

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

Dulles State Office Building

317 Washington Street, Room 100 (Conf. Room #1)

Watertown, New York 13601

December 9, 2014

CALL TO ORDER

Chairman Mark M. Finkle called the meeting to order at 10:00 A.M.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Board Chairman Mark M. Finkle; Second Vice- Chair Albert J. Hayes; Board Members David W. Berkstresser, Thomas Stover, Anthony Neddo and Jeffrey Rosenthal; Executive Director Michael A. Clark; General Counsel Robert P. Leslie; Chief Fiscal Officer Richard J. Ferrara; Chief Engineer Robert Foltan; Hudson River - Black River Area Administrator John Hodgson.

CONGRATULATIONS TO THOMAS STOVER

Chairman Finkle noted that Board Member Thomas Stover has alerted the Regulating District that he plans to resign his position on the Board at the end of the December 2014 meeting. Mr. Finkle thanked Mr. Stover for his dedication and contributions to the Board. The balance of the Board and the entire staff present offered Mr. Stover thanks and congratulations for a job well done.

MOTION TO ADOPT OR REVISE THE MEETING AGENDA

Chairman Finkle asked for a motion to adopt the meeting agenda with revisions to account for Public Comment, an Executive Session at which the Board would discuss litigation (Boralex & NYSEG), and collective bargaining issues. Mr. Hayes made a motion to adopt the meeting agenda as revised. Mr. Stover seconded it and the motion was unanimously approved.

PUBLIC COMMENT

Chairman Finkle solicited comments from the public. One speaker addressed the Board regarding the formula for setting assessments and requested that the Board consider modifying the basis for such assessments. Another speaker addressed the Board regarding reservoir levels at Stillwater.

DISCUSSION OF SEQRA FOR CAPITAL PROJECTS

Chairman Finkle asked where the Board stands on SEQRA for the Capital Projects it has under consideration. Mr. Leslie reminded the Board that the Board's Finance Committee

considered resolutions authorizing bonds to finance three projects: the Hawkinsville reconstruction; the Conklingville ice sluice/spillway concrete reconstruction; and the Warning Sirens at the October 2014 meeting. Mr. Leslie advanced to the Board a Resolution to address SEQRA at the Hawkinsville reconstruction project.

RESOLUTION OF INTENT FOR THE REGULATING DISTRICT TO SERVE AS LEAD AGENCY FOR HAWKINSVILLE DAM RECONSTRUCTION SEQRA COMPLIANCE AND TO ISSUE A NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Mr. Leslie noted that despite the passage of the 30 day time frame indicated for a response, none of the three entities to whom the Regulating District advanced a lead agency coordination letter (DEC, Army Corps, Hawkinsville) have expressed any interest in taking on the lead agency role. Mr. Leslie advanced a resolution through which the Board would assume the lead agency role and recommended that the Board issue a determination that the proposed project will not have a significant impact on the environment for the reasons outlined in the Resolution.

Chairman Finkle asked for a motion to adopt the Resolution declaring the Regulating District's intent to serve as SEQRA lead agency for the Hawkinsville Dam reconstruction project and to issue a Notice of Determination for non-significance. Mr. Rosenthal advanced the motion. Mr. Berkstresser seconded it and the Resolution was unanimously adopted.

Mr. Leslie noted that the Board was also in a position to dispense with the State Environmental Quality Review pertaining to the second project listed earlier. He and Mr. Clark noted that staff believe that the ice sluice/spillway concrete reconstruction at the Conklingville Dam can easily be characterized as a Type II action under the SEQRA Regulations. Such a designation by the Board would conclude the Board's SEQRA obligations with respect to that project. Chairman Finkle asked for a motion declaring the ice sluice/spillway concrete reconstruction at the Conklingville Dam to be a Type II action pursuant to the SEQRA Regulations. Mr. Rosenthal advanced the Motion. Mr. Stover seconded it and the Motion was passed by unanimous vote.

APPROVAL OF THE NOVEMBER 5, 2014 BOARD MEETING MINUTES

Chairman Finkle asked for a motion to adopt the November 5, 2014 regular meeting minutes. Mr. Berkstresser advanced the motion to approve the Board's November 5, 2014 regular meeting minutes. Mr. Stover seconded it and the motion was unanimously approved.

EXECUTIVE DIRECTOR'S REPORT

Mr. Clark provided his report. He reported completion of internal reviews of the Emergency Action Plans for Indian Lake, Great Sacandaga Lake, Old Forge, Sixth Lake, and Stillwater Reservoir. Further, he noted continuing discussions with CSEA representatives regarding negotiation of the 2012-2015 contract. Mr. Clark notified the Board of the two Appellate Division, Third Department decisions issued just before the Thanksgiving holiday. Those decisions, issued in the New York State Electric & Gas and Northern Electric/South Glens Falls cases, preclude any recovery from plaintiffs seeking refunds of assessments paid by such

entities between 2002 and 2008 under state law. Mr. Clark noted that he has been contacted by representatives from Erie Boulevard interested in discussing the Reservoir Operating Agreement.

STAFF REPORTS

Mr. Leslie presented his report to the Board. Mr. Leslie noted that he has reached out to representatives from New York State Electric & Gas and Northern Electric/South Glens Falls to address the Appellate Division decisions eliminating those companies' claims for refunds of state-law based assessments and to address the agreements which must be advanced to FERC as part of FERC's expected Order directing the commencement of Headwater Benefit Assessment payments. Mr. Leslie also urged the Board to reject Stillwater Associates' proposal to offset the next 71 years of its Headwater Benefit Assessments against such state-law based assessments; noting that FERC should hold Stillwater, like each of the other affected Hydropower companies, to the precedents set in the NYSEG & Boralex Appellate Division decisions.

Mr. Leslie explained that the Board and the CSEA local remain at impasse with respect to the 2012-2015 employment contract. The Fact Finder appointed by PERB to help resolve the impasse has issued his report and, at the Board's November meeting, the Executive Director rejected the conclusions outlined in the Fact Finder's report. Pursuant to Civil Service Law section 209(3)(e) the Board is to conduct a public hearing at which the parties shall be required to explain their positions with respect to the fact-finding report and thereafter the Board shall take such action as it deems to be in the public interest; including the interest of the public employees involved. Mr. Leslie encouraged the Board to hold such a public hearing at an upcoming Board meeting. Mr. Hayes proposed holding the public hearing during the Board's January Meeting in Mayfield; advancing a Motion to that effect. Mr. Rosenthal seconded the Motion and the Board adopted the Motion by unanimous vote. Chairman Finkle directed Mr. Clark to notify the Union local's President and the Union's CSEA representative.

Mr. Ferrara presented his report to the Board. He noted that at the close of fiscal November 30, 2014, the general fund balances for the HRA and BRA were estimated to be \$484,404 and \$1,087,918 respectively. He noted that 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 31, 2014.

Mr. Ferrara noted that material disbursements for the period include Broadalbin, Mayfield, and Northville school taxes for \$244,785.70, \$388,342.20, and \$394,696.30 respectively. Mr. Ferrara explained anticipated server purchases at Mayfield and Watertown to handle computing needs at those locations.

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 MEETING AND REGULAR BOARD MEETING FOR JANUARY 13, 2015

Chairman Finkle asked for a motion to adopt a Resolution setting the annual organizational meeting and the next meeting of the Board of the Hudson River-Black River Regulating District for Tuesday, January 13, 2015 at the Mayfield Municipal Complex, 28 North School Street, Mayfield, NY 12117 at 10:00 A.M. Mr. Rosenthal noted his anticipated absence due to a pre-arranged vacation schedule. Chairman Finkle asked staff to explore a change in date and venue, if necessary, to accommodate Mr. Rosenthal's desire to attend the January meeting. With the caveat that the meeting location and date may be amended, Chairman Finkle asked for a motion to set the meeting as indicated.

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

EXECUTIVE SESSION

Chairman Finkle called for a motion to adjourn to Executive Session to discuss litigation involving NYSEG & Boralex and collective bargaining issues. The Chairman invited the Executive Director, Chief Fiscal Officer and General Counsel to join the Board for the entire Executive Session. Mr. Hayes advanced the motion, Mr. Rosenthal seconded. The Board adjourned to Executive Session at 11:00 A.M. and returned at 11:45 A.M.

ADJOURNMENT

There being no further business to come before the Board, Mr. Neddo moved to adjourn the meeting. Mr. Stover seconded it. The motion was unanimously approved. The meeting adjourned at 11:45 A.M.

RESOLUTIONS

14-38-12 RESOLUTION OF INTENT FOR THE REGULATING DISTRICT TO SERVE AS LEAD AGENCY FOR HAWKINSVILLE DAM RECONSTRUCTION SEQRA COMPLIANCE AND TO ISSUE A NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

Mr. Rosenthal moved to adopt the Resolution. Mr. Berkstresser seconded it and the Resolution was unanimously adopted.

14-39-12 RESOLUTION SCHEDULING DATE, TIME AND LOCATION OF THE ANNUAL ORGANIZATIONAL MEETING AND REGULAR BOARD MEETING FOR JANUARY 13, 2015

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

Respectfully submitted,

Richard J. Ferrara
Secretary/Treasurer