

MINUTES  
NORTHEAST OHIO REGIONAL SEWER DISTRICT  
BOARD OF TRUSTEES MEETING  
SEPTEMBER 20, 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  
J. Bacci  
T. DeGeeter  
S. Kelly  
W. O'Malley

ABSENT: G. Starr

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

II. Approval of Minutes

**MOTION** – Mr. O'Malley moved and Mr. Sulik seconded that the minutes of the September 6, 2012 Board meeting be approved. Without objection, the motion carried unanimously.

III. Public Session

Executive Director Ciaccia advised that Steve Bennett from Huntington Bank registered to address the Board during Public Session regarding Resolution No. 231-12 for comprehensive banking services. Mr. Brown invited Mr. Bennett to the podium and to address his comments to the Board.

Mr. Bennett advised that he is the Government Banking Director at Huntington and that he wanted to express his gratitude to the District for the recommendation of Huntington Bank to handle its banking needs. Mr. Bennett indicated that Huntington looks forward to providing the District its banking needs. Huntington promises a smooth transition. Mr. Bennett will continue to be the District's advocate at Huntington and will help the District become more efficient and save money.

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The Board thanked Mr. Bennett.

### IV. Executive Director's Report

Executive Director Ciaccia moved to the first report item regarding the District's finances. With 67.8% of the year completed, the revenues have exceeded the District's projections. It has been a dry summer which resulted in increased water consumption. Cash from receipts is 13% higher than last year. The City of Cleveland, Division of Water (hereinafter "CWD") is reporting a 99% collection rate. Executive Director Ciaccia stated that those are good indicators with respect to revenues especially since the District entered into an agreement with Summit County which resulted in a reduction of their rates. Executive Director Ciaccia anticipates the District meeting or exceeding the projected revenues through the remainder of 2012. Executive Director Ciaccia noted that the District's expenses are good at 58% allocation and that the District's overall finances are doing well.

Executive Director Ciaccia moved to the next report item and he indicated that he wanted to clarify information that was presented to the Board during the presentation made by CWD representatives. There was a discrepancy in the accounts receivables reported by the District and the amounts reported by the CWD, which appeared to be lower than the District's amounts. The CWD was able to clarify certain information in which the District reconciled its reporting issues. Executive Director Ciaccia explained that the discrepancies primarily resulted from a misunderstanding of some information provided in the new reporting format.

Executive Director Ciaccia wanted to clarify that the previously reported total of \$88 million accounts receivables does include both active and inactive accounts. The District currently has \$55 million active accounts receivables whereas inactive accounts receivables are \$33 million, bringing it to a combined total of \$88 million. Executive Director Ciaccia noted that of the \$33 million inactive accounts, \$23 million is for final bills and foreclosures of which \$12 million is for actual final bills.

Executive Director Ciaccia noted that the effective handling of final bills is a historical problem which he also encountered during his time with the CWD. The situation results from titles being transferred before a final meter reading and the CWD cannot collect on those accounts. Executive Director Ciaccia anticipates that this problem will dissipate once the new meter reading system is installed.

Executive Director Ciaccia noted that there is \$10 million in liens and bankruptcies.

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Executive Director Ciaccia suggested that the District consider writing off most of those inactive accounts and he advised that the Finance Department was charged with getting most of that debt written off since those accounts are deemed uncollectible.

Executive Director Ciaccia advised that of the \$55 million active accounts, more than half of those are over 180 days past due. Executive Director Ciaccia commented that much work is needed in order to address those accounts, but if the CWD can keep up their current 99% collection rate, then this will help lower the number of overdue accounts.

Executive Director Ciaccia summarized that the District is satisfied with the clarification and that this organization will continue working with the CWD in an effort to get those numbers down.

Executive Director Ciaccia advised that the CWD provided the District with its policy on adjustments since those made by the CWD affect the District's bill as well. In the contract between the District and CWD there are five different scenarios where adjustments can be made to District accounts without District approval. The District wants to ensure that there are no adjustments made outside of those five criteria.

Executive Director Ciaccia advised that the District continues working on the new billing agreement with the CWD. The District submitted a proposed agreement to the CWD. The CWD then submitted a counterproposal to the District's proposed agreement. Executive Director Ciaccia advised that an internal meeting is scheduled for Friday to discuss and prepare a counterproposal to CWD's counterproposal. Executive Director Ciaccia noted that he was hopeful the District and CWD will reach a consensus by the end of the year.

Executive Director Ciaccia moved to the next report item and he advised that the District will be audited by the Inspector General of the United State Environmental Protection Agency (hereinafter "US EPA"). They plan to audit the District's allocation of stimulus funds to ensure compliance with the requirements associated with those funds.

Executive Director Ciaccia moved to the next report item and he advised that the Internal Revenue Service (hereinafter "IRS") is conducting an audit of the District's 2007 bond issue. Executive Director Ciaccia suspected this to be a routine audit. The questions being asked by the IRS agent have been benign.

Executive Director Ciaccia moved to the final report item wherein he advised that the District surpassed its Charity Choice goal for this year. He congratulated District staff on doing a great job in raising funds and he anticipated extending the goal for next year.

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Executive Director Ciaccia noted that all union and non-union employees were very generous.

Mr. Brown congratulated Executive Director Ciaccia and District staff on surpassing its Charity Choice goal. He commented that "it is a meaningful cause and it places you shoulder to shoulder with so many other agencies and entities in the Greater Cleveland area that do a great job every year of really trying to help support the significant need that exists in our community. It is gratifying that the employees recognize that beyond their own personal circumstance and situation there are so many others that are very much in need and it helps support them."

V. Action Items

Authorization to Adopt Revisions to Bylaws

Resolution No. 228-12

Adopt revisions to the *Bylaws of the Board of Trustees of the Northeast Ohio Regional Sewer District* to conform with changes to Ohio Revised Code (ORC) §6119.10.

**MOTION** – After discussion, Mr. Sulik moved and Mayor DeGeeter seconded to adopt Resolution No. 228-12. Without objection, the motion carried unanimously.

Mr. Brown explained that the revisions to the Bylaws were based on a pending change to ORC §6119. The proposed Bylaws changes will adopt the revision reflective of raising the threshold for competitively bid contracts from its current position of \$25,000 to \$50,000. Mr. Brown noted that the law becomes effective September 28, 2012.

Mr. Brown advised that section 14 of the Bylaws will incorporate the change and that he recommends support for the proposed Bylaws change in order for the District to remain compliant with ORC §6119.

Authorization to Advertise

Resolution No. 229-12

One (1) year requirement contract for stand-by generator maintenance for all District facilities. Anticipated expenditure: \$315,400.00.

**MOTION** – Ms. Kelly moved and Mayor Bacci seconded to adopt Resolution No. 229-12. After discussion and without objection, the motion carried unanimously.

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Mr. Brown inquired about the District's maintenance protocol with respect to the stand-by generators and whether the District performs periodic startups to ensure generators will perform in the event of a power loss.

Interim Director of Operation and Maintenance, Raymond Weeden, replied that the District performs occasional, actual load tests where power is transferred into the plant from the generator to ensure they are performing as designed. This is completed monthly, quarterly and annually.

Authorization to Issue Request for Proposals (RFPs)

Resolution No. 230-12

RFPs for the Westerly Wastewater Treatment Plant Centrifuge Replacement project.

**MOTION** – Mr. O'Malley moved and Mayor DeGeeter seconded to adopt Resolution No. 230-12. Without objection, the motion carried unanimously.

Authorization to Enter Into Contract

Resolution No. 210-12

Three (3) year contracts with The Fedeli Group for broker services; Crain, Langner & Co. for risk management services; and Wichert Insurance for third party administrator services. Cost not-to-exceed \$458,346.00.

Resolution No. 231-12

Five (5) year contract with Huntington Bank for comprehensive banking services. Cost not-to-exceed \$180,000.00.

Resolution No. 232-12

Contract with Sigma Associates for General Automation Technical Services (GATS) at all Wastewater Treatment Plants and Collection Systems. Anticipated expenditure: \$750,000.00.

**MOTION** – Mr. Sulik moved and Mr. O'Malley seconded to adopt Resolution Nos. 210-12, 231-12 and 232-12. After discussion and without objection, the motion carried unanimously.

Mr. Brown commented that brokerage services and third party administrator services can limit the District's exposure particularly as it relates to accidents and claims. He

requested that the Board be provided with a report of its experience and the impacts of those services.

Mr. Brown thanked Mr. Bennett from Huntington Bank and he stated that the District looks forward to this engagement as well. Mr. Brown commented that the District's financial team does good work and needs support to ensure all financial transactions and business needs are being met.

Authorization of Contract Modification

Resolution No. 233-12

Modify Contract No. 9001961 with Mark Haynes Construction for the West Creek Watershed Restoration project. Cost: A non compensable time extension of 123 days.

**MOTION** – Ms. Kelly moved and Mayor Bacci seconded to adopt Resolution No. 233-12. Without objection, the motion carried unanimously.

Authorization of License Agreement

Resolution No. 234-12

License Agreement with the City of Cleveland necessary for reconstruction of CSO 092 associated with the Flats East Development project. Consideration: \$0.00.

**MOTION** – Mayor Bacci moved and Mayor DeGeeter seconded to adopt Resolution No. 234-12. After discussion and without objection, the motion carried unanimously.

Mr. Brown requested an explanation on Resolution No. 234-12.

Executive Director Ciaccia explained that there is an outfall at this location that requires routine maintenance and construction. The District is seeking an easement from the City of Cleveland in order to accomplish this initiative. In the interim, Resolution No. 234-12 is requesting authorization for a licensing agreement that is required until such time that the City of Cleveland passes the easement through its legislative process.

Mr. Brown inquired if this is the initial step until the City of Cleveland obtains approval through its City Council. Executive Director Ciaccia affirmed and stated that it also provides for the continuation of the Flats East Bank construction.

VI. Information Items

1. Program Management Status and Update – August 2012.

Director of Engineering and Construction, Kellie Rotunno, advised that Project Clean Lake (hereinafter “PCL”) is at \$258 million.

The Nine Mile Creek site is busy with activity involving the Euclid Creek Tunnel (hereinafter “ECT”) and Easterly Tunnel Dewatering Pump Station (hereinafter “ETDPS”) construction projects.

The Tunnel Boring Machine (hereinafter “TBM”) has been launched. There were some problems during the initial startup phase involving the grouting system, which had to be troubleshoot. The contractor needed to ensure the grouting of the rings would be structurally sound going forward, which resulted in a very rigorous QA/QC (quality assurance/quality control) program. Ms. Rotunno explained that each ring is being tested prior to moving forward and the contractor responded favorably. The field and construction management teams did an excellent job managing this initiative. Ms. Rotunno noted that there will not be a claim arising from this issue and this is a process whereby the District and contractors continue to learn about the grouting system as well as the complexities of the TBM.

Ms. Rotunno advised that excavation at the other shafts is proceeding according to plan and that the micro tunneling to support the Lakeshore Boulevard project is going well. The District is coordinating and working closely with the City’s Lakeshore Boulevard resurfacing contractor.

Ms. Rotunno advised that both shafts continue to be excavated for the ETDPS project and that the lateral excavation into the cavern has begun. Ms. Rotunno noted that this is a newer process for the District and that the District is working closely with the contractor to monitor and ensure that construction is going according to plan.

Ms. Rotunno advised that construction of the Renewable Energy Facility (hereinafter “REF”) is substantially complete and that much startup activity and commissioning is taking place. For instance, the District is working on completing instrumentation control, compressed air system, centrifuge to feed pump #2, and loop checks on the non potable water and backwash strainers. Site restoration activities of the stormwater control measures are being put in place in order to make this a LEAD certified facility. Ms. Rotunno advised that the District anticipates meeting its anticipated startup date for the REF.

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Ms. Rotunno moved discussion to the Key Performance Indicators (hereinafter “KPIs”) and she advised that the District experienced a delay in the award of few projects, but does anticipate several projects being awarded in October.

Ms. Rotunno advised that the District reached its aggregate with respect to the engineers’ estimate of probable construction cost. The variance is 0.8% on the average of bids. Ms. Rotunno noted that the District is pleased with the accuracy of the engineers’ estimates and that the District is doing much better on that KPI.

Ms. Rotunno moved discussion to the KPI for the delivery of the Capital Improvement Program (hereinafter “CIP”) being on schedule and within budget. The District is delivering its cash flow at 88.3%; its KPI is 85%. Ms. Rotunno attributed the lag in cash flow to some professional services firms not invoicing on a monthly basis for the services rendered as well as some construction activity such as the TBM not advancing as anticipated.

Mr. Brown inquired if monthly billing is a term or condition within the contract.

Ms. Rotunno advised that the District does not require professional services firms to bill monthly and in some instances firms may go two or three months before issuing an invoice. Ms. Rotunno stated that project managers are becoming more diligent with respect to inquiring about the invoicing on their projects.

Mr. Brown was concerned that a several month lag between the issuance of invoices after work is completed could place the District in a position where it is more inclined to challenge services performed against the amounts billed for on the invoice.

Ms. Rotunno replied that all consultants are required to submit a baseline design schedule and their progress is monitored by the District. Additionally, the District holds meetings, tracks progress and reviews deliverables on a monthly basis. Therefore, the work is progressing but the percent billed is not parallel with the percent complete. Those are business decisions in the contracting community which is out of the District’s control. Ms. Rotunno advised that those issues can certainly be discussed as a provision moving forward in order to keep our cash flow on target.

Ms. Rotunno moved discussion to the KPI for the delivery of the construction program at 95%. The cumulative amount is at 88.5% of the contracted value.

Ms. Rotunno moved to the KPI for the SBE, WBE and MBE participation goals. The District strives to reach more than 20% participation on projects. To date projects have closed with an aggregate of 22% participation.



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Ms. Rotunno referred to a slide and advised that the District's goals were depicted in blue and completion participation was shown in green. In most cases, the green bars were higher the blue bars, which indicates that the District exceeded its targets. From a cash flow perspective, payments made to the sub-consultants in the District's Business Opportunity Program are tracking well.

Ms. Rotunno concluded her report with a quote by Aristotle, "We are what we repeatedly do. Excellence then is not an act but a habit."

Mr. Brown referred to the Business Opportunity Program participation goals. He agreed that that the District is doing well on the cumulative; however, he noted that a couple of projects lagged behind. Mr. Brown specifically referred to the Easterly Aeration Tank project and he inquired about the reasoning for the contractor being significantly below the participation target.

Ms. Rotunno was certain that she provided the Board with the reason at the time of project closeout; however, she did not have that information readily available today. Ms. Rotunno assured Mr. Brown that she will provide the requested information at the next Board meeting.

### VII. Open Session (any subject matter)

Mr. Brown announced that the October 4, 2012 Board meeting will be cancelled due to several Board members and senior staff members being scheduled to attend the WEFTEC 2012 conference. The Board will meet on October 18, 2012, which will be in compliance with the Bylaws' requirement to meet at least once a month.

Executive Director Ciaccia noted that the staff anticipated a very light agenda for the October 4<sup>th</sup> meeting and it would be appropriate to hold those agenda items until the October 18<sup>th</sup> meeting.

### VIII. Public Session

No members from the public registered to speak at Public Session.

### IX. Executive Session

Mr. Brown stated that there was an item for discussion in Executive Session.

**MOTION** – Mayor Bacci moved to enter into Executive Session to discuss pending litigation regarding the EEOC charge brought by John G. McMillan against the District and to retain the firm of Weston Hurd LLP to represent the District in this matter. Mayor

Bacci stated that discussion of these matters in Executive Session are permitted as specific exceptions to the Public Meetings Act pursuant to Ohio Revised Code §121.22(G)(3) and he specifically designated all matters discussed in Executive Session to be protected from public disclosure in accordance with Ohio Revised Code §121.22(G), and 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 1:01 p.m. to 1:18 p.m.

X. Approval of Item from Executive Session

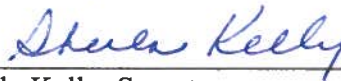
Resolution No. 235-12

Authorization to retain Weston Hurd LLP as special counsel for legal support of Equal Employment Opportunity Commission Charge No. 532-2012-02144 in the matter of John G. McMillan.

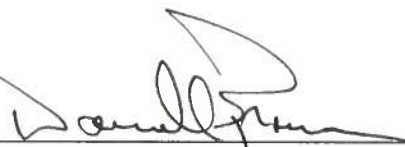
**MOTION** – Mr. Sulik moved and Mayor DeGeeter seconded to add and adopt Resolution No. 235-12. Without objection, the motion carried unanimously.

XI. Adjournment

**MOTION** – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Ms. Kelly moved to adjourn at 1:19 p.m. Without objection, the motion carried unanimously.



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



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