

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
JUNE 7, 2012

Meeting of the Board of Trustees of the Northeast Ohio Regional Sewer District was called to order at 12:30 p.m. by Darnell Brown.

I. Roll Call

PRESENT: D. Brown
R. Sulik
S. Kelly
J. Bacci
W. O'Malley

ABSENT: T. DeGeeter
G. Starr

The Secretary informed the President that a quorum was in attendance.

II. Approval of Minutes

MOTION – Mayor Bacci moved and Mr. Sulik seconded that the minutes of the May 17, 2012, Board Meeting be approved. Without objection, the motion carried unanimously.

III. Public Session

Executive Director Ciaccia informed the Board that no members of the public registered to speak during Public Session.

IV. Executive Director's Report

Executive Director Ciaccia informed the Board that a hearing was held on May 30 in regards to the Stormwater Management Program (hereinafter "SMP") litigation. During the hearing the various parties' stated their positions in regards to Judge Pokorny's original order, which will now be entered into a final order. Executive Director Ciaccia stated that the hearing went very well for the District and was a good exchange of ideas. He advised that there are recommended changes to Title V which will be discussed during Executive Session, and if the Board consents they will go out for a 30-day period for comment from District communities.

BOARD OF TRUSTEES

Regular Meeting

June 7, 2012

Page 2 of 16

Executive Director Ciaccia stated that staff will continue to engage communities in Summit County, which recently sent the District a letter that amounts to a proposal for settlement. He indicated that proposal is under consideration and discussions will continue. There is additional information on the subject to be detailed in Executive Session.

Separately, he indicated that the intervening business interests represented by the law firm of Sheldon Berns filed a new motion asking the judge to reconsider his ruling. Their motion for reconsideration is based on an Ohio Supreme Court ruling in a case involving Hamilton Township, which instituted impact fees on new developments. The Court ruled those impact fees amounted to taxation and were not legal.

The intervening parties filed a motion making a nexus between the SMP fees and the impact fees in the Hamilton Township case. District staff does not think there is a correlation and will reply accordingly.

Discussions were held with the Cleveland Water Department (hereinafter "CWD") regarding SMP billing. Executive Director Ciaccia advised that CWD has given staff a proposal for stormwater only, charging 5% of the SMP fee per bill on residential accounts and \$2.29 per bill on commercial bills. The total comes to about \$1.3 million per year for SMP billing service, which is in-line with what was budgeted for the program. He noted that this will not go into effect until next year.

Executive Director Ciaccia stated that staff wants to continue developing a new billing agreement with CWD, as the current agreement was established during the 1980s. He advised that a different formula may be developed if a new agreement can be accomplished this year, but for now those are the SMP billing fees CWD would charge.

CWD currently bills the District \$4.82 per bill for full-service sanitary sewer bills. They plan to raise that rate by 28% to \$6.17 a bill. Executive Director Ciaccia explained that it is unclear whether that rate change begins in July. A letter from CWD Director Barry Withers in April indicated it would begin in July, but yesterday an e-mail stated that all agencies for which CWD bills would see that increase in January 2013. Executive Director Ciaccia stated that matter must be cleared up but due to Mr. Withers' insertion of "all" in the e-mail, he took that to include us and was intended to provide proper notification.

Executive Director Ciaccia emphasized that the issue was a cost allocation accounting debate and does not impact what customers are charged. Whether the District pays more for billing fees or CWD absorbs more of the cost, it is billed to largely the same customer. However, the allocation is significant to operations and becomes problematic because it was not an anticipated operations expense at this level in our rate study

BOARD OF TRUSTEES

Regular Meeting

June 7, 2012

Page 3 of 16

conducted in 2010. New rates were adopted for 2012 through 2016 and \$5.7 million was allocated this year to pay CWD for billing charges, and it was planned to escalate by 4% each year thereafter.

Executive Director Ciaccia advised that the escalation will cost at least \$1.3 million more per year than was anticipated. He stated that the organization will “live with it” and have had to adjust in other instances when there were unanticipated revenue hits. He did not anticipate asking the Board for rate adjustments.

The driving factor for the increase is the allocation of a share of the new billing system CWD installed. He advised that from an accounting standpoint it is proper, but the increase was not anticipated to this magnitude. The additional operations cost is about \$5 million, or another \$2.1 million worth of capital costs per year.

Executive Director Ciaccia advised that CWD now has an automated meter reading system (AMR) project, which is a \$91 million project that will also add costs to the billing system. He indicated that savings are projected with the new system from an operations standpoint but that will not be known until the AMR system is a reality. The capital costs associated with installing the system will be significant in future bills. He was hopeful the impact of those costs would not be within the current rate cycle, as it can be accounted for in the next rate study. He stated that both agencies may need to get together and do a better job planning rate studies and projecting future costs with this type of cost allocation accounting.

Executive Director Ciaccia stated that staff will try to get a new billing agreement done and will propose better ways to project costs.

Mr. Sulik inquired regarding the length of the contract. Executive Director Ciaccia advised that it is adjusted every year. The \$4.82 billing began in 2009 using 2008 numbers. The new \$6.17 bill is based on 2010 numbers because that is their last fully audited year. The rate is escalated by 3.15% for both years and would be adjusted next year when 2011 numbers are available, then applied in July 2013 or January 2014.

Mr. Sulik stated that 28% is quite an increase and inquired if CWD could be compensated in a way so the impact does not hit so hard at once. Executive Director Ciaccia advised that when discussions commenced in October their figure was \$8.63, which included a host of indirect costs. They argued the costs were legitimate and should be passed on to the District; however, staff pushed back because a contract is in place that specifically outlines what can be included in the billing fee. The adjusted figure at that point was \$6.31. District staff asked for information on that number and found labor costs that should not have been included, which brought it down to \$6.17.

BOARD OF TRUSTEES

Regular Meeting

June 7, 2012

Page 4 of 16

Executive Director Ciaccia explained that he wished to take the \$4.82 per bill, apply an escalation through the rate period and enter into a new agreement starting in 2017 with a new calculation -- which could mean a significant increase at that time. He advised that CWD rejected that and wanted to stay with the contract terms as-is.

Mr. Sulik questioned whether affiliate agencies are billed through consumption. F. Michael Bucci, Deputy Executive Director, advised that the question will be posed to the National Association of Clean Water Agencies (hereinafter "NACWA") regarding other agencies' billing methods. He indicated that consumption-based billing is probably the most common method but other large agencies may utilize another. Some smaller agencies use flat fees for residential billing.

Mr. Sulik was curious how other agencies conduct billing and mentioned that the subject surfaces from time to time. He stated that while consumption is probably the best method, he wondered whether there were other options. Executive Director Ciaccia explained that the economics depend on what the metering system is and whether there is a return on the investment through savings and operation costs. If savings are not realized it becomes potentially cost prohibitive and the District will have to look at other means for billing. The continuation of consumption-based billing requires meters or purchasing the readings.

Mr. Sulik questioned whether the rates would apply if monthly billing were to be established in the future. Deputy Executive Director Bucci advised that the only additional costs would be mailing the bills and call volume increasing, as the costs are primarily salary-driven.

Mr. Brown stated that in order to move to monthly billing an automated meter reading system must be available. Mr. Sulik stated he did not want a resident to pay \$72 per year in billing fees as opposed to \$24.

Executive Director Ciaccia advised that his biggest concern was *when* the costs would be allocated to the District. He indicated it is less of a problem if it is after 2016. CWD is scheduled to complete the project by the end of 2013. He stated that is an aggressive schedule and he was not sure whether it will be achieved. The costs were not anticipated in our rate study, and if the costs arrive in 2016 or earlier it is a problem for us.

Mr. Brown stated that is to be determined. The reason the costs are directly allocated to salaries is because automated meter reading replaces the meter reader and review processing. A transition is made from the cost of salaries to the cost of the system. A number of large agencies have gone through the process and the District would be well served to understand how others have approached the issue.

BOARD OF TRUSTEES

Regular Meeting

June 7, 2012

Page 5 of 16

Executive Director Ciaccia believed the District has a window of opportunity to establish a new billing agreement that is fair to both parties. The current billing agreement does not work anymore because it does not contemplate monthly or combined billing or how the costs are captured. He hoped to work out how to manage the next few years while both parties have rate schedules in place. The issue is cost allocation between organizations with common customers, and most will not be impacted.

Mr. Brown stated that the paradigm is shifting in terms of technology and the tools used. He agreed that there needs to be engagement, possibly jointly, on how to achieve that outcome.

Executive Director Ciaccia stated that he would keep the Board informed and staff continues to engage with Director Withers. Director Withers wants to have monthly meetings with the District. A draft billing agreement will be developed internally and transmitted to CWD to get the discussion underway.

There are a number of non-financial issues to address, including customer service and how billing adjustments are handled and access to the billing system for customer service representatives. Executive Director Ciaccia expressed a desire to complete it this year so there is a better understanding for 2013 through 2016 with regards to budget impacts and other issues that can be addressed from a customer service standpoint.

Mayor Bacci inquired if the District has always partnered with CWD. Executive Director Ciaccia responded in the affirmative and stated that if everything works correctly it is an efficient way to operate.

Mayor Bacci asked whether staff has ever looked into independently billing. Executive Director Ciaccia explained that independent billing has not been considered in a serious fashion.

Mayor Bacci questioned whether independent billing should be considered. Mr. Brown stated that the question is whether to duplicate a system and potentially pass additional costs onto the customers. A more efficient billing system may be attainable, but the cost will be borne by the ratepayer. He indicated there are models in effective ways of billing and the District ought to understand what is best in class for that application.

Mr. Brown stated that there are agencies in addition to NACWA that can be engaged regarding their billing systems and what is a best-in-class arrangement, particularly with similar types of agencies with common customer bases.

Executive Director Ciaccia advised that staff has done some level of due diligence to consider alternatives, but it is in everyone's best interest to work out an arrangement with

BOARD OF TRUSTEES

Regular Meeting

June 7, 2012

Page 6 of 16

CWD because of common customers. CWD would not be able to share costs with the District as a sister agency if there was a new billing agent. Those costs would be passed on to the customers in addition to incurring outside costs.

Executive Director Ciaccia stated that if the customer service was so bad one might be compelled to move to independent billing, but it is not at that point. He advised that staff would consider everything from a due diligence standpoint but the important thing is to work out the issues with CWD.

Moving to a new topic, Executive Director Ciaccia explained that there were discussions during previous Board meetings about community benefit agreements. He did not like the draft community benefits agreement he saw and would never recommend the District entertain such an agreement. However, he believes there is a community benefit program the District should try to adopt moving forward.

Staff is starting to think about community benefits and know they are more than employment; there are community benefits with green and gray infrastructure projects as well as Project Clean Lake.

Executive Director Ciaccia explained that the District's Business Opportunity Program is a community benefit. The District will implement a program over 25 years worth \$3 billion in construction. The program will span decades and the workforce will change. Staff will consider how to bring more diversity to the workforce and to not complicate the bidding process.

Executive Director Ciaccia advised that a meeting was held yesterday with high-ranking individuals from Walsh Construction and Kiewit, which are playing a big role in the Renewable Energy Facility, the tunnel dewatering pump station and the Euclid Creek Tunnel. He explained they were brought in because they work nationally and see other organizations' programs. They provided good ideas and staff will continue to think them through.

One such suggestion was engaging the unions. Executive Director Ciaccia advised that he subsequently had preliminary discussions with three union officials. He wanted to say that is on the radar and staff is endeavoring to fashion something unique to the District to measure with accomplishments. He indicated Board input would be helpful.

Executive Director Ciaccia congratulated Frank Greenland, Director of Watershed Programs, for winning the American Society of Civil Engineers of Cleveland's "Engineer of the Year" award. Kyle Dreyfuss-Wells previously won the NACWA President's Award. He stated that the District has an award-winning water management group and are proud of that.

V. Action Items

Authorization to Advertise

Resolution No. 117-12	Southerly Wastewater Treatment Center, Sludge Storage Tanks Dome, Paint and Miscellaneous Repair. Engineer's Opinion of Probable Construction Cost: \$660,000.00.
-----------------------	---

MOTION – Mr. O'Malley moved and Mayor Bacci seconded to adopt Resolution No. 117-12. After discussion and without objection, the motion carried unanimously.

Authorization to Issue Request for Proposals (RFPs)

Resolution No. 118-12	Southerly Wastewater Treatment Center Truck Scale Replacement TSR-2 Design- Build Contract.
-----------------------	---

Resolution No. 119-12	Professional Services in support of the District's Risk Management and Insurance Functions, Providing Insurance Broker Services, Risk Management Services and Third Party Administrator Services.
-----------------------	---

MOTION – Ms. Kelly moved and Mr. Sulik seconded to adopt Resolution Nos. 118-12 and 119-12. After discussion and without objection, the motion carried unanimously.

Mr. Brown asked for an overview regarding Resolution No. 119-12 and particular insight on how the process will work. He stated that the work is done over a number of years and a broker likely does research in the industry, makes a recommendation and negotiates a fair and equitable fee price.

Mr. Brown stated that it is good work but not simple or easily done. He also inquired regarding measuring performance. Executive Director Ciaccia explained that a resolution is on the agenda to award to some of those firms. He indicated a discussion could be held then or as an Information Item during the next meeting.

Mr. Brown preferred a presentation as an Information Item during the next meeting. Executive Director Ciaccia consented.

Authorization to Purchase

Resolution No. 120-12	Purchase from Xylem Dewatering d.b.a. Godwin Pumps of America Inc. (from the State Term Schedule), a Godwin Heidra Pump and Diesel Power Pack for the Sewer System Maintenance & Operation Department. Cost: Not-to-Exceed \$35,426.96.
-----------------------	---

MOTION – Mr. Sulik moved and Mr. O’Malley seconded to adopt Resolution No. 120-12. After discussion and without objection, the motion carried unanimously.

Authorization to Enter Into Agreement(s)

Resolution No. 121-12	Agreement with the Ohio Department of Natural Resources for a Small Scale Stormwater Demonstration Project Grant. Grant Award: \$150,000.00.
-----------------------	--

Resolution No. 122-12	Agreement with the Ohio Department of Health to Provide Water Quality Sampling and Analysis for their 2012 Beach Monitoring Program. Cost: \$12,896.00.
-----------------------	---

Resolution No. 123-12	Agreements with The Cleveland Foundation, LAND Studio, NPI and CUDC to Receive and Administer Grant Funding.
-----------------------	--

MOTION – Mr. O’Malley moved and Ms. Kelly seconded to adopt Resolution Nos. 121-12 through 123-12. After discussion and without objection, the motion carried unanimously.

Mr. Brown stated the agreement between The Cleveland Foundation and LAND Studio is a tool that could result from a community benefit agreement. He asked for further information. Executive Director Ciaccia advised that Kellie Rotunno, Director of Engineering & Construction, has been spearheading the issue and deferred to her.

Ms. Rotunno explained that the resolution is a culmination of dialogue from the initial green infrastructure project where staff actively engaged stakeholders, non-profits and the City of Cleveland. She advised that dialogue with The Cleveland Foundation yielded the idea that both green and gray infrastructure programs represent an opportunity to add

BOARD OF TRUSTEES

Regular Meeting

June 7, 2012

Page 9 of 16

community amenities.

Ms. Rotunno advised that the gray infrastructure program was a \$3 billion investment in the region and would be viewed differently from a development perspective if it were a Department of Transportation project. She advised that since it is a sewer-related project, it is not viewed that way. The Cleveland Foundation advocates viewing sewer projects from the perspective of how they can benefit the community, regardless of being green or gray. The Cleveland Foundation intends to bring funding to District projects to add community benefits and amenities that traditional infrastructure cannot leave behind.

Ms. Rotunno advised that a grant request will be before their Board on June 22, and if approved District staff will actively engage non-profits and The Cleveland Foundation on neighborhood-centric plans to understand what they envision. There will be a gap analysis to examine what would traditionally be left versus what a neighborhood might want. The Cleveland Foundation potentially provides or seeks funding from other foundations that think this approach is innovative.

Mr. Brown commended the concept and asked Ms. Rotunno to keep the Board up to date on outcomes. These are new tools that are very creative and have significant potential.

Authorization to Enter Into Contract

Resolution No. 124-12	Contract with Environmental Express for the Purchase of an Automated Solid Phase Extraction System for Oil and Grease Analysis. Cost: \$27,383.96.
Resolution No. 125-12	Contract with The Plain Dealer, Sun News and Cleveland.com as Part of the District's Public Outreach Campaign. Cost: Not-to-Exceed \$50,000.00.
Resolution No. 126-12	Contract with Clear Channel Radio as Part of the District's Public Outreach Campaign. Cost: Not-to-Exceed \$30,000.00.
Resolution No. 127-12	Contract with Konecranes, Inc. for Crane Inspection, Maintenance and Repair Services at All District Wastewater Treatment Plants and Pump Stations. Cost: \$118,141.00.

Resolution No. 128-12

Contract with Cleveland Freightliner for the Purchase of an Articulated Crane Truck for the Sewer System Maintenance and Operations Department. Cost: \$231,050.00.

Resolution No. 129-12

Contract with Wichert Insurance Services, Inc. for the District's Insurance Program. Cost: Not-to-Exceed \$831,240.00 from July 1, 2012 to June 30, 2013 with Allowance from July 1, 2012 to June 30, 2013.

MOTION – Mayor Bacci moved and Mr. O'Malley seconded to adopt Resolution Nos. 124-12 through 129-12. After discussion and without objection, the motion carried unanimously.

Authorization to Modify Policy

Resolution No. 130-12

Modification of the District's Insurance Reserve Policy.

MOTION – Mr. Sulik moved and Mayor Bacci seconded to adopt Resolution No. 130-12. After discussion and without objection, the motion carried unanimously.

Mr. Brown questioned what the resolution would modify. Executive Director Ciaccia explained it is a modification specifically to the insurance reserve policy, adding an internal oversight committee. He asked John Wasko, Risk & Internal Audit Manager, to explain.

Mr. Wasko noted Mr. Brown's previous request for a review of the overall risk and insurance policy and indicated one would be delivered during the next Board meeting.

Mr. Wasko advised that the insurance reserve was established in the late 1980s to provide a basis for the District to fund catastrophes that might befall the organization.

Under the previous insurance the plants were uncovered in regards to the issue of flooding. Staff is still working through that claim. He explained that program was set for catastrophic coverage. Instead of insuring for catastrophic coverage, staff wishes to adjust the reserve to self-insure items such as deductibles, Workers' Compensation payments or unforeseen circumstances of a lower dollar amount that are more manageable on an ongoing basis, as opposed to finding budgetary funds each year.

BOARD OF TRUSTEES

Regular Meeting

June 7, 2012

Page 11 of 16

Deputy Executive Director Bucci advised that the insurance reserve was utilized only once: when an explosion occurred at Southerly in 1990. The reserve has not been tapped and staff wants to use it on an ongoing basis to self-insure various items.

Ms. Kelly stated that the category of catastrophic is broad and questioned what type of crises would be self-insured. Deputy Executive Director Bucci advised that deductibles are currently \$100,000; in some cases it may be more sensible to raise the deductible to perhaps \$1 million, pay a lower premium and use the self-insured reserve if there is an insurable event. The \$1 million deductible would be paid rather than a premium.

Deputy Executive Director Bucci explained it is a risk management exercise. Staff wanted to establish that policy and evaluate events. He advised that those issues are not currently outlined and staff does not know what the savings would be. This action would provide flexibility with those items. He reiterated that the reserve is not being utilized and was only tapped in 1990 when an explosion resulted in \$4 or \$5 million of damage.

Ms. Kelly inquired whether staff is in the fact-finding stage of what will be self-insured. Deputy Executive Director Bucci advised that the District currently self-insures the collection system. There is a \$100,000 deductible on insurance of the plants. The Renewable Energy Facility (hereinafter "REF") under construction is over \$100 million. He explained that some would argue the \$100,000 deductible should be higher, resulting in a lower premium. This policy will provide the flexibility to self-insure or change the limits.

Mr. Wasko explained that it comes down to the use of cash. The reserve policy is currently only for extraordinary events such as a calamity; it is not available for use otherwise. He advised that in the market insurance at the upper limits for calamities can be purchased much more cheaply than the value of holding onto the cash. It is a matter of reallocating cash for systematic expenses and insuring against calamities as opposed to putting money into the fund.

Ms. Kelly questioned if the ultimate goal was to save money, which Mr. Wasko confirmed.

Authorization of Easement

Resolution No. 131-12

Acquire from the City of Cleveland, Two Permanent Easements Necessary for Construction of the East 55th Street Floatables Project. Consideration: \$1.00.

BOARD OF TRUSTEES

Regular Meeting

June 7, 2012

Page 12 of 16

Resolution No. 132-12

Permanent Acquisition, from Dawud Ali, dba People's Development LLC, of Five Parcels for the Dugway West Interceptor Relief Sewer Project. Consideration: \$210,000.00.

Resolution No. 133-12

Holdover Payment to CCC Realty II, LLC for a Temporary Easement Necessary for Construction of the Mill Creek Tunnel Project. Consideration: \$2,170.00.

MOTION – Mr. O'Malley moved and Mr. Sulik seconded to adopt Resolution Nos. 131-12 through 133-12. After discussion and without objection, the motion carried unanimously.

Mr. Sulik inquired whether the property being acquired will have a use after the project is completed. Ms. Rotunno was not certain whether the parcels had been examined explicitly; they are analyzed on a project-by-project basis, including Dugway West.

Mr. Sulik asked for further information regarding the property's purpose once the District's work is complete. Executive Director Ciaccia advised that the land will likely only be for purposes of accessing the shaft. Staff will determine whether the site can be utilized for a community benefits perspective.

Mr. Sulik wondered whether the District could do something with the property to benefit the community. Executive Director Ciaccia stated that is staff's hope.

In regards to Resolution No. 132-12, Ms. Kelly inquired whether an appraisal was done to determine the value of the parcels. Marlene Sundheimer, Director of Law, affirmed and advised that appraisals are always conducted prior to making an offer to the property owner based on the appraised value. Sometimes there are further negotiations and in this instance it was determined that \$210,000 was fair compensation.

Ms. Kelly questioned whether the figure was more or less than the appraisal. Ms. Sundheimer advised that it was more than the appraised value, but by less than 10%. Staff has a benchmark to negotiate within 10% of the appraisal, plus or minus. If negotiations reach higher than 10% of appraised value, staff would likely file an appropriation action.

Ms. Kelly questioned what happened to property purchased in the past after its useful life

BOARD OF TRUSTEES

Regular Meeting

June 7, 2012

Page 13 of 16

had expired. Ms. Rotunno stated that question fit in nicely with the prior discussion about community benefits. She explained that historically when the District acquires property, it is used for construction purposes and when finished, depending on need for future access, concrete pads, bollards and grass are the end result.

Ms. Rotunno advised that the question of whether the District could do something better from a community benefits perspective led to the request for grant funding from The Cleveland Foundation and the partnership with the City of Cleveland, community development groups and other non-profits. District staff hopes to engage various communities in which projects are performed and act as a good steward to leave infrastructure that maintains access while providing a benefit to the community.

Ms. Rotunno stated that this site would be a candidate due to the parcel's size where the District may be able to improve upon what has been done in the past.

Ms. Kelly inquired how much property the District has and what their current uses are. She stated that the mayors on the Board may be able to describe what their communities have done with similar properties and make suggestions to others that are unsure how to proceed. Executive Director Ciaccia stated that a presentation will be crafted to facilitate further discussion.

Mr. Brown stated that community benefits are a tremendous opportunity. Communities and community development groups are approaching entities and developers that are making impactful changes to their environment about what should and can be contributed – be it employment, education or environmental in terms of what is left behind.

More community groups are becoming engaged with entities that significantly impact them in terms of a tradeoff for the seriousness of an impact.

Authorization of Right of Entry

Resolution No. 134-12

Enter into a Right of Entry Agreement with North Cuyahoga Valley Corridor, Inc. for the Walworth Run Outfall Rehabilitation Project. Consideration: \$1.00.

MOTION – Mayor Bacci moved and Ms. Kelly seconded to adopt Resolution No. 134-12. After discussion and without objection, the motion carried unanimously.

Sewer Use Code Matters

Resolution No. 135-12

Adopting the Findings of the Hearing Examiner with Regard to the Sewer Account of Mrs. Lisa Naughton, Sewer Account No. 2082630000, Sewer District Case No. 12-005. Cost: Credit of \$51.55 and Refund of \$3,213.81.

MOTION – Mr. Sulik moved and Mayor Bacci seconded to adopt Resolution No. 135-12. After discussion and without objection, the motion carried unanimously.

Add-On Resolution

Resolution No. 91a-12

Determining to reject all bids received June 1, 2012, pursuant to Resolution No. 91-12, for the EMSC Laboratory Improvements project and authorizing the rebid of the EMSC Laboratory Improvements project. Engineer's Opinion of Probably Construction Cost: \$6,484,000.00.

MOTION – Mayor Bacci moved and Ms. Kelly seconded to adopt Resolution No. 91a-12. After discussion and without objection, the motion carried unanimously.

Executive Director Ciaccia advised that bids were recently received for EMSC laboratory improvements and this resolution would reject them and rebid. He explained that there were four bidders and there was a challenge to the low bid. There is enough merit to the challenge that staff recommends rejecting and rebidding.

Executive Director Ciaccia stated that the low bidder's MBE/WBE submission was not certified at the time of the bid and there were other issues relative to incorrect assertions made during a pre-bid meeting. The best course of action is to rebid.

The issue was added to today's agenda because it will allow staff to make modifications and re-bid immediately. Executive Director Ciaccia advised that laboratory staff is moving to a rental space and he wants to limit expenses. Staff is in a hurry to contract it.

VI. Information Items

There were no Information Items.

VII. Public Session (any subject matter)

No members of the public registered to speak during Public Session.

VIII. Open Session

There were no items for discussion.

IX. Executive Session

Mr. Brown stated that there were matters for discussion in Executive Session.

MOTION – Mayor Bacci moved to enter into Executive Session to confer with District attorneys on three matters: number one, the purpose of proposed settlement agreement in the KMM&K litigation; number two, Stormwater Management Program litigation status; number three, additional proposed changes to Title V Stormwater Management code. These matters are specific exemptions to discussion in open meeting under the Ohio open meeting laws. He specifically designated matters discussed in Executive Session to be protected from public disclosure in accordance with Ohio Revised Code section §1211.22(G)(3) and the attorney-client privilege. A roll call vote was taken and the motion carried unanimously to adjourn into Executive Session.

The Board met in Executive Session from 1:31 p.m. to 1:54 p.m.

X. Approval of Items From Executive Session

Resolution No. 72a-12

Authorizing the Executive Director to execute, on behalf of the District, A Settlement Agreement and Release reached in the matter of KMM&K, Joint Venture v. Northeast Ohio Regional Sewer District, Cuyahoga Common Pleas Court Case No. 07-CV-641132

MOTION – Mr. Sulik moved and Mayor Bacci seconded to adopt Resolution No. 72a-12. After discussion and without objection, the motion carried unanimously.

Resolution No. 136-12

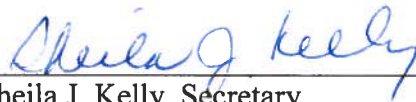
Authorizing the Release of proposed amendments to the Code of Regulations of the Northeast Ohio Regional Sewer District, Title V – Stormwater Management Code, to Member

Communities and other interested parties
for review and comment for a period of
thirty (30) days.

MOTION – Mr. O'Malley moved and Ms. Kelly seconded to adopt Resolution No. 136-12. After discussion and without objection, the motion carried unanimously.

XI. Adjournment

MOTION – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Ms. Kelly moved and Mayor Bacci seconded the motion to adjourn at 1:55 p.m. Without objection, the motion carried unanimously.



Sheila J. Kelly, Secretary
Board of Trustees
Northeast Ohio Regional Sewer District



Darnell Brown, President
Board of Trustees
Northeast Ohio Regional Sewer District