresser solicited comments from the public. One Boonville resident addressed the Board on the Hawkinsville Dam remediation evaluation.

**APPROVAL OF THE NOVEMBER 13, 2013 BOARD MEETING MINUTES**

Chairman Berkstresser asked for a motion to adopt the November 13, 2013 Meeting Minutes. Mr. Hayes advanced the motion to approve the Minutes of the Board's November 13, 2013 Regular Board Meeting. Mr. Finkle seconded it and the motion was unanimously approved.

**EXECUTIVE DIRECTOR'S REPORT**

Mr. Clark provided his report. Mr. Clark noted continued discussions with the Regulating District's CSEA local regarding a new employment contract. He also briefly discussed the Hawkinsville Dam evaluation, and provided an update on: GSL access permit renewals; litigation pending or contemplated with Niagara Mohawk and Erie Boulevard; and completion of the Indian Lake Engineering Analysis RFP process.

## **CONTRACTS**

### **RESOLUTION TO AUTHORIZE ALBANY OFFICE LEASE OPTION YEAR**

Mr. Ferrara noted that the Board approved resolution 12-32-09 authorizing the Executive Director to enter into a lease agreement amendment with David L. Gruenberg for the space occupied by the HRAO in Albany. Section 5 of the lease provides the HRBRRD as tenant an option to renew the lease at the same rent by providing HRBRRD provides the lessor a ninety (90) day notice. The current lease expires on February 28, 2014. Mr. Ferrara recommended the Board authorize the CFO to provide notice to the Landlord of our desire to exercise the one year option.

Mr. Stover moved to adopt the Resolution. Mr. Finkle seconded it and the Board adopted the Resolution unanimously.

### **RESOLUTION TO AUTHORIZE CONSULTANT TO COMPLETE PART 12D SAFETY INSPECTION AT CONKLINGVILLE DAM**

Mr. Foltan explained that the Federal Power Act requires the completion of a Part 12D Independent Consultant Safety Inspection every five (5) years. The last inspection of the Conklingville Dam was in 2009. Mr. Foltan noted that staff will utilize “in house” engineering qualifications to select the Independent Consultant pursuant to State Finance Law 136a. Mr. Foltan recommended that the Board authorize District staff to select a qualified consultant to complete the Part 12D Safety Inspection due in 2014

Mr. Finkle moved to adopt the Resolution. Mr. Stover seconded it and the Board adopted the Resolution unanimously.

### **RESOLUTION TO CONDITIONALLY AWARD INDIAN LAKE ENGINEERING ASSESSMENT**

Mr. Foltan presented a summary memorandum detailing the evaluation of qualifications submitted by engineering firms in response to the Regulating District’s request for qualifications for the Indian Lake Dam Engineering Assessment Project. Sixteen (16) firms responded to the Regulating District’s request. Following a thorough review of respondent qualifications and experience, the evaluation team determined Bergmann Associates to be responsive to all administrative and technical requirements of the RFQ and that this firm had received the highest average score. Mr. Foltan recommended that the Board conditionally award the contract to Bergmann Associates pending receipt and negotiation of a fee and technical proposal.

Mr. Hayes moved to adopt the Resolution. Mr. Stover seconded it and the Board adopted the Resolution unanimously.

## **STAFF REPORTS**

Mr. Leslie presented his report to the Board. The NYS Attorney General’s office has agreed to represent the Regulating District in pursuit of a Declaratory Judgment on the issue of

the release executed by Erie Boulevard Hydropower, L.P. Mr. Leslie noted that the Albany Engineering v. HRBRRD case has concluded. With authorization in hand, staff presented payment of \$841,374.46 to counsel for Albany Engineering in return for later return of the executed and filed Satisfaction of Judgment. With respect to the Niagara Mohawk case pending in federal court, depositions for Mr. Clark and Mr. Foltan, Mr. Pintuff and Mrs. McDonald are complete. A Deposition of Mr. Ferrara has been scheduled. NiMo has produced two expert witness reports.

Chairman Berkstresser asked Mr. Leslie about the need to update the Regulating District's Vehicle Use Policy. Mr. Leslie indicated that he had distributed to the Board a draft revision to the Regulating District's Policy which the Board could review/discuss/adopt at this or a subsequent meeting. Mr. Leslie agreed to deliver to the Board a comparison of the District's current policy and the new draft.

Mr. Ferrara presented his report to the Board. Mr. Ferrara noted that at the close of fiscal October 2013, general fund balances for the HRA and BRA were approximately \$933,688 and \$987,200 respectively. Regulating District transactional processing and reporting for the fiscal month of November was completed in an accurate and timely fashion. District bank reconciliations are complete through October 30, 2013.

Mr. Ferrara noted that District financials and cash flows are attached for the Board's review. Current HRA assessment receivables are up to date. BRA assessment receivables collected to date totals \$1,058,022 of \$1,170,936.

Mr. Ferrara presented the District's fiscal advisor's evaluation of the Bond underwriter proposals.

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 ANNUAL ORGANIZATIONAL AND REGULAR MEETING FOR JANUARY 14, 2014**

Chairman Berkstresser 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, January 14, 2014 at the Johnstown Town Hall, 2753 State Highway 29, Johnstown, NY 12095 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, personnel and collective bargaining issues. The Chairman indicated that the Board would not 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. Hayes advanced the motion, Mr. Stover seconded. The Board adjourned to Executive Session at 11:28 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**

**13-43-12 RESOLUTION AUTHORIZING THE CHIEF FISCAL OFFICER TO EXERCISE LEASE OPTION WITH DAVID L. GRUENBERG, AS THE TEMPORARY RECEIVER OF RENTS & PROFITS (ACTING ON BEHALF OF SKY FOUR REALTY LLC) FOR THE ALBANY OFFICE**

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

**13-44-12 RESOLUTION AUTHORIZING THE CHIEF ENGINEER TO SELECT THIRD ENGINEERING CONSULTANT IN CONNECTION WITH THE CONKLINGVILLE DAM PART 12 INDEPENDENT CONSULTANT SAFETY INSPECTION**

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

**13-45-12 RESOLUTION TO AWARD ENGINEERING ASSESSMENT WORK AT INDIAN LAKE DAM TO BERGMANN ASSOCIATES**

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

**13-46-12 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE ANNUAL ORGANIZATIONAL MEETING AND REGULAR MEETING FOR JANUARY 14, 2014 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