

**HUDSON RIVER-BLACK RIVER REGULATING DISTRICT  
BOARD MEETING –November 10, 2009  
INDIAN LAKE, NY– 10:00 A.M.**

**CALL TO ORDER**

Chairman Klein called the regularly scheduled meeting to order at 10:00 A.M.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**Present:** Chairman Philip W. Klein; First Vice Chair Pamela S. Beyor and Board members; John K. Bartow, Jr.; David Berkstresser and Paul J. Cornell; Executive Director Glenn A. LaFave; General Counsel Robert Leslie; Chief Engineer Robert S. Foltan; Chief Fiscal Officer Richard J. Ferrara; Hudson River Area Administrator Michael A. Clark; Black River Area Administrator Carol L. Simpson; and other Regulating District staff.

**Excused:** Audrey Dunning and Ronald Pintuff

**MOTION TO ADOPT OR REVISE MEETING AGENDA**

Mr. Bartow moved to adopt the revised meeting agenda. Mr. Berkstresser seconded it and the motion was unanimously approved.

**MOTION FOR EXECUTIVE SESSION**

Chairman Klein asked for a motion for Executive Session to seek advice of counsel regarding current litigation, collective bargaining and personnel issues. Ms. Beyor made a motion for Executive Session. It was seconded by Mr. Cornell and was unanimously approved. Chairman Klein stated at this time business may be conducted after Executive Session. Chairman Klein asked the Executive Director, General Counsel, Chief Fiscal Officer and Legal Assistant to join the Board for Executive Session.

**PUBLIC COMMENT PERIOD**

None

**APPROVAL OF MEETING MINUTES**

Ms. Beyor asked for complete transcripts from the October 13, 2009 Board meeting for the discussions of the “Resolution to Revise the Vehicle Use Policy” and “Board Member Question and Comments”. Mr. Ferrara said he would provide Ms. Beyor with those transcripts.

Mr. Berkstresser moved to approve the Regular Board Meeting minutes of October 13, 2009. Mr. Bartow seconded it and the motion was unanimously approved.

## **EXECUTIVE DIRECTOR'S REPORT**

In recognition of Veterans Day Mr. LaFave acknowledged and thanked the following Regulating District employees who have served in the United States Military; Michael Clark United States Air Force, Rick Ferrara, Eric Johnson and Donald Town, United States Army and John Hodgson, United States Coast Guard.

Mr. LaFave reported that the month has been spent on efforts devoted to the Regulating District's fiscal crisis. Mr. LaFave said the contract for the Hudson River Area reapportionment was sent to the consultant selected by the Board. He stated at the Board's request there will be monthly updates on the reapportionment. Mr. LaFave reported that letters were sent to school districts to which the Regulating District pays taxes explaining the Regulating District's fiscal crisis and the inability of the Regulating District to pay school taxes on time this year. Mr. LaFave noted he and the Chief Fiscal Officer attended a meeting with school superintendents and there is an understanding on both sides of the needs and the realities of the situation. Mr. LaFave said the Regulating District has received an information request from the Federal Energy Regulatory Commission (FERC) regarding the FERC-ordered Headwater Benefits Determination to establish the benefit to FERC-licensed hydroelectric operators downstream from Conklingville Dam at Great Sacandaga Lake. Mr. LaFave said this request is a top priority and the Chief Engineer is coordinating that effort.

Mr. LaFave reported that he and the Hudson River Administrator attended a meeting in Ballston Spa regarding the replacement of the Batchellerville Bridge. Participants included Supervisors from the towns of Edinburg and Charlton, NYS Department of Transportation (DOT), and Saratoga County officials. Mr. LaFave said the consensus is that the Batchellerville Bridge needs to be replaced.

Mr. Klein asked what the status with regards to the funding is. Mr. LaFave said since the bid was quite a bit over budget alternative construction plans are being explored. Regulating District staff and the Board discussed some of the proposed changes to the design and construction of the Batchellerville Bridge. Mr. Klein asked that the Board be kept informed as to the status of this project since it does affect Great Sacandaga Lake.

Mr. LaFave said in response to residents of the isolated hamlet of Beaver River regarding their parking problems that they brought before the Board at the October meeting, he has been in communication with the Department of Environmental Conservation (DEC) Region 6 to discuss this issue. He also noted that the Black River Area Administrator met with Beaver River and Stillwater Reservoir residents.

Mr. LaFave reported that he and Board members Paul Cornell and David Berkstresser attended the mandated Public Authority Seminar in Syracuse. He noted that again this year, the Regulating District's financial statements were provided and used for this training. The presenter was very complimentary regarding the Regulating District's finance and audit efforts and documentation.

## **COMMITTEE BUSINESS**

### **(a) Permit System – Mr. Pintuff**

**Old Business -None**

**New Business - None**

### **(b) Governance – Mr. Bartow**

#### **(1) Old Business**

##### **(A) Resolution to Rescind Resolution to Amend Vehicle Use Policy (09-45-10) – Mr. Leslie**

Mr. Leslie said the Resolution is to rescind the Resolution passed at last month's Board meeting with regard to the Vehicle Use Policy. He said the revised policy more closely adheres to the proposed policy advanced by the Division of the Budget (DOB).

Mr. Berkstresser asked how this affects what has already been submitted to the (DOB).

Mr. Leslie responded that the DOB set a deadline in mid-October for the submission of proposals from agencies and authorities. He said it has been and continues to be his understanding that the Regulating District's submission of a proposed draft policy would satisfy that review requirement.

Mr. Berkstresser asked if the Regulating District has satisfied that mandate.

Mr. Leslie affirmed it had, however he added that the Regulating District had not heard back from the (DOB) or from the Office of Counsel for the Governor with their comments with respect to the Regulating District's proposed policy. Mr. Leslie stated that the revised policy more closely adheres to the requirements that DOB put out and, therefore, makes negative comments on the October 15th submission less likely.

Mr. LaFave noted that when he contacted the DOB he was not given any extension beyond the date requested to submit the Regulating District's vehicle policy. Mr. LaFave said that according to the Regulating District's Bylaws the Board must take action on policy changes and he thought it best to submit something since he had not been informed that an extension was possible.

Mr. Bartow as Chairman of the Governance Committee opened the discussion up to the Board as a whole.

Ms. Beyor asked for clarification on the reasons for rescinding the vehicle use policy adopted by the Board at the October Board meeting, specifically is it because the policy is flawed or because the Board did not comply with its Policy on Policies?

Mr. Leslie stated that the reason for the rescission is that the Board did not advance the Policy on Policies in the manner that it should have. Mr. Leslie said in making the recommendation, it makes sense to have discussions regarding what this policy ought to say between staff, between the Board in conjunction with outside entities like DOB so that when the Board finally does adopt a policy, they have adopted a policy which is in conformance with what DOB wants to see. Mr. Leslie stated the DOB is aware that the Regulating District is working on revisions to the vehicle use policy.

After Board discussions and with Board consensus Mr. Bartow stated the Resolution to Rescind Resolution to Amend Vehicle Use Policy (09-45-10) is tabled.

**(B) 2<sup>nd</sup> Reading of Revised Vehicle Use Policy – Mr. LaFave**

After Board discussion and with Board consensus Mr. Bartow stated the 2<sup>nd</sup> Reading of Revised Vehicle Use Policy is tabled.

**(2) New Business**

**(A) Resolution to Approve Amendment #3 to Legal Services Agreement C042006 in Connection to the NiMo Onondaga Litigation Matter – Mr. Leslie**

Mr. Leslie said Crane, Parente and Cherubin is the law firm that handles the Onondaga litigation for the Regulating District and that they have submitted a bill for a small overage on the existing contract and whereas they do anticipate a few updates to the Judge in Onondaga County, as well as, some ruling from the Judge sitting in Fulton County hearing the Herkimer and Hamilton County assessment challenges, it is necessary to do an extension of the contract for a year and include an additional \$10,000 on that contract.

A motion was made by Mr. Cornell to approve the Resolution to Approve Amendment #3 to Legal Services Agreement C042006 in Connection to the NiMo Onondaga Litigation Matter. It was seconded by Mr. Bartow and without objections, the Board unanimously approved.

**(B) General Counsel Report – Mr. Leslie**

Mr. Leslie said the Executive Director and Chief Fiscal Officer met with Governor's staff and presented proposed legislation and memorandum in support to confer upon the Regulating District authority necessary for inter-fund borrowing. Mr. Leslie reported that the legislation is being advanced on this date to potential sponsors with the expectation that it would be introduced on this date either as a stand-alone bill, or as part of the Governor's Deficit Reduction Plan, (DRP), and with the expectation that if there is no movement today that it would be advanced at the beginning of the next legislative session beginning in January 2010.

Mr. Klein asked if there is an indication of whether or not this had a chance of getting on the agenda of both of the Houses.

Mr. Leslie said the Governor's staff expressed excitement yesterday over the idea that this legislation had legs, and therefore they wanted a formalized departmental proposal submitted which was done on November 9, 2009.

The Board discussed the legislative process.

Mr. Klein asked when this would be implemented as a new law.

Mr. Leslie said he wrote the act to take effect immediately, so as soon as the Governor signs it, it is law.

Ms. Beyor asked for clarification that this proposed legislation is just to allow intra-fund borrowing between the Hudson River Area and the Black River Area.

Mr. Leslie said that is correct.

The Board deferred to General Counsel's future recommendation on the steps the Board would need to take if the legislation is passed.

Mr. Leslie reported that the Regulating District has received a number of proposals from Bond Counsel and this will be further discussed later in the meeting. However, he said as an overview a number of conversations with the responding firms centered on the Regulating District's authority to issue Revenue Anticipation Notes, Tax Anticipation Notes, Budget Notes and other kinds of borrowing with a wide variety of opinions. He indicated that there will be discussions with the winning bidder about these different opinions to ensure that they have a clear picture of the complexity facing the Regulating District.

Mr. Beyor asked if the Bond Counsel that the Regulating District hires will give a legal opinion.

Mr. Leslie said yes the winning RFP for Bond Counsel will provide the Regulating District with a legal opinion.

Mr. Klein asked what the timeframe is with regard to actually issuing bonds.

Mr. Bartow stated that in his experience with the Environmental Facilities Corporation and the Municipal Bond Banking Authority it is generally three to four months to package a bond deal.

Mr. Ferrara said he has been told that the fastest it could happen is six to eight weeks.

Ms. Beyor said that obviously the first question to be answered is can we bond and how do we do that and once we know that we can put everything in place and move forward but in order for that to happen the Board will need to have that report or at least a draft at the December Board meeting.

Mr. Leslie said that it is his expectation to have a yes or no answer on bonding to the Board by the December 8, 2009 Board meeting.

**(a) Finance Committee – Mr. Pintuff (In the absence of Chairman Pintuff, Mr. Bartow served as Acting Chair.)**

**(1) Approval of Expenses**

Mr. Bartow requested the agenda item for Approval of Expenses be moved from committee to the Board as a whole.

Mr. Bartow asked for a motion to approve the expenses for Mr. Pintuff in the amount of \$317.35. A motion was made by Mr. Klein and it was seconded by Ms. Beyor and without objections, the Board unanimously approved.

Mr. Bartow asked for a motion to approve the expenses for Mr. Berkstresser in the amount of \$226.60. A motion was made by Ms. Beyor and it was seconded by Mr. Klein. The motion carried with one abstention (Mr. Berkstresser).

Mr. Bartow asked for a motion to approve the expenses for Mr. Cornell in the amount of \$265.20. A motion was made by Ms. Beyor and it was seconded by Mr. Berkstresser. The motion carried with one abstention (Mr. Cornell).

**(2) Old Business – None**

**(3) New Business**

**(A) CFO's Report – Mr. Ferrara**

Mr. Ferrara said verification was received from Gary Harper of the Office of State Comptroller (OSC) on October 27, 2009 confirming receipt of liquidated Hudson River Area Sentinel Funds in the amount of \$1,258,319.33. Mr. Ferrara stated these funds were deposited in the Hudson River Area's Short-Term Investment Pool and the STIP report was received confirming that deposit.

Mr. Ferrara reported that he continues to attend, via conference calls on a bi-weekly basis, meetings of the Office of Taxpayer Responsibility.

Mr. Ferrara said he has a procurement item that he will defer until the discussion on the Reapportionment study later in the meeting.

Mr. Ferrara referred to a color coded chart that was included in the Board packet outlining critical fiscal items, the first being the deposit of the Sentinel Funds into the STIP account. He indicated at this time in terms of operating cash flow as a result of receiving the Sentinel Funds and deferring the school tax payment it looks fine. He said looking to January 2010; property taxes of approximately a million dollars will be due. Mr. Ferrara said if the property taxes are not deferred at that point, the Regulating District would have no cash flow.

However, if there were a deferral of the property taxes a negative cash flow would not happen until June of 2010.

Mr. Bartow said he will ask the same question Ms. Beyor asked at the October Board meeting, that being what are the options if the Regulating District has a negative cash flow. He stated that it can be ameliorated in one way if the proposed legislation is enacted allowing the intra-fund borrowing between the Hudson River Area and the Black River Area. Mr. Bartow said in the absence of that happening what is the Regulating District's plan B and plan C.

Mr. Klein indicated that the Regulating District's plan B is to bond.

Mr. Leslie said Regulating District staff has been in discussion with staff from the Governor's office and affirmed that the first line of action which is plan A and B is to get the authority to allow the borrowing of funds through legislation or bonding. He said the second line of action or plan C is to get a loan from another agency or the Division of the Budget. Mr. Leslie stated that since the Regulating District is a Public Benefit Corporation there is no authority to go bankrupt and there is no provision in the Bankruptcy Code for that to happen.

Mr. Bartow asked if the Regulating District has the legislative authority to impose an accelerated interim reappointment to meet obligations and can it begin a process of interim reapportionment in order to sustain cash flow to keep the organization moving. He further asked, if so could the Board get a calculation of the minimum time such a thing might require, what steps need to be accomplished, and can that occur sometime prior to June whereby there could be an avoidance of negative assets?

Mr. Leslie stated that the Board does have authority to issue an interim reapportionment immediately based on facts available to the Board at this time. He said there are requirements in the Regulating District's enabling Statute ECL§15-2121 with step one being to identify the apportioned properties or the parcel of real estate and the public corporation benefitted by the operation of the Hudson River facilities. Step two is to develop a rational basis apportioning or allocating those costs among those parcels identified. And step three is notifying the owners of the parcels that they are so identified. Mr. Leslie said approval from Department of Environmental Conservation (DEC) will be required and there is a requirement for a due process apportionment appeal which will provide owners of the parcels of real estate against whom an apportionment is levied or an apportionment is determined, the opportunity to contest that apportionment.

Mr. Bartow asked for staff to develop a timeline with a full description of the process and what must be done to accomplish an interim reapportionment. Mr. Bartow noted it was his understanding that a revenue-generating mechanism would have to be in place in order to do a Tax Anticipation Note or a Revenue Anticipation Note but defers to Bond Counsel for that answer.

Ms. Beyor asked what discussions have taken place with DEC concerning this reapportionment and if there should be a letter sent to DEC advising of the Regulating District's plan to move forward with this and asking for DEC approval prior to having staff spend time and effort on this.

Mr. Leslie stated that DEC is aware that the Regulating District plans to do a reapportionment right now without a study if the Board provides authorization. However, DEC has not given their approval for a reapportionment. Mr. Leslie recommended that staff put together a proposed apportionment for the Board to review and approve at the December Board meeting, and that then it would be appropriate to send a letter to DEC telling them, “This is our apportionment, we are going forward, and we need your approval.”

**(b) Operations Committee –Chairwoman Dunning (In the absence of Chairwoman Dunning, Ms. Beyor served as Acting Chair.)**

**(1) Old Business -None**

**(2) New Business**

**(A) Resolution – To Conditionally Award Work Associated with Stillwater Dam Liquefaction and Deformation Analysis – Mr. Foltan**

Ms. Beyor stated that as discussed at the October Board meeting the Regulating District is required to do the Stillwater Dam liquefaction and deformation analysis. Ms. Beyor said that recommendation from the evaluation team is to award the work to GEI Consultant’s Inc.

A motion was made by Mr. Berkstresser to Conditionally Award Work Associated with Stillwater Dam Liquefaction and Deformation Analysis. Ms. Beyor seconded it. Chairman Klein asked if there was any discussion. There was none. The motion was unanimously approved.

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

Mr. Foltan stated that precipitation during the month of October was above normal across the Great Sacandaga Lake watershed and below normal in the Indian lake watershed. He noted monthly inflow at both reservoirs was above historic average and the monthly average release from Great Sacandaga, as well as, Indian Lake was above historic average. Mr. Foltan said, specifically at Indian Lake it has been above average for the better part of a month in preparation for and to facilitate some repair work that Regulating District staff is completing. However, Mr. Foltan said Indian Lake has been lowered about three and a half feet below the target elevation in order to facilitate that work. Mr. Foltan said it is expected to be maintained close to the current elevation for a few days while that work is completed and then once it is completed it will begin to be returned to the target elevation as quickly as possible based on the inflow.

Mr. Klein asked whether it would be a problem getting Indian Lake to target elevation by the end of the year.

Mr. Foltan explained that as the Indian Lake graph illustrates historically there is an inflow and the reservoir comes up from the target elevation and that the historic average curve shows a two or three-foot rise through the end of November. Mr. Foltan said releases will be minimized once the work is completed and recovered as quickly as possible.

Mr. Foltan reported the Black River precipitation in October at Stillwater Reservoir, Old Forge and Sixth Lake was below average. The monthly inflow to Stillwater Reservoir was slightly above historic average and all release water from Stillwater Reservoir was slightly above historic average.

**(C) Hudson River Area Administrator Report – Mike Clark**

Mr. Clark reported masonry work in the Indian Lake Dam structure is ongoing. The crew is taking advantage of the water elevations at this time of year to get that work done. Mr. Clark stated the goal would be to have those repairs substantially completed by November 20, 2009. Mr. Clark said he included in his report to the Board, as requested last month by Chairman Klein, a yearly summary of shoreline stabilization work broken up by a running footage of shoreline and the weight tonnage of rip rap stone placed by year from 2002 to present. He stated that staff is preparing the mapping for the upcoming reapportionment study. Mr. Clark noted that once the masonry repairs are done at Indian Lake the maintenance staff will resume the shoreline erosion control work.

**(D) Black River Area Administrator Report – Carol Simpson**

Ms. Simpson reported staff is busy winterizing and sorting equipment for storage. Ms. Simpson said staff has repainted the floors in all the gatehouses. She stated fertilizing has been completed on the embankments at Stillwater and staff is presently working on the dam road to keep it in good shape for winter and spring melt-off. Ms. Simpson said she met with residents of the Beaver River area to discuss concerns about parking and at that meeting asked them to put their concerns in writing as requested by the Board at the October meeting.

Ms. Beyor asked what DEC's motivation was to change the parking rules.

Ms. Simpson said she does not know, however, the residents think it is more of a personal conflict.

Ms. Beyor asked if the Regulating District would sponsor a discussion with DEC to attempt a resolution.

Mr. LaFave said he has spoken with representatives from DEC and part of the problem is that the parking there is limited and it is the people of Beaver River who park in the parking lot which limits parking for day use people who want to camp on state lands that are under the DEC jurisdiction.

Ms. Beyor asked if the Mercer Hydro Plant shut down for maintenance repairs had been completed.

Ms. Simpson said Mercer Hydro Plant had shut down for a three day period to clean out the trash gates and that work was completed without incident.

## **BOARD BUSINESS**

### **(1) Old Business**

#### **(A) Hudson River Area Reapportionment Study Project Status - Staff**

Mr. Foltan referred to his summary of progress memo in the Board packet stating that since the writing of same the Regulating District did receive a markup contract and correspondence from Economic Research Services, Inc. (ERS). These documents were forwarded to General Counsel and the Attorney General's (AG) office for review. Mr. Foltan said that at this time staff is completing an internal review of those recommended changes and will be moving forward with a revised contract for the consultant to review and accept as soon as possible.

Ms. Beyor asked if the Request for Qualifications (RFQ) required the proposers to identify any comments regarding the contract in their proposal and if so, were the markups to the contract in excess of what they had identified in their proposal.

Mr. Foltan stated that was included in the contract portion and the markups received were clearly in excess.

Mr. Beyor asked when this would be resolved since the expectation is to have the consultant start in December and she stated that they may be disqualified just by the fact that they sent in additional comments. Ms. Beyor asked whether the comments could be accepted.

Mr. Leslie stated there were some things that he was not comfortable with, which is in large part why it went to the AG to try and truncate that process. Mr. Leslie said getting word back from the AG with respect to those items will put the Regulating District in a much stronger bargaining position with the contractor.

The Board discussed the possibility of going to the second highest bidder. Mr. Ferrara stated that it was a possibility and that is why the awards are done conditionally if the Board finds it is in a situation where the terms and conditions cannot be agreed upon.

Mr. Leslie agreed and said he recommended doing so if this was not resolved within one week.

After discussion the Board by consensus agreed that it would not be willing to let this be a protracted negotiation and if ERS and the Regulating District staff cannot come to agreement then staff should move on to the second highest bidder and come back to the Board for approval at the December meeting.

The Board discussed the timelines from Economic Research Services, Inc. (ERS) and the timeline for the Federal Energy Regulatory Commission (FERC) Headwater Benefits study that will be performed by FERC's consultant Oak Ridge National Laboratory.

**(B) Resolution to Conditionally Award Bond Counsel Services – Mr. Ferrara**

Mr. Ferrara said the Regulating District had nine firms express interest in the Request for Proposals (RFP) and two of those were Minority and Women’s Business Enterprises (MWBE). One of the MWBE’s did respond indicating that they were not interested and there was no response from the second MWBE. Mr. Ferrara stated there were five firms that responded to the RFP. Lemery Greisler received the highest technical score of 73.07 and as the highest point receiver is the firm that the evaluation team recommends the Board conditionally award the Bond Counsel services to. Mr. Ferrara said the Board is asked to authorize an award with a not to exceed of \$7,250 plus approved disbursements.

Ms. Beyor asked for clarification on the scope of services for this contract.

Mr. Ferrara said Bond Counsel will provide consultation and advice to the Regulating District on options for borrowing and bonding up to the point of identifying an underwriter.

Mr. Bartow made a motion to approve the Resolution to Conditionally Award Bond Counsel Services. It was seconded by Mr. Berkstresser. There was no further discussion. The motion was unanimously approved.

**(C) Discussion of Stillwater Reservoir Tour –Mr. LaFave**

Mr. LaFave reported that the Stillwater Reservoir Tour was very informative and well received by all who attended.

**Meeting recessed for a break: 12:15 P.M.**

**Meeting reconvened: 12:20 P.M.**

**(2) New Business – None**

**(A) Discussion of changing the location of the January Organizational and Board Meetings from Albany to Johnstown – Mr. LaFave**

Mr. LaFave said that in line with ways that the Regulating District can save money it is recommended that the January 2010 Board meeting be held in Johnstown instead of Albany. He noted that this would be on the December Board meeting agenda.

**(B) Discussion of the Reapportionment Grievance Hearing Rules – Mr. Leslie**

Mr. Leslie said there is a process prescribed by statute for the Board to review its determination after the owners of the parcels of real estate and public corporations benefited by the facilities of the Regulating District have an opportunity to complain about any apportionment. Mr. Leslie said the effort at preparing proposed rules for an apportionment grievance hearing procedure is really an effort to try and streamline that review process mandated by statute and forestall any ambiguities in that process, which will reduce costs not only for the Regulating District in administering the grievance but also for all of the

municipalities who are likely to be faced with a new apportionment. Mr. Leslie stated this will be new to them; it will be new to the Regulating District because it has not been done in 80 years and the effort is to make it as transparent as possible.

Mr. Leslie said that Board has been provided with the grievance hearing procedures for review as well as a timeline that would adhere to that procedure. He said that the rule package has been advanced to the Office of the Real Property Services, the DEC, and our Deputy Secretary. Mr. Leslie stated that DEC will need to approve the rules

Ms. Beyor asked for clarification that these grievance hearing rules would be required to be in place for both the interim reapportionment and the final reapportionment.

Mr. Leslie said he would recommend that there be in place a grievance hearing procedure for both the interim and a final reapportionment.

### **BOARD MEMBER QUESTIONS AND COMMENTS**

Ms. Beyor commented on the history of the review of the resolutions by General Counsel at the Regulating District and asked for clarification from General Counsel Leslie when he signs the Board resolutions stating 'approved as to form' what does that mean. Ms. Beyor asked for Mr. Leslie's opinion if that language should be changed to include function or legality.

Mr. Leslie stated that he reviews each resolution making sure that the 'whereas' clauses properly identify the subject, that the 'therefore resolved' clause actually takes an action. Mr. Leslie said to the extent that the action is something that the Board ought not to be doing he believed that is within his purview to make the Board aware.

Mr. Bartow indicated that General Counsel may not agree with the resolution that the Board passed but his review was to assure procedure was followed and content was legal.

Mr. Leslie stated he reviews it from notice of the meeting through conduct of the meeting through the expectation that the proper committee reviewed it and properly advanced it to the whole Board, that the Board acted, that there is a motion, a second and a quorum.

### **MOTION FOR NEXT BOARD MEETING**

A motion was made by Ms. Beyor for the Regular Board Meeting to be held on Tuesday, December 8, 2009 at the Watertown City Hall, 245 Washington Street, Watertown, NY at 10:00 A.M. Mr. Bartow seconded it. Chairman Klein asked if there was any discussion. There was none. The motion was unanimously approved.

### **EXECUTIVE SESSION**

**The Board entered Executive Session at 12:45 P.M. until 3:06 P.M.**

**Board Meeting reconvened at 3:07 P.M.**

**Resolution to Rescind Resolution to Amend Vehicle Use Policy (09-45-10)**

Mr. Klein asked for a motion to approve the Resolution to Rescind Resolution to Amend Vehicle Use Policy (09-45-20). He stated that the Board discussed this matter in Executive Session. Mr. Bartow made the motion and it was seconded by Mr. Berkstresser. There was no further discussion. The motion was unanimously approved.

Mr. Klein stated that the Board will do the first reading of the draft of the new Hudson River-Black River Regulating District Vehicle Use and Fleet Management Policy that is revised as of November 10, 2009

Mr. Bartow said that this policy should be conveyed to the Division of Budget as has been asked in the policy guidance document and also he suggested that it be posted on the Regulating District's website in draft form.

**Board Authorization to Solicit Special Counsel for the Legal Services in Connection to McDonald Litigation Matter**

Mr. Klein asked for a motion to solicit an RFP for Special Counsel with regards to a lawsuit being brought against the Regulating District by a permit holder by the name of McDonald. He stated that the Board discussed this matter in Executive Session. Ms. Beyor made the motion and it was seconded by Mr. Bartow. There was no further discussion. The motion was unanimously approved.

**RESOLUTIONS**

**09-48-11 RESOLUTION TO CONDITIONALLY AWARD THE WORK ASSOCIATED WITH THE STILLWATER DAM LIQUEFACTION AND DEFORMATION ANALYSIS**

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

**09-49-11 RESOLUTION TO CONDITIONALLY AWARD BOND SERVICES WORK**

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

**09-50-11 RESOLUTION TO APPROVE AMENDMENT #3 TO LEGAL SERVICES AGREEMENT C042006 IN CONNECTION TO THE NIMO ONONDAGA LITIGATION MATTER**

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

**09-51-11 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE DECEMBER 8, 2009 REGULAR BOARD MEETING**

Ms. Beyor moved to adopt the resolution. Mr. Bartow seconded it and the resolution was adopted.

**09-52-11 RESOLUTION TO RESCIND RESOLUTION 09-45-10**

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

**ADJOURNMENT**

There being no further business to come before the Board, Mr. Bartow moved to adjourn the meeting. Mr. Berkstresser seconded it. The motion was unanimously approved. The meeting adjourned at 3:10 P.M.

Respectfully submitted,

Richard J. Ferrara  
Secretary/Treasurer