

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

**January 10, 2012**

Mayfield Municipal Complex  
28 North School St.  
Mayfield, NY 12117

**CALL TO ORDER**

Chairman David W. Berkstresser called the meeting to order at 10:35 A.M.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**Present:** Board Chairman David W. Berkstresser; First Vice Chair Michael F. Astafan; Second Vice Chair Mark M. Finkle; Board Member Albert J. Hayes; Executive Director Michael A. Clark; General Counsel Robert P. Leslie; Chief Engineer Robert S. Foltan; Chief Fiscal Officer Richard J. Ferrara; Hudson River Area Administrator John Hodgson; Black River Area Administrator Carol L. Wright; and other Regulating District staff.

**Excused:** Board Member Thomas Stover

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

Chairman Berkstresser asked Mr. Ferrara to revise the meeting agenda to add a new item under "Contracts" regarding a new server deployment at the Albany office. A motion was made by Mr. Hayes to adopt the revised meeting agenda. Mr. Astafan seconded it and the motion was unanimously approved.

**PUBLIC COMMENT PERIOD**

An Access Permit Holder spoke to the Board regarding the need and opportunity for a fishing pier on the lake. The speaker also expressed concerns regarding the width of his access permit area.

**APPROVE DECEMBER 13, 2011 BOARD MEETING MINUTES**

A motion was made by Mr. Hayes to approve the Minutes of the Board's December 13, 2011 meeting. Mr. Astafan seconded it and the motion was unanimously approved.

**EXECUTIVE DIRECTOR'S REPORT**

Mr. Clark presented his report to the Board. After briefly highlighting various projects and accomplishments embedded within his written report, Mr. Clark marked the beginning of the New Year by presenting a statement detailing the State of the Regulating District. The Regulating District continues to struggle financially due to the November 2008 U.S. Court of

Appeals decision which negated the ability to assess hydroelectric facilities and left a \$5.4 million hole in annual Hudson River Area budgets. Oral argument before the Appellate Division 3<sup>rd</sup> Department will be held on February 6<sup>th</sup> to address the Five Counties' appeal of the Saratoga County Supreme Court's decision upholding the March 2010 apportionment. Staff remains optimistic that the three years of assessments based on that apportionment will be received. The Black River area remains financially stable with its funding stream intact.

## **EXECUTIVE SESSION**

Chairman Berkstresser called for a motion to adjourn to an executive session to discuss a personnel issue involving the land surveyor and to discuss the parameters for settlement on an amendment to the water power agreement with the owner of the hydroelectric facility located at Conklingville. Mr. Finkle advanced the motion, Mr. Astafan seconded. The Board adjourned to Executive Session at 10:50 A.M. and returned at 12:05 P.M. Chairman Berkstresser reported no action by the Board with regard to either matter discussed in Executive Session.

## **RESOLUTION TO APPROVE AMENDMENT #5 to CONTRACT C042006**

At the Chairman's request, Mr. Leslie described the legal services contract between the Regulating District and the law firm of Brown & Weinraub to address litigation commenced by Niagara Mohawk with respect to NiMo's claim of a breach of the Offer of Settlement. Mr. Leslie noted that Mr. Cherubin, representing the District under this contract, has indicated projected work is not likely to require any advance in the not-to-exceed amount of the contract in the near-term. However, Mr. Leslie noted that the contract term requires extension and recommended that such term be extended through November 2012.

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

## **MOTION TO AUTHORIZE THE CFO TO PROCEED WITH NEW 'MAIN' SERVER DEPLOYMENT IN ALBANY**

Mr. Ferrara related to the Board the disruption to Albany office operations occasioned by the periodic failure of the computer network server in the Regulating District's Hudson River Area Office. Noting the need for successful recovery and continuation of the District's technology infrastructure and the ongoing maintenance costs to reboot and trouble shoot the server when it fails, Mr. Ferrara recommended the server's replacement. Mr. Ferrara pointed out that although the server's replacement was contemplated in last year's budget, the District's ongoing fiscal condition had made him reluctant to recommend the \$15,500 expenditure. Mr. Ferrara indicated that he is now convinced that such expenditure has become necessary. Mr. Ferrara has already secured one quote and has solicited additional quotes from a number of MWBE firms serving the Albany region.

Mr. Astafan moved to authorize Mr. Ferrara to move forward immediately with a new server deployment. Mr. Hayes seconded the motion and the Board adopted the Motion unanimously.

## **GOVERNANCE COMMITTEE REPORT**

Mr. Astafan noted that the Governance Committee had met earlier this morning to discuss the Board's Committee structure. He noted that the Committee was considering the proposed reduction in the number of standing committees from nine to three or four. He also noted that such a reduction would necessitate a revision to the Regulating District's By-Laws and solicited any and all comments regarding this or other revisions to such By-Laws Board Members may contemplate.

## **STAFF REPORTS**

Mr. Leslie presented his report to the Board.

Mr. Leslie reported no new activity on the litigation facing the Regulating District during the holiday season. He also highlighted the Regulating District's effort to quickly and efficiently handle Freedom of Information Law (FOIL) requests pointing to success in that arena.

Mr. Ferrara presented his report to the Board

Mr. Ferrara presented to the Board a schedule of expenses incurred by Board Members through the end of 2011.

Mr. Hayes made a motion to approve the reimbursement of such expenses. Mr. Finkle seconded the Motion and the Board adopted the Motion by unanimous vote.

Mr. Foltan presented his report to the Board

Mr. Hodgson presented his report to the Board

Mrs. Wright presented her report to the Board

## **RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE MARCH 13, 2012 BOARD MEETING**

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

## **RESOLUTIONS**

### **12-01-01 RESOLUTION TO APPROVE AMENDMENT #5 TO LEGAL SERVICES AGREEMENT C042006 IN CONNECTION TO NIMO ONONDAGA LITIGATION MATTER.**

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

### **12-02-01 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE MARCH 13, 2012 BOARD MEETING**

Mr. Astafan moved to adopt the Resolution. Mr. Hayes seconded it and the Resolution was unanimously 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 12:25 P.M.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Richard J. Ferrara". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Richard J. Ferrara  
Secretary/Treasurer