

**HUDSON RIVER-BLACK RIVER REGULATING DISTRICT  
BOARD MEETING –OCTOBER 13, 2010  
STILLWATER, NY– 10:00 A.M.**

**CALL TO ORDER**

Chairman Klein called the regularly scheduled meeting to order at 10:02 A.M.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**Present:** Chairman Philip W. Klein; Second Vice Chair David Berkstresser and Board members; Paul J. Cornell; Thomas Stover; Michael F. Astafan and Albert J. Hayes; Acting Executive Director and Hudson River Area Administrator Michael A. Clark; General Counsel Robert P. Leslie; Chief Engineer Robert S. Foltan; Chief Fiscal Officer Richard J. Ferrara; Black River Area Administrator Carol L. Wright; and other Regulating District staff.

**MOTION TO ADOPT MEETING AGENDA**

A motion was made by Mr. Berkstresser to adopt the meeting agenda. Mr. Astafan seconded it and the motion was unanimously approved.

**MOTION FOR EXECUTIVE SESSION**

Chairman Klein made a motion for Executive Session to discuss personnel matters. Mr. Stover seconded it and the motion was unanimously approved. Chairman Klein stated at this time business may be conducted after Executive Session. Chairman Klein asked the Acting Executive Director, General Counsel, Chief Fiscal Officer, Chief Engineer and Black River Area Administrator to join the Board for Executive Session.

**PUBLIC COMMENT PERIOD**

There were no public comments.

**APPROVAL OF MEETING MINUTES**

Mr. Cornell moved to approve Regular Board Meeting minutes of September 14, 2010. Mr. Stover seconded the motion. The motion carried with one abstention. (Mr. Astafan)

**ACTING EXECUTIVE DIRECTOR REPORT**

Mr. Clark presented his report to the Board.

Mr. Astafan asked Mr. Clark if he was in need of help from the Board in order to accomplish job duties, since he currently is serving both as the Acting Executive Director and the Hudson River Area Administrator. Mr. Clark responded that at this time he is handling both roles with the help of support staff and thanked Mr. Astafan for asking.

District's authority to operate the access permit system at Great Sacandaga Lake. Mr. Leslie stated that this granting of the summary judgment ends the case for the Regulating District unless Niagara Mohawk were to file an appeal.

Mr. Leslie stated that the 2010-2011 Assessments which were approved for distribution to Warren, Washington, Saratoga, Rensselaer and Albany Counties at the September 14, 2010 Board Meeting were all personally served on each respective county clerk On September 20, 2010.

Mr. Leslie said at the request of the Chief Fiscal Officer and the Independent Auditor, The Bonadio Group; he prepared a statement that was sent to The Bonadio Group regarding the collectability of the assessments.

Mr. Leslie stated that also during the past month a potential buyer surfaced for the Mercer Hydro Plant, however that buyer has since evaporated.

Chairman Klein asked for the schedule pertaining to the Counties litigation. Mr. Leslie outlined the court's submission order.

## **MOTION FOR EXECUTIVE SESSION**

Mr. Astafan made a motion for an additional Executive Session to discuss personnel matters not covered in Chairman Klein's topic for Executive Session. Mr. Berkstresser seconded it and the motion was unanimously approved. Mr. Astafan requested that the Acting Executive Director, General Counsel and Chief Fiscal Officer join the Board in this Executive Session.

### **(c) Finance Committee – Mr. Stover**

Chairman Klein appointed Mr. Stover as Chairperson to the Finance Committee.

#### **(1) Approval of Expenses**

Mr. Astafan made a motion to approve the expenses in the amount of \$277.50. Mr. Berkstresser seconded the motion. The motion carried with one abstention (Mr. Cornell)

#### **(2) Old Business – None**

#### **(3) New Business**

### **(A) CFO's Report – Mr. Ferrara**

Mr. Ferrara presented his report to the Board. Mr. Ferrara noted that presentation of the final independent report by Randy R. Shepard, Partner with the Bonadio Group is scheduled for the November 9<sup>th</sup> Board meeting at Indian Lake.

Mr. Astafan referred to the audit report and asked Mr. Ferrara to discuss the statement, "Management believes that sufficient cash and reserves exist as well as delaying certain capital projects, which would allow them to operate through June 30th, 2011." Mr. Astafan stated that

the last meeting he attended in June the Regulating District was in crisis financially, and now it looks like the Regulating District can operate until June 30th, 2011. He asked how the numbers were adjusted and where they were adjusted to make this possible. Mr. Ferrara stated the primary factor was the personnel layoffs in May 2010. Mr. Ferrara said the second factor is the continued moratorium on any capital projects. He also noted disbursements have been cut to a minimum.

Mr. Ferrara asked for the Board's consideration to proceed with a plan for liquidation of assets, specifically with regard to the Regulating District's vehicles. The Board agreed to have Mr. Ferrara present a report at a future Board meeting.

**(B) Resolution Recognizing Certain Budget Overages in the Black River Area**

Chairman Klein requested that this Resolution be brought to the Board as a whole. Chairman Klein stated that the Resolution before the Board signifies that the Board of the Hudson River-Black River Regulating District recognizes an annual deficit in the General Board Allocation account in the Black River Area and authorizes the Chief Fiscal Officer to proceed in accordance with ECL 15-2141(2).

After a full Board discussion a motion was made by Mr. Berkstresser to approve the Resolution. It was seconded by Mr. Stover. Chairman Klein asked for a roll call vote.

Philip W. Klein	Aye
David Berkstresser	Aye
Paul J. Cornell	Aye
Michael F. Astafan	Noe
Thomas Stover	Aye
Albert J. Hayes	Aye

The roll call vote was five Ayes and one Noe, with a majority passing the resolution.

**(d) Operations Committee –Mr. Berkstresser**

**(1) Old Business -None**

**(2) New Business**

**(A) Resolution to Award the Hawkinsville Dam Remediation and Removal Alternatives Assessment Work to Milone & MacBroom, Inc.**

A motion was made by Mr. Berkstresser to approve a Resolution to Award the Hawkinsville Dam Remediation and Removal Alternatives Assessment Work to Milone & MacBroom, Inc. It was seconded by Mr. Hayes and the resolution was unanimously approved.

**(B) Chief Engineer's Report – Mr. Foltan**

Mr. Foltan presented his report to the Board.

## **COMMITTEE BUSINESS**

### **(a) Permit System –Mr. Hayes**

#### **(1) Old Business – None**

#### **(2) New Business -None**

### **(b) Governance – Mr. Astafan**

Mr. Astafan announced that there is a mandatory training course for all new Board members and encouraged all new members to register for this training.

#### **(1) Old Business - None**

#### **(2) New Business**

#### **(A) First Reading of Revised Management /Exempt Employees Guidelines- Mr. Clark**

Mr. Astafan requested that the Revised Management/Exempt Employees Guidelines be discussed in Executive Session.

#### **(B) Second Reading of Workplace Violence Prevention Policy – Mr. Leslie**

Mr. Leslie reported that this is the second reading of the Workplace Violence Prevention Policy in compliance with the Hudson River-Black River Regulating District's Resolution Adopting the District's Prospective Policy-Making Policy #06-08-02, wherein the Board shall review and discuss proposed policies at a series of at least three (3) open public Board Meetings before adoption by Resolution. Mr. Leslie stated that discussions with the CSEA representative did not result in any revisions and that he has not received any feedback from Board members and therefore, this policy remains as it was at the September Board meeting. Mr. Leslie stated the Board could contact him with any proposed changes or questions.

#### **(C) General Counsel Report – Mr. Leslie**

Mr. Leslie presented his report and stated he had the following to report since the writing of his report:

On September 29, 2010, Chief United States District Court Judge Norman A. Mordue granted the Regulating District's Motion for Summary Judgment in part and dismissed the balance of the amended complaint without prejudice in the case entitled: Niagara Mohawk Power Corporation, d/b/a National Grid v. Hudson River-Black River Regulating District and New York State Department of Environmental Conservation, (United States District Court, Northern District of New York, Civil Action No. 5:09-cv-471). Mr. Leslie noted this is the matter wherein National Grid sought an injunction against the Regulating District's assessment of costs against it claiming that the Federal Power Act prevented the Regulating District from assessing National Grid under state law. National Grid's suit also challenged the Regulating

Mr. Foltan reported staff is recommending the rescheduling of the Conklingville Dam Ice Sluice Remediation Project. This project was part of the staff's recommended capital construction projects being postponed due to budget constraints. He stated that although there is no known immediate threat to the integrity of the ice sluice, deterioration due to exposure to the weather continues which has prompted the engineering staff to reevaluate the postponement of repair. Mr. Foltan said that it will be necessary to re-bid the project construction work. He noted that the engineering consultant for the remediation design is GEI Consultants, Inc. (GEI) and they have submitted a proposal of \$92,300 for the construction monitoring portion. Mr. Foltan said the estimated probable cost of construction is approximately \$400,000. He said construction work would begin in June 2011. Mr. Foltan noted that since this project was previously budgeted, authorized and approved by the Board there was no action needed at this meeting in order to move forward with the project.

Chairman Klein asked Mr. Ferrara since this project is a high priority could the Regulating District apply to New York State for funding. Mr. Ferrara stated that he has reached out to Peter Iwanowicz, Secretary for the Environment, regarding this specific project and the need to have it funded.

**(C)Hudson River Area Administrator Report – Mr. Clark**

Mr. Clark presented his report to the Board.

**(D)Black River Area Administrator's Report – Mrs. Wright**

Mrs. Wright presented her report to the Board.

**BOARD BUSINESS**

**(1) Old Business -None**

**(2) New Business**

**ELECTION OF OFFICER TO FILL VACANCY**

Chairman Klein stated that Mr. Hayes' appointment replacing Mr. Pintuff resulted in a vacancy of First Vice Chairperson. Chairman Klein opened the floor for nominations for First Vice Chairperson. Mr. Cornell made the motion to nominate Mr. Berkstresser to First Vice Chairperson. It was seconded by Mr. Astafan. Chairman Klein asked for a roll call vote.

Philip W. Klein	Aye
David Berkstresser	Abstain
Paul J. Cornell	Aye
Michael F. Astafan	Aye
Thomas Stover	Aye
Albert J. Hayes	Aye

The roll call vote was five Ayes and one abstention (Mr. Berkstresser), with a majority electing Mr. Berkstresser to First Vice Chairperson.

Chairman Klein stated with Mr. Berkstresser's election to First Vice Chairperson this results in a vacancy of Second Vice Chairperson and asked for nominations for the vacancy of Second Vice Chairperson. Mr. Berkstresser made the motion to nominate Mr. Cornell for Second Vice Chairperson. It was seconded by Mr. Astafan. Chairman Klein asked for a roll call vote.

Philip W. Klein	Aye
David Berkstresser	Aye
Paul J. Cornell	Abstain
Michael F. Astafan	Aye
Thomas Stover	Aye
Albert J. Hayes	Aye

The roll call vote was five Ayes and one abstention (Mr. Cornell), with a majority electing Mr. Cornell to Second Vice Chairperson.

## **BOARD MEMBER QUESTIONS AND COMMENTS**

Chairman Klein said that there will be a tour of the Stillwater Reservoir Field office and dam following the adjournment of the meeting.

## **MOTION FOR NEXT BOARD MEETING**

### **(1) Regular Board Meeting**

A motion was made by Mr. Cornell for approval of the Resolution for the Regular Board Meeting to be held on Tuesday, November 9, 2010 at the Town of Indian Lake Town Hall, Pelon Road, Indian Lake, New York at 10:00 A.M. Mr. Astafan seconded it. The motion was unanimously approved.

## **EXECUTIVE SESSION**

**The Board entered Executive Session at 11:55 A.M. until 12:40 P.M.**

**Board Meeting reconvened at 12:41 P.M.**

Chairman Klein asked Mr. Leslie to discuss the Management Exempt Policy Guidelines.

Mr. Leslie stated that the Board discussed the Management Exempt Policy Guidelines in Executive Session. Mr. Leslie noted that there were four tenets that staff brought to the Board for a first reading of a revision of that policy. Those involve a reflection of a change in the holidays provided to the CSEA employees as a result of a recent collective bargaining negotiation, a change in the reflection of the flex time versus comp time issue in the Management Exempt Policy Guidelines, a change in the amount of time an employee could sell back to the District in a vacation buy-back situation, as well as a reduction in the bereavement leave afforded to management confidential employees. Mr. Leslie said the discussion also touched on the manner in which staff use accrued vacation, sick and personal time reducing the minimum amount of time one could charge from a half day to one hour.

Mr. Leslie stated this was the first reading of the policy pursuant to the District's policy on policies in which the Board has typically afforded itself three opportunities to review a policy before adoption. This one could be read for a second time in November, read and then adopted in December, if the Board so chooses.

Chairman Klein asked if there was any further business, Mr. Leslie stated that the Board's adoption of the vehicle use policy at the January meeting was conditional upon approval from the Department of Budget and the Governor's Secretary for the Environment. Mr. Leslie said as of this date there has been no response with regard to an approval. He indicated that there is a recommendation for a few further revisions and stated that those would go out to Board members in the next couple of days with the expectation that the Board then come back and address the vehicle use policy again at the November meeting.

## **RESOLUTIONS**

**10-50-10 RESOLUTION TO AWARD THE HAWKINSVILLE DAM  
REMEDICATION AND REMOVAL ALTERNATIVES ASSESSMENT  
WORK TO MILONE & MACBROOM, INC.**

Mr. Berkstresser moved to adopt the resolution. Mr. Hayes seconded it and the resolution was adopted.

**10-51-10 RESOLUTION RECOGNIZING CERTAIN BUDGET OVERAGES IN  
THE BLACK RIVER AREA**

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

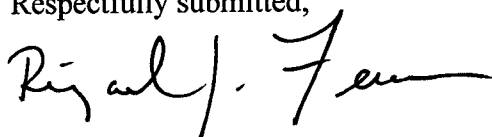
**10-52-10 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE  
NOVEMBER 9, 2010 BOARD MEETING**

Mr. Cornell moved to adopt the resolution. Mr. Astafan seconded it and the resolution was adopted.

## **ADJOURNMENT**

There being no further business to come before the Board, Mr. Cornell moved to adjourn the meeting. Mr. Stover seconded it. The motion was unanimously approved. The meeting adjourned at 12:50 P.M.

Respectfully submitted,



Richard J. Ferrara  
Secretary/Treasurer