

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
OCTOBER 18, 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
G. Starr

ABSENT: T. DeGeeter

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

II. Approval of Minutes

MOTION – Mr. O'Malley moved and Mayor Bacci seconded that the minutes of the September 20, 2012, Board Meeting be approved. Without objection, the motion carried unanimously.

III. Public Session

Executive Director Ciaccia informed the Board that no one has signed up for a specific agenda topic, but one individual has signed up for a non-agenda topic.

IV. Executive Director's Report

Executive Director Ciaccia informed the Board that the first topic of his report was the Stormwater Management Program (hereinafter "SMP").

Litigation is ongoing in the appellate court. The suburban communities in opposition – which no longer includes Summit County -- filed a brief and a motion for injunction to stop the District from beginning to charge the fee in January. In response the District filed a brief in opposition

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late last week. He indicated that staff will wait to see whether the court of appeals will decide through the briefs or a hearing.

Executive Director Ciaccia asked Frank Greenland, Director of Watershed Programs, to provide a brief update on recent community meetings.

Mr. Greenland advised that some time had passed since there had been a comprehensive scan of the communities and met with them one on one. The fourth set of meetings was recently conducted in Middleburg Heights and Cuyahoga Heights and more are being scheduled. The purpose of the meetings is to discuss the progression of the SMP, what has happened because of litigation and community cost share. District staff particularly hopes to gain insight with community-specific problems with flooding or erosion.

Mr. Greenland stated that the meetings were the best to date and yielded ample information regarding various community issues. The efforts will continue and all of the meetings generate information that either helps from an operation and maintenance standpoint or the selection of process and data for master planning that will begin upon the program's inception.

Executive Director Ciaccia stated that the meetings help define the mutual maintenance responsibilities in the communities and how it may be structured. He advised that a good meeting was held with the Greater Cleveland Metroparks regarding the same subject.

Moving to the subject of customer communications, Executive Director Ciaccia asked Constance Haqq, Director of Administration & External Affairs, to brief the Board.

Ms. Haqq stated that staff has followed the outline she shared during the previous Board Meeting. To date 2,600 letters have been sent to large commercial entities informing them what their bills will be in January and how it was calculated.

Five meetings for those customers will be held to discuss the program. She explained that the Watershed Programs Department does an intensive presentation and have the TIS system so a business owner may pull up their property and see exactly how the bill is calculated. The first meeting was held on October 16 with nearly 40 people in attendance. Additional meetings are scheduled at 8:00 a.m. on October 23 and 24 and two meetings on November 7 at 2:00 p.m. and 6:00 p.m. The meetings are at the EMSC facility.

Ms. Haqq advised that letters will be sent to all 350,000 District customers beginning the week of November 5 containing the same information. The mailing will be staggered and the final group will likely receive the letter in early December. The purpose of the letters is to correct any problems with service before the program begins.

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Customer service staff is being trained twice per week so they will be ready to respond to SMP questions and concerns. Ms. Haqq advised that District staff is supporting the training effort at the Cleveland Water Department (hereinafter "CWD") on December 4 and December 7.

Ms. Haqq explained that staff sent to all member community mayors and city managers the Government Affairs Bulletin which apprised them of the SMP. She further elaborated that staff wanted municipalities to be prepared for calls from residents. TV and radio advertisements will raise awareness of the issues of stormwater, how the District is addressing those issues and the fee commencing in January.

Executive Director Ciaccia stated that the objective is to be as communicative as possible so the customers fully understand what is coming and why it is being done. Another aspect is workload management. Building awareness of the SMP before it commences will decrease the phone calls that may come later. He anticipates a heavy volume of calls once the first bills are issued.

Ms. Kelly inquired whether the District Web site contains frequently asked questions (hereinafter "FAQs") that might assist in reducing calls. Ms. Haqq affirmed and advised that the SMP site was updated with FAQs. Staff is utilizing social media to communicate customers in any way they choose. Additionally, a 24-hour answering service will be established.

Mayor Starr questioned how many calls are anticipated. Executive Director Ciaccia explained that he did not have an estimate but he anticipates much more than normal. Additional customer service representatives have been hired who were previously contracted with CWD when they implemented their new billing system.

Executive Director Ciaccia advised that Ms. Haqq and her team have trained other staff members that are not customer service representatives, who would be able to field SMP calls if necessary so the phone system can be directed to everyone. He thinks a good plan is in place and if staff becomes overwhelmed further actions will be taken.

Mr. Brown stated that he was aware of the big challenges, particularly the potential effect of the credits process for those with large properties and the costs associated with mitigating the impacts of stormwater. Mr. Greenland advised that in the large customer meetings three things are discussed in addition to an overview of the SMP: discussion of how the fees are generated, the impervious calculation and credits. Many questions revolved around credits and staff will be made available to help parcel owners understand the opportunities for their properties.

Executive Director Ciaccia advised that the District is creating business opportunities as well. Mr. Greenland stated that engineering firms are actively marketing property owners on how to get credits.

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Mr. Brown stated that we're probably going to update the maps that show where the impacts of stormwater, erosion, etc., exists so we have a current state, and of what our costs are going to be as we begin to do projects with passage of time. With passage of time, things don't get better, they get worse. Mr. Greenland explained that with the community discussions, what we're trying to do is understand -- we put the problems maps in front of them and asked are these still problems, have you taken care of them, or we are adding new problems. After we get through the community meetings we'll be back in front of the Board.

Moving to the next item of his report, Executive Director Ciaccia stated that he previously stated to the Board that the District directly bills about 150 accounts in addition to its agreements with CWD, Cleveland Heights and Berea. There are plans to directly bill more accounts -- 28 in Bedford and Lakewood and another 900 that are served by Rural Lorain Water in Columbia Township.

Executive Director Ciaccia made clear that the reason these accounts will be directly billed is not because of what CWD charges but there are process reasons that make it a better arrangement for both the District and customers. Columbia Township basically requested it. None of their customers are served by CWD; they are served by Rural Lorain Water who transmits the meter readings to the District for billing purposes.

The second aspect is the current process requires handoffs to CWD, the billing agent. Staff intends to begin in December and have been in talks with CWD. The accounts in question are a very small share of more than 300,000 accounts.

Executive Director Ciaccia stated that these customers will be better served through direct billing from both a billing and customer service standpoint. He reiterated that they are not served by CWD as a water agency. He also wanted to make clear the action had nothing to do with the billing rate; it is a better process.

Moving to the next subject of the report, Executive Director Ciaccia apprised the Board that the District had been approached by the Cuyahoga County Sheriff regarding if land was available that could be utilized for a shooting range. The facility would assist them in training their officers and other officers across the county.

Executive Director Ciaccia advised that some land, which is currently of no use to the District, was identified at Southerly that could be available. It is located in Cuyahoga Heights and Mayor Bacci is aware of it. He asked Jim Davidson, Manager of Safety & Security, to provide an overview of the discussions.

Mr. Davidson stated that staff met with the Cuyahoga County Sheriff's Department, during which an overture was made indicating they were looking to develop a regional training facility

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for a host of law enforcement agencies, including the FBI, DEA, ATF and Cuyahoga County police departments.

Mr. Davidson advised that a section of property was identified and the proposed site would be a 100-yard firing range with three distinct firing areas: shotgun, one for pistol, one for rifle.

The range would be bermed areas and the Ohio Department of Transportation (hereinafter "ODOT") has given the green light regarding the location adjacent to the highway. The environmental staff determined that the facility would not encroach on wetland area.

Mr. Davidson stated that a regional facility for law enforcement is much-needed and the arrival is eagerly anticipated if permission to move forward is provided.

Executive Director Ciaccia stated that he did not want to bring a resolution to the Board cold and staff's intention is to develop an agreement on which all parties could agree because indemnifications and other considerations are desired. He hopes to present an agreement by the next meeting.

Executive Director stated that this partnership would meet one of the District's goals. He was satisfied that it would be safe; the facility will be excavated in a way to assure safety, and the highway is much higher than the location of the range.

Mr. Brown inquired whether this would be an enclosed facility. Mr. Davidson advised that it would be an open facility with a perimeter of 8- to 12-foot berms. The backstop would be the NRA-recommended height of 20 feet and a 40-foot backdrop for ammunition.

Mr. Brown stated that the proximity of the highway stood out and public perception is always an issue. He inquired whether there may be any future use for the land. Mr. Davidson advised that the land is presently utilized for dumping excavated materials. In regards to the adjacent highway, he informed the Board that the firing line would be at the end of the area. The land would be graded down so the elevation would be higher at parking lot level. That range would be elevated and all the material would be excavated downward at a slope. The embankment between the highway and the area in question without excavating is between 20 to 30 feet below grade.

Executive Director Ciaccia clarified that given the use proposed in the agreement, the land would revert back to the District if necessary in the future if the District's needs changed. That parking lot next to the site is a little-used construction lot, which also makes it attractive for this use. Mr. Brown stated that it says if things go as designed there should be no issue, but there are always things that happen and he was concerned about that.

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Mr. Brown was concerned that the discussions are with the County. He opined that they are likely to have available parcels somewhere as a result of their work with the County Land Bank. He wondered why they would have to approach another entity for this purpose.

Mayor Starr inquired whether there was a model or example of somewhere this has been done in Northeast Ohio or in the state. Mr. Davidson indicated there are a number of outdoor ranges throughout the country. Mr. Brown questioned whether there was one near a freeway. Executive Director Ciaccia stated that Cleveland has one near Interstate 71 off of Ridge Road. Mr. Davidson clarified that the Cleveland outdoor range is adjacent to the West 65th Street exit ramp off of I-71.

Mayor Starr advised that the Metroparks had an outdoor range that many communities used. Middleburg Heights has indoor and outdoor ranges.

Mr. Davidson explained that one of the reasons the outdoor range is a necessity is because the training tactics at an outdoor facility are much different than indoor. Motorized vehicles and other operational uses may be utilized, including the distance for long rifle.

Mayor Starr inquired whether Mayor Bacci had an opinion on the subject. Mayor Bacci explained that with his law enforcement background that this is an excellent potential facility because of the difference between indoor and outdoor ranges.

Mayor Bacci continued, that having a range in a secured facility, such as the District's property, is great because there is very little if any chance of anyone coming around the range when in use. The secure location would also prevent people from attempting to use it without permission.

As it relates to using a piece of property the District may need in the future, the infrastructure or the capital outlay in this area would be minimal at best, and if it was needed to revert it back to use in the future it could be done in a timely fashion.

Mayor Starr inquired if Mayor Bacci's comments were positive. Mayor Bacci confirmed. Mayor Starr stated that he would keep an open mind and it would be a form of regionalism. Many communities do not have firing ranges and if they could collaborate with the federal and maybe state and county governments, it may be a positive outcome.

Mayor Starr stated to Mr. Davidson you have over 30 years experience as a commander so I trust you've spent a considerable amount of time studying this as well. Mr. Davidson affirmed. Mayor Starr stated he would like to explore the idea and his first impression was positive.

Ms. Kelly questioned the value of the property and whether District staff has in the past entertained the possibility of disposing of it. Executive Director Ciaccia advised that he did not know the value of the property and staff has not considered disposing of it. It is landlocked and

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from a secure standpoint would not want to dispose of it. There has been no consideration to do so during his tenure. Given the value of the property it would not be fruitful. To the right of the roadway is an employee lot that we would not want to cut off.

Executive Director Ciaccia advised that there is excess property not being utilized. There is room for District operations to continue to build an enhanced treatment facility as part of Project Clean Lake. Staff has no intention of building on the site in question and hydraulically he does not think it would work. There is no identifiable need for the property from an operational standpoint.

Ms. Kelly inquired what the motivation would be to allow the property to be used for this purpose. Executive Director Ciaccia explained that it is regional cooperation and a community benefit utilizing available space. The site is secure and regional partnership is a main strategic goal. Additionally, the District's security team will have access to the training facility free of charge.

Mr. Sulik inquired whether the County would pay for the construction of the fire range, which Executive Director Ciaccia affirmed.

Mr. Sulik questioned whether the District would receive rent revenue from the property. Executive Director Ciaccia advised that at this point a significant rent is not being contemplated.

Mr. Sulik inquired if improvements to that parking area and road would be necessary. Mr. Davidson explained that the lot has recently been renovated due to the number of construction personnel working on site and is in relatively good condition. The lot will still be utilized for contractor parking and there will be a maintenance program. However, upkeep and maintenance of the facility would fall upon the Sheriff's Department.

Mr. Brown expressed concern about access to the facility since it is through District property. In the aftermath of 9/11 all facilities went through a significant vulnerability assessment. Mr. Davidson advised that there is single access to the area. There are two gates -- the main entrance off Canal Road and a secondary gate that blocks the entrance to the contractor parking lot. The facility will be enclosed with a chain-linked fence with all the DHS-approved recommendations for site security.

Executive Director Ciaccia stated that the road to the parking lot comes off of Canal Road and is separate from the plant. A security officer is at the entrance to the plant from the parking lot as well. Mr. Davidson advised that a manned security trailer is located by the construction area with video cameras.

Returning to the value of the property, Ms. Kelly noted a previous statement that it is landlocked and not of much value to the District, but it does have value because someone wants it. She

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inquired if the District would have to pay to get it back, if ever necessary. Executive Director Ciaccia explained that the District would not have to pay to get the property back because a lease only is under discussion that will include a reversion clause.

Executive Director Ciaccia indicated he wanted to elicit questions because he had plenty of questions when discussions began. He hopes to address them with the County and expects them to attend to the Board Meeting if a resolution is presented.

Executive Director Ciaccia moved to the subject of finances. He advised that through the third quarter revenues have increased by 79.9%, which is ahead of the budget. Expenses are 66.1% and well below what had been budgeted. Staff anticipates finishing the year in a good budgetary position.

Closing his report, Executive Director Ciaccia stated that within the last hour and 15 minutes staff had received a complaint filed in U.S. Court that will be discussed in detail during Executive Session.

V. Action Items

Authorization to Advertise

Resolution No. 236-12	Gravity Thickening Improvements Project (SFP-36-1). Engineer's Opinion of Probable Construction Cost: \$8,100,000.00.
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Resolution No. 237-12	Sewer Capacity Restoration and Repair Project. Engineer's Opinion of Probable Construction Cost: \$712,000.00.
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Resolution No. 238-12	Sodium Hydroxide Solution for Use at All Wastewater Treatment Plants. Anticipated Expenditure: \$67,000.00.
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MOTION – Mayor Bacci moved and Mr. Sulik seconded to adopt Resolution Nos. 236-12 through 238-12. After discussion and without objection, the motion carried unanimously.

Regarding Resolution No. 237-12, Mr. Brown inquired where repair is necessary. He stated that something is on Jennings Road and questioned the impact on the system. Kellie Rotunno, Director of Engineering & Construction, explained that the Jennings Road situation occurred when crews were performing routine maintenance and sewer cleaning and discovered a non-typical odor in the sewer. They tested it and determined the presence of vinyl chloride. Internal

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crews could not complete their work and Engineering & Construction sought to hire a qualified contractor to clean and remove the grit from that area.

Mr. Brown stated that \$712,000 sounds like a lot of material. He questioned whether the situation has created any restrictions that could have resulted in the flooding in the Jennings Road area over the last 6 months to year. Ms. Rotunno advised that this particular cleaning is a routine cleaning of the grit from the sewer and she did not think it was obstructing the flow of sewage through the pipe.

Mr. Greenland stated that the sewer is transporting flow today. There is a restriction in capacity that needs to be alleviated, but the flows are being received at the Jennings Road pump station from the sewer.

Authorization to Issue Request for Proposals (RFPs)

Resolution No. 239-12

RFPs for Stack Testing Services for the
Westerly Wastewater Treatment Plant.

MOTION – Ms. Kelly moved and Mr. O'Malley seconded to adopt Resolution No. 239-12. After discussion and without objection, the motion carried unanimously.

Authorization to Enter Into Agreements

Resolution No. 240-12

Agreements for Round Two of 2012
Small-Scale Stormwater Demonstration
Projects. Cost: \$154,147.45.

Resolution No. 241-12

Protective Lease Agreement on Cuyahoga
County Auditor's Permanent Parcel No.
109-21-087, Owned by Herman and
Barbara Tellis, which is Necessary for
Construction of the Dugway West
Interceptor Relief Sewer Project.
Consideration: \$1,200.00 per Month.

MOTION – Mayor Starr moved and Mayor Bacci seconded to adopt Resolution Nos. 240-12 and 241-12. After discussion and without objection, the motion carried unanimously.

Regarding Resolution No. 241-12, Ms. Kelly questioned how long the lease was. Marlene Sundheimer, Director of Law, advised that the lease will be in effect until the project begins. She further explained the reason for a protective lease is to ensure the owner of the property does not rent the property to tenants, which enables the District to take possession of the building or

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have access to the property for construction without having to pay for relocation services.

Ms. Kelly inquired whether it is an open lease. Ms. Sundheimer affirmed and stated that it is connected to the Dugway West Interceptor Relief Sewer project and construction would likely begin in 2013. Ms. Rotunno indicated the lease is for 10 months.

Authorization to Enter Into Contract

Resolution No. 242-12	Third Year of Three-Year Contract with Consumers Life Insurance Company for Short-Term Disability and Group Life/AD&D Insurance. 2013 Projected Cost: \$655,000.00.
Resolution No. 243-12	Renew Contract with Kaiser Permanente for 2013 Medical Insurance Coverage. 2013 Projected Cost: Not-to-Exceed \$1,000,000.00.
Resolution No. 244-12	Renew Contract with Medical Mutual of Ohio for 2013 Medical Insurance Coverage. 2013 Projected Cost: Not-to-Exceed \$6,500,000.00.
Resolution No. 245-12	Contract with Brown and Caldwell for the Southerly First Stage Settling Improvements Project. Contract Amount: \$6,859,630.00.
Resolution No. 246-12	Contract with Industrial Energy Systems, Inc. for the Roof Renovations Project (RRN-6). Contract Amount: \$956,495.00.
Resolution No. 247-12	Design-Build Contract with Kanawha Scales & Systems for the Southerly Truck Scale Replacement Project. Estimated Project Cost: \$150,000.00.

Resolution No. 248-12	Design-Build Contract with Kokosing Construction Co., Inc. for the Southerly Second Stage Return Sludge Pump Station Improvements Project (SFP-26-1). Estimated Project Cost: \$4,600,000.00.
Resolution No. 249-12	Contract with Environmental Systems Research Institute, Inc. for Geographical Information System Technical Consulting. Cost: Not-to-Exceed \$66,268.00.
Resolution No. 250-12	Contract with Oracle America, Inc. for 2013 Annual Software Maintenance and Support Agreement for the Oracle Work and Asset Management System. Cost: \$75,060.68.
Resolution No. 251-12	One-Year Requirement Contract with Ashbrook Simon-Hartley for Centrifuge and Rotodiff Refurbishment. Cost: \$58,170.00.
Resolution No. 252-12	Requirement Contract with BissNuss, Inc. for the Purchase of Two Induction Mixers for Use at the Westerly Wastewater Treatment Plant. Cost: \$58,310.00.
Resolution No. 253-12	Contract with Rexel USA for Annual Technical Support and PLC Programming Software. Cost: \$58,370.10.
Resolution No. 254-12	One-Year Snow Plowing Contracts with Robin's Nest Landscape for the Administration Building and Eastside Outlying Facilities; and Dazzle Lawn Care, Inc. for the Environmental and Maintenance Services Center and Westside Outlying Facilities. Cost: \$16,682.06 and \$20,791.68, respectively.

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MOTION – Mayor Bacci moved and Mr. O’Malley seconded to adopt Resolution Nos. 242-12 through 254-12.

After discussion, Resolution No. 245-12 was held.

Mayor Bacci and Mr. O’Malley rescinded their motions.

MOTION – Mayor Bacci moved and Mr. O’Malley seconded to adopt Resolution Nos. 242-12 through 244-12 and 246-12 through 254-12. After discussion and without objection, the motion carried unanimously.

Ms. Kelly noted low MBE, WBE and SBE participation on Resolution No. 245-12. The contract is for nearly \$7 million and combined participation is only 7%. Ms. Rotunno advised that the engineers worked with the office of contract compliance on registered MBE and WBE firms to perform the type of work necessary. Staff decided that a combined goal of 20% including SBE firms would be set. The details of how that was determined would be in the project files and was done in the same manner as all design contracts.

Ms. Rotunno advised that something on the project was perceived to not have sufficient MBE/WBE registration to cover a meaningful subcontracting goal and was extended to SBEs to meet a 20% subcontracting goal. Ms. Kelly inquired what kind of work makes it unusual. Ms. Rotunno stated that she did not know the details but the contract was to modify existing facilities. She indicated staff would provide an answer as to why the choice was made to go with a combined subcontracting goal on this project.

Ms. Kelly questioned whether that means Resource International falls under each category of SBE, WBE and MBE. Ms. Rotunno affirmed.

Mr. Brown stated that the contract is almost \$7 million over a 67-month period. There is preliminary design for about \$4 million and a lot of money for construction administration. He stated that unless there is something special about the disciplines he had the same question as Ms. Kelly. Ms. Rotunno stated that staff would provide an explanation. Construction administration and resident engineering assistance are standard on design contracts and contracts typically go to the firm that did the design work for technical questions during construction. District staff handles most on-site inspections and is not an opportunity to subcontract.

Mr. Brown asked to hold Resolution No. 245 and move the others forward. Executive Director Ciaccia also suggested holding the resolution.

Authorization to Rescind Resolution and Enter Into Contract

Resolution No. 93-12a	Rescind Resolution 93-12 with Reserve Solutions, Inc. to Provide Ferric Chloride Solution for Use at All Wastewater Treatment Plants and Enter Into One-Year Requirement Contract with Kemira Water Solutions, Inc. to Provide Ferric Chloride Solution for Use at All Wastewater Treatment Plants. Cost: \$249,760.00.
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MOTION – Mr. Sulik moved and Mayor Bacci seconded to adopt Resolution No. 93-12a. After discussion and without objection, the motion carried unanimously.

Authorization to Rescind Resolution and Enter Into Contract

Resolution No. 255-12	Modify Contract No. 3600 with AECOM Technical Services, Inc. to Provide Additional Analytical Testing. Cost: An Increase in the Amount of \$2,020.00 Bringing the Total Contract Price to \$30,020.00.
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Resolution No. 256-12	Modify Contract No. 11001687 with Marous Brothers Construction Company, Inc. for the Southerly Spiral Screw Pump Replacement Project. Cost: A Non-Compensable Schedule Extension of 123 Calendar Days.
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Resolution No. 257-12	Modify Contract No. 11002290 with Nerone & Sons, Inc. for the Rehabilitation of Automated Regulators Project. Cost: A Non-Compensable Schedule
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Resolution No. 258-12	Final Adjustment of Contract No. 11003526 with RCR Services, Inc. for the Southerly Boiler No. 2 Rehabilitation Project. Cost: A Decrease in the Amount of \$110,963.55 Bringing the Total Contract Price to \$540,802.15 and a Non-Compensable Schedule Extension of 18
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Calendar Days.

MOTION – Mr. Sulik moved and Mayor Bacci seconded to adopt Resolution Nos. 255-12 through 258-12. After discussion and without objection, the motion carried unanimously.

Ms. Kelly inquired regarding MBE, WBE and SBE participation on Resolution No. 258-12. Ms. Rotunno advised that the contract was awarded by the Board with no MBE/WBE/SBE goals and was completed without participation because of the highly specialized nature of the boiler modifications. This particular boiler vendor performed work previously at Southerly and did an exceptional job. They are not a registered SBE but are local.

Ms. Kelly questioned what kind of work is being performed. Ms. Rotunno explained that it is rehabilitation of the boiler and involves very heavy mechanical and plumbing work.

Executive Director Ciaccia explained that there were no subcontracting opportunities with this particular job. The contract was not very large, awarded some time ago and is now closing.

Mr. Brown stated that a discussion was held when the contract was originally awarded because that issue was flagged. The explanation that was there were no subcontracting opportunities. Ms. Kelly did not recall this particular contract but stated her overall point is to stress serious outreach. The opportunity program was intended to be a model. She acknowledged that considerable outreach had been done but asked if it was still in the outreach phase. Executive Director Ciaccia affirmed that outreach continues and staff is always looking for new contractors.

Executive Director Ciaccia explained that a problem identified in the disparity study is that there is not a great deal of minority firms that perform the type of work the District needs. There are a fair number of small businesses that do. However, in this particular case there were no true subcontracting opportunities for even SBEs.

Executive Director Ciaccia stated that staff is looking for opportunities for local, minority and female businesses, but the disparity study was revealing for the region. As to availability to perform District work, there were a few more female businesses than minority, which is why they were put together as a group goal. He noted that staff recently met with a new firm and certified it.

Ms. Kelly spoke of a perception that the District was not open to expanding opportunities. She stated that staff should be aware of it because there could be firms that do not come forward. Executive Director Ciaccia stated that the perception is within the ability to be addressed and that is what is done through the outreach program.

Executive Director Ciaccia explained that the other perception issue is that other agencies' work

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is more variable than the District's. A municipality does "a little bit of everything" while the District's work is more narrowly defined.

Other entities set higher participation goals that make the District's look small. However, some entities are not as diligent in identifying real opportunities and instead set broad goals that are met through pass-throughs. He stated that is a perception the District has to deal with because their achievements look better. He stated that Ms. Kelly's point was well taken and must be addressed. Staff is currently dealing with a company it believes is a pass-through.

Executive Director Ciaccia stated that staff will continue to make the program a model that is inclusive and practical to not limit competition because the cost is important to customers.

Authorization to Pay Dues

Resolution No. 259-12

Renew the District's Membership with the National Association of Clean Water Agencies for the Year 2012-2013. Cost: \$39,100.00.

Resolution No. 260-12

Renew the District's Annual Subscription with the Water Environment Research Foundation. Cost: \$86,032.38.

MOTION – Mr. O'Malley moved and Mayor Bacci seconded to adopt Resolution Nos. 259-12 and 260-12. After discussion and without objection, the motion carried unanimously.

Authorization of Appropriation

Resolution No. 261-12

Appropriate One Temporary Easement (ECT-17T) Across Cuyahoga County Auditor's Permanent Parcel No. 113-01-003, Owned by AE Portfolio LLC, which is Necessary for Construction of the Euclid Creek Tunnel; and Provide for the Consideration, Determined by the Fair Market Value, to be Deposited with the Cuyahoga County Probate Court. Consideration: \$17,300.00.

MOTION – Mayor Bacci moved and Ms. Kelly seconded to adopt Resolution No. 261-12. After discussion and without objection, the motion carried unanimously.

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Sewer Use Code Matters

Resolution No. 262-12

Authorization to Amend Title I of the *Code of Regulations* to Allow the Executive Director to Establish Competitive Treatment Charges for Septic Tank Waste.

MOTION – Mayor Bacci moved and Mr. Sulik seconded to adopt Resolution No. 262-12. After discussion and without objection, the motion carried unanimously.

Mr. Brown stated that the rates were adjusted to cover operating costs and costs associated with any rate increase thereof. He asked for an explanation to justify cutting costs by more than 50% and the urgency to waive the 30-day stipulation.

Executive Director Ciaccia explained that the District accepts, treats and disposes of septage and grease from private haulers at the Southerly plant. A fee is charged for that service and it was increased along with other fees and rates the District charges. He indicated the fee is not what he would consider the true cost of treating the material. The cost of treatment at Southerly is less than one cent per gallon.

The District is charging 9.1 cents per gallon for the material haulers bring in. Staff was contacted earlier this year by a new private company that operates the Quasar facility in the Collinwood area. A meeting was held with the gentleman that runs the facility on another matter. He wanted to purchase grease from the District. However, Executive Director Ciaccia explained that the grease and septage are needed because the REF will begin operations soon and is a source for generating energy.

Staff was unwilling to part with any material because the economics of the REF are not yet known. During the course of the discussion the operator raised the issue of the District's fee and that it should be higher.

Subsequently, it was discovered that the private operator is charging a tenth of a cent less than the District. Bedford Heights is charging five cents. Executive Director Ciaccia explained that it has become a competitive situation and the District is losing customers.

In 2011 the District took in \$470,000 worth of septage and grease; total revenue is \$180 million. This year revenue from the material is around \$300,000. Executive Director Ciaccia stated that he would not take the issue so seriously but the economics of the REF are unknown. He wants to keep customers and bring in the materials; it is a raw product that is needed and why a competitive rate has been proposed.

Executive Director Ciaccia advised that the Quasar operator was unhappy with the District's

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proposed fee reduction, but Bedford Heights is setting the price for the market. Executive Director Ciaccia explained that staff needs to examine the costs associated with managing the material and the economics of the REF and decide whether to stay in the business. He proposed staying in at lower our price at this time. There is a very small financial risk to doing so because it is a small part of revenues.

Executive Director Ciaccia advised that a 30-day notification to communities is not mandated by the court order; it is in the District bylaws. Staff wants to be competitive tomorrow as opposed to 30 days and it would not an issue to any community other than for Bedford Heights. It would not affect member communities and notifying them is a perfunctory matter. In this case there is no need.

Mr. Brown understood the explanation and it is not a huge revenue stream. If revenues were \$400,000 last year and the charge is being reduced by more than 50% it will be less this year. He stated that the question is the state of the market now and in the future.

Mr. Brown stated that he had no dispute moving the item but questioned the request to waive the 30-day bylaw when it did not seem like a vital issue. Executive Director Ciaccia stated that it was not “a life or death situation” but when faced with a competitive situation the organization must adjust more quickly.

Executive Director Ciaccia stated that the amount of revenue is small and the reduction the cost is good for haulers and communities. He further said the reduction would encourage haulers to not illegally discharge grease and perhaps create a better market for proper disposal because costs are not as much of a factor. That is a side benefit that reduces costs and the communities’ costs of dealing with it in the system.

Mr. Brown accepted the explanation but stated there is not a lot of science behind it. It is a business decision.

Mayor Starr inquired whether most of the haulers come from Cuyahoga County. How many counties? Executive Director Ciaccia advised that it is received from all over. Mayor Starr advised that there are 300 septic tanks in Middleburg Heights, of which 75% are failing. He was waiting for the EPA or the County Board of Health to issue an order to go to sanitary sewers. In the future this is going to become less of an issue depending on EPA and Board of Health actions. Executive Director Ciaccia affirmed and stated that septage would certainly be reduced but grease would probably not.

Mr. Brown asked Executive Director Ciaccia and his staff to do due diligence so economics can be understood and what could be derived as a result of this venture. Executive Director Ciaccia advised that staff will are come back with that information. Mr. Brown stated that could have been done within 30 days but he would leave it alone.

Authorization to Release Manual

Resolution No. 263-12

Release Revised Stormwater Fee Credit
Policy Manual for Member Community
Review and Comment.

MOTION – Mr. O'Malley moved and Mr. Sulik seconded to adopt Resolution No. 263-12. After discussion and without objection, the motion carried unanimously.

VI. Information Items

1. Program Management Status and Update – September 2012.

Ms. Rotunno's report began with Project Clean Lake. The tunnel boring machine is operating and assembling segments.

Shaft excavation continues at Nottingham Road and East 185th Street. Within the next two weeks construction on shaft three will begin in the vicinity of Beulah Park and that will probably increase communication from the councilman and residents.

Ms. Rotunno advised that micro tunneling is going according to plan along Lakeshore Boulevard. The tunnel dewatering pump station is being constructed on the Nine Mile site adjacent to the tunnel. Work has been suspended due to issues with the shotcrete adherence to the rock as it has been exposed. In the interest of safety the contractor ceased operations and is investigating along with the engineer.

The REF is going according to plan. Wires are being pulled and network servers and instrumentation is being worked on. The facility is due to become operational in spring 2013.

In terms of Key Performance Indicators (hereinafter "KPI") and delivery of the Capital Improvement Program (hereinafter "CIP"), Ms. Rotunno advised that currently about 80% of planned capital projects have been awarded. The goal of 95% is anticipated to be achieved by the end of the year. The delta between the two figures represents about \$15 million in project deferrals that were pushed to the future or have not yet been awarded. About \$6 million can be assigned to underbids for construction. There is a placeholder for general engineering services for construction projects that have not manifested.

Staff expects to achieve the KPI by the end of the year and plan to award a Dugway storage tunnel design project.

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Ms. Rotunno stated that the engineer's estimates are well within the KPI at 0.8% over the average of the bids. The CIP is being delivered in accordance with the schedule and budget. The precise figures are at 92% and a goal of 85% of cash flow. She stated that staff is doing well keeping expenditures very close to the financial plan.

Ms. Rotunno advised that all four projects that closed in September did so within the 95% KPI goal. Another project that is scheduled to close in the next few days is also expected to do so within KPI. The year-to-date average is 88.3% of contract value. Relevant to earlier discussion regarding the Business Opportunity Program, she advised that the Westerly Combined Sewer Overflow facility rehabilitation had a 10% participation goal and closed at 13.5%; the Dugway East interceptor relief sewer had a goal of 20% and closed at 30.6%; the Southwest District interceptor sewer agreement had a goal of 10% and closed at 23%; and the 9-mile electrical substation had a goal of 15% and closed at 60%.

Ms. Rotunno explained that goals are set on a project-specific basis with the confidence they will be met or exceeded as they are executed. Staff makes certain the subcontracting goals are reasonable and achievable given the registry of subcontractors in the Business Opportunity Program.

Ms. Rotunno stated that the Business Opportunity Program statistics represent all payments to the MBE, WBE and SBE firms. More than \$30 million has been awarded so far in 2012 to such partners. She indicated that staff learned from problems last year and is doing better this year.

VII. Public Session (any subject matter)

Executive Director Ciaccia advised that Louise Foresman, from Beulah Park, has signed up to speak about communications on the Euclid Creek Tunnel.

Louise Foresman stated that she has been attending Board Meetings for a couple of months to get a sense of what they are about. Work on the third shaft of the Euclid Creek Tunnel is due to begin soon and her house is literally 50 feet from the epicenter of the shaft. She indicated she has many concerns around the project.

She was pleased that the District values communication on a macro level by raising awareness of the SMP. On a micro level, she stated that communication in her neighborhood began well. In 2010 she attended all of the meetings with the District.

Ms. Foresman also stated she was the vice president of the neighborhood association.

Ms. Foresman stated that communication a committee met with the District and had a contact, Mr. Gabriel. The neighborhood association was nervous about the project and made a "field trip" to the Mill Creek Tunnel and spoke with residents of the area neighbors regarding what it

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like to live with the project. She indicated they recommended having a consistent point of contact from the District.

Ms. Foresman stated that communication has fallen off and there have been no meetings with the District since March. The project is scheduled to begin November 1. She stated that a neighbor in Villa Beach received an e-mail about the project from Mr. Gabriel, even though it was on the long-term timeline.

Ms. Foresman stated that the residents did not know when the project would begin. She became aware through the e-mail that the fence will go up on November 1. A waterline replacement was planned to be completed before the project. She indicated residents were notified by the subcontractor of the project in August but it did not commence until October.

Residents did not receive information about what would happen and for a couple of weeks the street was blocked, garbage was not being picked up, there was gravel across driveways and peoples' cars were in danger. They did not know what to expect.

Ms. Foresman stated that her neighborhood is "not a bunch of wimps or a bunch of troublemakers;" they live on the lake and support the project and want to have a good relationship. She requested one point of contact and not several subcontractors. She stated that Mr. Gabriel was supposed to be the contact. "If he is the person, we need to hear from him."

Ms. Foresman stated that residents of her neighborhood are nervous about the project and want to know what to expect. At this point she rated the District's service a "D." She indicated the information was and things were going in the right direction, but she felt shaky about it.

Mr. Brown thanked Ms. Foresman for her comments. He stated that the appropriate people were present to hear the message and he guaranteed she would receive a response and get to a level of comfort with communications.

Executive Director Ciaccia encouraged Ms. Foresman to stay when the meeting concluded to address the issue.

Ms. Haqq stated that a discussion was held in the communications meeting about the residents of Beulah Park and their issues. Staff hears their concerns about a single point of contact. She indicated a resident letter would be sent on Monday and a newsletter would be mailed subsequently. She hoped that would solve some of the issues that have been raised. Staff has heard their concerns and is attempting to address them.

VIII. Open Session

There were no matters for Open Session.

IX. Executive Session

Mr. Brown stated that there was a matter for discussion in Executive Session.

MOTION – Mayor Bacci moved to enter into Executive Session to confer with the District's attorneys regarding litigation in the case of *United States of America, ex rel, Relator v. NEORS*. 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 2:00 p.m. to 2:15 p.m.

X. Adjournment

MOTION – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mr. O'Malley moved and Mayor Bacci seconded the motion to adjourn at 2:16 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