

**HUDSON RIVER-BLACK RIVER REGULATING DISTRICT
BOARD MEETING –MARCH 8, 2011
UTICA, NY– 10:00 A.M.**

CALL TO ORDER

Chairman Berkstresser called the regularly scheduled meeting to order at 10:03 A.M.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Chairman David W. Berkstresser; Second Vice Chairperson Albert J. Hayes and Board members; Philip W. Klein, Michael F. Astafan and Mark M. Finkle; 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; and other Regulating District staff.

Excused: Board member Thomas Stover and Black River Area Administrator Carol L. Wright

MOTION TO ADOPT MEETING AGENDA

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

MOTION FOR EXECUTIVE SESSION

There was no motion for Executive Session.

PUBLIC COMMENT PERIOD

There were no speakers.

APPROVAL OF MEETING MINUTES

Mr. Klein moved to approve the Organizational Meeting minutes of January 11, 2011. Mr. Finkle seconded it and the motion was approved with one abstention [Mr. Astafan].

Mr. Hayes moved to approve Regular Board Meeting minutes of January 11, 2011. Mr. Klein seconded it and the motion was approved with one abstention [Mr. Astafan].

ACTING EXECUTIVE DIRECTOR REPORT

Mr. Clark presented his report to the Board.

ESTABLISHMENT OF BOARD COMMITTEES

Chairman Berkstresser made the following Board appointments:

Executive Committee –Mr. Berkstresser (Chair), Mr. Astafan, Mr. Hayes
Governance Committee – Mr. Astafan (Chair), Mr. Hayes, Mr. Stover
Operations Committee – Mr. Hayes (Chair), Mr. Stover
Public Relations Committee – Mr. Klein (Chair), Mr. Stover, Mr. Finkle
Finance Committee – Mr. Stover (Chair), Mr. Astafan
Audit Committee – Mr. Finkle (Chair), Mr. Stover
Permit System Committee – Mr. Hayes (Chair), Mr. Finkle, Mr. Klein
Procurement Policy Committee – Mr. Astafan (Chair), Mr. Hayes, Mr. Finkle
Employment and Compensation Committee – Mr. Finkle (Chair), Mr. Klein, Mr. Berkstresser

ELECTION OF OFFICER

Chairman Berkstresser asked for a nomination to elect First Vice Chairperson.

Mr. Hayes nominated Mr. Astafan for First Vice Chairperson. Mr. Klein seconded the nomination and it was unanimously approved by the Board.

Mr. Clark expressed condolences to the family of Board member Paul J. Cornell who passed away suddenly on February 4, 2011. Mr. Clark acknowledged Mr. Cornell's service on the Board and said he will be greatly missed. It was noted that Board members and staff made personal contributions for flowers and did attend services for Mr. Cornell.

COMMITTEE BUSINESS

(a) Permit System –Mr. Hayes

(1) Old Business – None

(2) New Business – None

Mr. Klein asked for a report on permit renewals. Mr. Clark said 75% of the receivables for permit renewals have been processed by the Sacandaga Field Staff. He noted that the deadline date for permit renewals without penalty is March 15th.

(b) Governance – Mr. Astafan

(1) Old Business - None

(2) New Business

(A) Mission Statement & Measurement Report Review – Mr. Clark

Mr. Clark said the Mission Statement and Measurement Report Review and the Annual Report were forwarded to Board members prior to the meeting for their review. Mr. Clark read for the record the Hudson River-Black River Regulating District's Mission Statement.

Mr. Leslie stated the one change to the Mission Statement and Measurement Report Review is in the language in item #4 wherein, 'The Board is the {sole} primary policy maker for the Hudson River-Black River Regulating District and directs senior management in the exercise of all power and authority granted to the Regulating District by Article 15, Title 21 of the Environmental Conservation Law.'

Mr. Klein asked whether the permit system should be added to the mission statement.

Mr. Leslie said the Regulating District's responsibility to regulate the flows dictate that it complies with all state and federal rules. One of the federal rules requires the District to have a license to operate the high hazard impoundment at Conklingville and as part of that federal license the District is required to have a land management system. The permit system fulfills that requirement of having a land management system and fits within the existing mission statement.

A motion was made by Mr. Hayes to adopt the Authority Mission Statement and Performance Measurements Annual Review – 3/8/11. It was seconded by Mr. Astafan and was unanimously approved.

(B) Motion to Approve Regulating District Annual Report for January 1, 2010 through December 31, 2010 – Mr. Clark

A motion was made by Mr. Hayes to approve the Regulating District Annual Report for January 1, 2010 through December 31, 2010. It was seconded by Mr. Astafan and was unanimously approved.

Mr. Ferrara noted that the Mission Statement and Measurement Report Review and Annual Report for January 1, 2010 through December 31, 2010 will be posted on the Regulating District's website.

(C) Resolution to Extend Legal Services Agreement McDonald v District – Mr. Leslie

Mr. Leslie said the contract term expired in the matter of John and Kandy McDonald and since the McDonald's continue to pursue an appeal of the dismissal of their Petition staff recommends that the Legal Services contract be extended for a period of one year to December 8, 2011. Mr. Leslie noted that the funds available should be sufficient to handle the appeal.

A motion was made by Mr. Hayes to adopt the Resolution to Extend Legal Services Agreement McDonald v District. It was seconded by Mr. Astafan and was unanimously approved.

(D) General Counsel Report – Mr. Leslie

Mr. Leslie presented his report to the Board. He noted that the five counties apportionment challenge is scheduled to be heard by Hon. Stephen Ferradino in New York State Supreme Court, Saratoga County on March 10th instead of the reported date of March 7th. Mr. Leslie stated that he and Mr. Clark will meet with Assistant Attorney General C. Harris Dague on Wednesday, March 9th to review the Regulating District's position for the oral argument on Wednesday.

(c) Finance Committee – Mr. Stover [In the absence of Chairman Stover, Mr. Astafan served as Acting Chair]

(1) Approval of Expenses

Mr. Hayes made a motion to approve the expenses in the amount of \$947.57. Mr. Klein seconded the motion. The Board passed the motion with one abstention [Mr. Berkstresser].

Mr. Ferrara brought to the Board's attention that he has included with the Board expenses a signed affidavit stating said expenses are necessary and reasonable and incurred in the performance of official Hudson River-Black River Regulating District business and duties. He said an affidavit will be included with Board expenses from this date forward. Mr. Ferrara also noted that the expenses submitted are only for Board members and do not include staff expenses which are reflected in the CFO's report.

(2) Old Business – None

(3) New Business

(A) Motion to Authorize CFO to Submit Budget & Financial Plan Report to PARIS – Mr. Ferrara

Mr. Ferrara stated that Public Authorities law requires state authorities to submit budget information, in the form of a Budget & Financial Plan, prior to the start of the authority's fiscal year. The requirement also includes budget information on operations and capital construction. Mr. Ferrara noted that for the District the fiscal year is the last year of the current budget cycle, July 1, 2011 through June 30, 2012. Mr. Ferrara pointed out to the Board that the report reflects annual payments toward a 20 year \$8 million note to accommodate the completion of several significant capital projects at the Conklingville Dam. Mr. Ferrara emphasized that that the three proposed year's information contained in this report does not represent the Board's statutory three (3) year budget since the report is an estimate only.

The Board and Chief Engineer, Mr. Foltan discussed the Conklingville Dow Valve replacement and embankment core remediation projects.

Mr. Berkstresser asked about the status of the Headwater Benefit Study that Oak Ridge Laboratory is preparing. Mr. Foltan said his latest communication with Oak Ridge Laboratory indicated that the report is close to being submitted to the Federal Energy Regulatory Commission (FERC).

A motion was made by Mr. Astafan to approve the motion to Authorize CFO to Submit Budget & Financial Plan Report to PARIS. It was seconded by Mr. Finkle and was unanimously approved.

(B) CFO's Report – Mr. Ferrara

Mr. Ferrara presented his report to the Board.

(d) Operations Committee – Mr. Hayes

(1) Old Business -None

(2) New Business

(A) Resolution to Conditionally Award Ice Sluice Remediation Work – Mr. Foltan

Mr. Foltan reported that three firms submitted bids for the completion of the Conklingville Dam Ice Sluice Remediation construction work. He said the low bidder was W.M. Schultz Construction, Inc. However, they provided no evidence of direct experience in performing concrete remediation/placement work for large dams or performing similar services on water retaining structures nor did they submit evidence of three (3) representative projects of similar work as required by the Bid Documents. Therefore, Mr. Foltan stated that staff has reviewed the evidence of experience in the field of dam construction of the second lowest bidder, D.A. Collins Construction Co., Inc. and determined that they have the experience necessary to responsibly and reliably complete the work. Mr. Foltan said Regulating District engineering staff recommends conditionally awarding the work to D.A. Collins Construction Co., Inc. conditional upon receipt of sufficient project funding or the reestablishment of adequate revenue through assessment of Hudson River Area beneficiaries and requests that the Board authorize formation of a contract to complete the work in the amount of \$661,475.

A motion was made by Mr. Hayes to adopt the Resolution to Conditionally Award Ice Sluice Remediation Work to D.A. Collins Construction Co., Inc. It was seconded by Mr. Astafan and was unanimously approved.

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

Mr. Foltan presented his report to the Board.

(C) Black River Area Capital Projects – Mr. Foltan

Mr. Foltan said engineering staff seeks authorization to solicit qualifications from engineering firms to complete a 2009-2012 budgeted capital project and two new projects in the Black River Area. He noted the budgeted item of \$44,000 was included in the 2009-2012 Budget for the completion of the Old Forge Dam concrete rehabilitation engineering design. Mr. Foltan said the Board accepted a staff recommendation on September 2, 2010 to reschedule certain Black River Area Capital projects as a result of the Hudson River Area revenue shortfall. He said this project has been rescheduled to commence in March 2011, and will involve a recommendation and design of concrete repairs and rehabilitation of the outlet structure,

spillway, and retaining walls. Mr. Foltan stated that the two new projects are Old Forge and Sixth Lake Dam Engineering Assessments. He said the Department of Environmental Conservation revised its dam safety regulations in August 2009 to require the owner of a Class B dam (Old Forge Dam) and Class C dam (Sixth Lake Dam) to complete an Engineering Assessment. Mr. Foltan stated staff estimates a probable cost of \$12,000 each for completion of the Engineering Assessments.

Mr. Hayes made a motion to authorize to solicit qualifications from engineering firms to complete the Old Forge and Sixth Lake Dam Engineering Assessment and to complete the Old Forge concrete rehabilitation engineering design. It was seconded by Mr. Klein and was unanimously approved.

(D)Hudson River Area Administrator Report – Mr. Clark

Mr. Clark presented his report to the Board.

(E)Black River Area Administrator’s Report – Mrs. Wright

In Mrs. Wright’s excused absence Mr. Clark presented the Black River Area Administrator’s report to the Board.

BOARD BUSINESS

(1) Old Business -None

(2) New Business

(A)Resolution Authorizing the Sale of Surplus Vehicles-Mr. Clark

Mr. Clark stated the Regulating District has four vehicles which are not necessary to the fulfillment of the Regulating District’s mission. Mr. Clark said staff recommends the disposal of these vehicles through sealed written bids. He said the vehicles include two small SUV’s, one extended cab pick-up truck and an International Single Axle Dump Truck. Mr. Clark also indicated that there are miscellaneous items that will be sold to the highest bid in one lot. He said upon determination of the winning bidder for each vehicle and the miscellaneous items, staff will prepare a report for the Board’s review at the April 12, 2011 meeting.

A motion was made by Mr. Astafan to adopt the Resolution Authorizing the Sale of Surplus Vehicles. It was seconded by Mr. Hayes and was unanimously approved.

MOTION FOR NEXT BOARD MEETING

(1) Regular Board Meeting

A motion was made by Mr. Hayes for adoption of the Resolution for the Regular Board Meeting to be held on Tuesday, April 12, 2011 at the Warren County Municipal Center, 1340 State Rt. 9, Lake George, NY 12845 at 10:00 A.M. Mr. Klein seconded it. The motion was unanimously approved.

RESOLUTIONS

**11-02-03 RESOLUTION TO EXTEND LEGAL SERVICES AGREEMENT C092009
IN CONNECTION TO PETITION FILED BY JOHN & KANDY
MCDONALD**

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

**11-03-03 RESOLUTION TO CONDITIONALLY AWARD WORK FOR ICE
SLUICE REMEDIATION WORK AT CONKLINGVILLE DAM**

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

**11-04-03 RESOLUTION AUTHORIZING THE SALE OF USED VEHICLES
THROUGH SEALED BIDS**

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

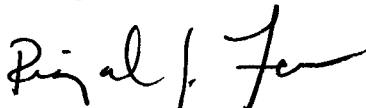
**11-05-03 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE
APRIL 12, 2011 BOARD MEETING**

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

ADJOURNMENT

There being no further business to come before the Board, Mr. Astafan moved to adjourn the meeting. Mr. Hayes seconded it. The motion was unanimously approved. The meeting adjourned at 11:58 A.M.

Respectfully submitted,



Richard J. Ferrara
Secretary/Treasurer