

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
SEPTEMBER 6, 2018

A Regular 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
T. DeGeeter
J. Bacci
J. Ciaccia
S. Dumas
R. Stefanik

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

II. Approval of Minutes

MOTION – Mayor Bacci moved and Mr. Ciaccia seconded to approve the minutes of the August 16, 2018, Board Meeting. Without objection, the motion carried unanimously.

III. Public Session

There were no items.

IV. Chief Executive Officer's Report

CEO Dreyfuss-Wells began her report by mentioning a handout titled, "Today's Visit," which was provided to U.S. EPA Regional Administrator Cathy Stepp, Ohio EPA Director Craig Butler and their staffs for their August 22 tour.

District staff took them through the consent decree modification request and made visits to Southerly, Easterly and the Dorchester neighborhood on Cleveland's east side. The tour was intended to give them an understanding of the consent decree modification and the depth and breadth of the work the District does.

The EPA representatives came away with an understanding of the historic investment Northeast Ohio has made in clean water and District staff looks forward to future discussions about the consent decree modification on September 21 when the EPA returns.

Moving to the next subject, CEO Dreyfuss-Wells stated that she wanted to follow up on two topics about which the Board inquired during previous meetings.

The first topic was regarding the economic development impact of the Business Opportunity Program (“BOP”).

Tiffany Jordan, Contract Compliance Manager, advised that she examined BOP statistics from 2013 through 2017. During that time the amount spent on construction was \$781 million, of which 71 projects had BOP goals attached to them.

Major construction projects during this period included the Dugway Storage Tunnel Project at \$153 million, the Doan Valley Storage Tunnel Project at \$142 million, the East 140th Street Construction and Consolidation Relief Sewer at \$69 million and the Southerly First Stage Settling Project at \$41 million.

Goals are set on a project-by-project basis and each project has an estimate for the scope of work, subcontracting opportunities and availability of firms. All the firms certified in the program are specialty trades.

Ms. Jordan stated that there were 480 smaller contracts. 304 of the contracts went to WBE firms and 176 went to minority-owned firms. Although the WBE firm number is higher, the total for MBE/WBE firms and SBE is \$175 million. MBE firms were \$65 million, WBEs were \$61 million and SBEs were \$49 million.

Ms. Jordan noted an example trucking and hauling MBE firm which had a 45% BOP economic impact from 2013 through 2017 and a construction photo WBE firm with a business impact of 46%. The latter firm started with around \$46,000 and grew to \$216,000.

The District has assisted contractors through outreach events in which they meet with firms to get their opinions about the BOP and how to improve it. Contractors have been invited to the District’s annual Open House for more information on how to do business with the District.

Moving to the second topic, CEO Dreyfuss-Wells stated that Janet Popielski, Stormwater Program Manager, would address questions about Key Performance Indicators (KPIs) for the Regional Stormwater Management Program.

Ms. Popielski stated that staff has been developing KPIs for the Regional Stormwater Management Program (“RSMP”) and used Engineering & Construction’s KPIs as a guideline.

The first KPI is to deliver 85% of the planned 2018 Stormwater design and construction cash flow and meet BOP goals.

Another KPI is to complete the validation and prioritization of proposed projects in a timely fashion to support the following year's budget process, and to complete the Cuyahoga River South Stormwater Master Plan by the end of the year.

The first design KPI is to complete designs within 90 days on average of planned. The average of all bids is intended to be within 10% of the engineer's estimate and construction contracts should be awarded within 90 days of average planned.

Ms. Popielski stated that the KPI for substantial completion is within 120 days of the original contract date for substantial completion. Another KPI is on average to close contracts within 95% of the original contract amount.

Although the KPIs have not yet been adopted, the department is tracking the data already.

Ms. Popielski advised that cash flow is currently at 81%. BOP participation is under the KPI but only two projects have closed out. As more projects close out, this number will adjust accordingly. The District is meeting all planning and design KPIs. Staff has met the first construction KPI this year and the second is expected to be met when more projects close out.

Moving to the next subject, CEO Dreyfuss-Wells stated that the Ohio Water Environment Association and the Ohio section of the American Waterworks Association held their One Water Conference last week. The District had 11 employees that led or participated in 12 presentations on a variety of topics. Southerly Unit Process Manager, Christen Wood, was honored with the 2018 Professional Wastewater Operations Award for Contributing Practical Application, Professionalism and Dedication.

Easterly was awarded the National Water Environment Federation Burke Award for Safety for 2017, which recognizes the high quality of the safety program at Easterly. This was the second time Easterly has won that award.

The District's Operations Challenge Team also competed in a test of professional skill. The Operations Challenge is sponsored by the Water Environment Federation and focuses on safety, operations, maintenance and analysis. The team won first place and will represent the District at WEFTEC this year.

John Gonzalez was honored with the award of Best Presentation at a Regional Conference.

V. Action Items

Authorization to Re-Bid

Resolution No. 302-18

Authorize the District to reject bids and re-bid the Spring Creek Culvert Rehabilitation Project with an updated engineer's opinion of probable construction cost of \$822,300.00.

MOTION – Mayor Stefanik moved and Mr. Ciaccia seconded to adopt Resolution No. 302-18. Without objection, the motion carried unanimously.

Authorization to Issue Request for Proposals (RFP)

Resolution No. 303-18

Authorization to issue an RFP, in accordance with Ohio Revised Code Chapter 6119, for the Data Warehouse Collections, Payment Plans and Meter Data Enhancement Project.

MOTION – Mayor Bacci moved and Ms. Dumas seconded to adopt Resolution No. 303-18. After the following discussion, without objection, the motion carried unanimously.

Mr. Brown requested an elaboration in terms of how this helps the certification process in the context of getting the certification and understanding steps in the process to give people an opportunity to engage in payment plans. Kenneth J. Duplay, Chief Financial Officer, explained that the business purpose of this action is to streamline the internal process for identifying candidates for certification. The current process is very manual. Staff wants to only certify customers who are not paying.

District staff reaches out to customers on this list to give them the opportunity to get on a payment plan before they get to the certification step. Staff does not intend to enhance the scope of who is certified; they want to make it a more efficient process to get to the correct list, giving the customers as many chances as they can before getting to that.

Authorization to Enter into Agreement

Resolution No. 304-18

Authorization to enter into Sponsorship Agreements with Cleveland Metroparks to sponsor its Bonnie Parks Restoration Project at \$1,880,240 and Wetlands Protection in the Chagrin River Watershed Project at \$4,150,000, and with the Geauga Park District for its Beaver Creek Restoration project at \$842,840, all under the Ohio Environmental Protection Agency's Water Resource Restoration Sponsor Program (WRRSP) and at no cost to the District.

Resolution No. 305-18

Authorization to enter into a grant agreement with Cuyahoga Soil and Water Conservation District (CSWCD) contributing \$300,550.00 toward the CSWCD's West Branch of Euclid Creek, Cleveland Clinic Lyndhurst Campus Stream Restoration Project.

Resolution No. 306-18

Authorization to enter into a grant agreement with the West Creek Conservancy contributing

\$175,252.00 toward the WCC's Mill Creek Stream and Floodplain Restoration Phase 1 Project.

MOTION – Mr. Ciaccia moved and Mr. Sulik seconded to adopt Resolution Nos. 304-18 through 306-18. After the following discussion, without objection, the motion carried unanimously.

Referencing Resolution No. 304-18, Paul Kovalcik, Stormwater Projects Specialist, advised that the District takes out large loans through the State Water Pollution Control Loan Fund Program to fund many capital projects. Through that program the District has the opportunity to be a sponsor for companion environmental projects that involve preservation and restoration of lands throughout Ohio. This is all under the Water Resource Restoration Sponsorship Program (WRRSP) of the Ohio EPA. Staff has selected projects primarily in Northeast Ohio, placing priority on projects within and near the service area.

As a sponsor, the District receives a nominal reduction in its loan interest rate -- thereby saving ratepayers and getting additional ecological preservation and environmental restoration at no additional cost to Northeast Ohio.

The Beavercreek Restoration Project is in the watershed that includes the only native brook trout stream in Ohio. It connects other lands that have already been preserved either under WRRSP or other preservation means.

The other drains to the District's service area in the Chagrin River watershed. Metroparks biologists have indicated that it has the highest quality wetlands they have ever seen in their park district, preserving 75 acres -- 25 of which are high-quality wetlands.

Mr. Kovalcik stated that the Bonnie Park Restoration is nestled in the edge of the service area and is a dam removal project on the East Branch of the Rocky River. In 2012 a cyanide spill in that part of the Rocky River resulted in a large fish kill. The fish community has recovered downstream of the dam and meets water quality standards. Removing this dam will allow the fish to move upstream and hopefully will result in attainment of water quality standards.

Authorization to Enter into Contract

Resolution No. 307-18

Authorization to enter into a twenty-four-month requirement contract with Great Lakes Petroleum Company for Fuel Management Services at all District facilities in an amount not-to-exceed \$702,520.12.

Resolution No. 308-18

Authorization to enter into a construction contract with Mark Haynes Construction, Inc. for the Bonny Banks Dredging Project in an amount not-to-exceed \$634,479.00.

support of the District's Capital Improvement Program and Regional Stormwater Management Program with an elimination of the contract term constraint, thereby extending the contracts until previously authorized funds are exhausted.

Resolution No. 316-18

Modify Contract No. 17003031 with DiGioia Suburban Excavating, LLC for the Union/Buckeye Green Infrastructure Project with a time extension of 300 days with no change in the contract price.

Resolution No. 317-18

Modify Contract No. 17004239 with Independence Excavating, Inc. for the Woodland Central Green Infrastructure Project with an increase in the contract amount of \$2,100,000.00, thereby bringing the total contract amount to \$11,416,300.00.

MOTION – Mr. Sulik moved and Mayor Stefanik seconded to adopt Resolution Nos. 313-18 through 317-18. After the following discussion, without objection, the motion carried unanimously.

Mr. Brown requested an explanation regarding Resolution No. 316-18. Devona Marshall, Director of Engineering & Construction, advised that the requested action under Resolution No. 316-18 is one of the nine Green Infrastructure projects being implemented under the Consent Decree for combined sewer overflow (CSO) control. Staff is requesting an extension to the overall schedule but no change in price. The initial attempt at planting within two of the Green Infrastructure basins was unsuccessful and the basins need to be reseeded this Fall. This action requires extension of the contract into next year to ensure germination and meet the 12-week provisional acceptance period during which time the contractor will be responsible to ensure the plantings are sustainable.

Mr. Brown inquired what happened and how is staff certain the issue will not recur. Ms. Marshall stated that staff is working with experts from the design consultant and Watershed Programs Department to make sure the soil was improved.

Mr. Brown requested an explanation regarding Resolution No. 317-18. Jim Jones, District Construction Manager, gave a presentation on the project and advised that the resolution is to modify the construction contract for the Woodland Central Green Infrastructure Project, which is one of nine Green Infrastructure projects.

The majority of the additional cost relates to differing site conditions due to environmental cleanup at the site of the ravine water. The west basin was the former stream ravine which subsequently filled.

Robin Halperin, Manager of Regulatory Compliance, explained that in the early 1900s Kingsbury Run ran through the ravine in a residential neighborhood and by the 1950s and '60s there was more

industrial and commercial development. The area soon became a scrapyards that began an illegal dumping operation that continued for many years. This site was raided by the Environmental Crimes Task Force in 2014 due to the illegal dumping activity.

The District was aware of the existing conditions, which consisted of trailers, scrap tires, demolition debris, solid waste and industrial waste. Staff conducted extensive environmental assessments at this property and the ravine is much smaller because it had been filled in for years. This information was incorporated into the design and cost estimates. The locations of the basin were moved to avoid less desirable materials into an area thought to be relatively clean.

The District made a commitment to the neighborhood and this project which is part of the Green Infrastructure program for the consent decree. Some costs were offset by securing \$600,000 in grants from the U.S. EPA for brownfields cleanup.

Mr. Jones advised that during the Kingsbury Run Culvert Repair Project, to the west in the ravine, it was discovered that the migration pathway for groundwater and the diurnal flow in that stream to enter into that culvert was cut off, which created an impoundment of water.

The contractor dewatered the ravine into the local collection system and PCBs were found. While the ravine was being filled the source of the PCBs was found. Crews pushed the bottom sediment completely to the west end of the basin. Staff is working diligently the U.S. and Ohio EPA to find ways of capping it and leaving it in place.

Mr. Jones stated that staff does not know how it got there but they know the District is not the generator. The USEPA is doing a good job working to find ways to mitigate this and minimize cost because it will be expensive to remove this material.

Mr. Jones stated that staff anticipated 1,500 cubic yards of solid waste but ran into 10,000 cubic yards. The District and Ohio EPA are going to look at decorative mounds and features. Staff estimated that they would find 100 tires but the count is up to 6,000. The prior property owner, per the criminal findings against them, was to clean the site. However, they just buried the tires, which is being managed at an additional cost to the District. It will not be possible to repurpose most of the debris on site.

Mr. Jones stated that this project is a benefit to the neighborhood, which adds an aesthetic and will become a gathering place.

Mr. Brown questioned whether there will be detention or retention on this project. Mr. Jones explained that there will not be a retention basin; it will hold water temporarily, then release into the system. Staff is putting in a landfill liner to prevent legacy contamination mitigation.

Mr. Brown recommended that District staff work with the Environmental Task Force folks because cameras in and around that area would be a benefit both to the project and the City of Cleveland.

Mr. Ciaccia commended staff stated that green infrastructure is not an easy solution to CSO control

in an old urban setting.

Mr. Brown inquired whether there is an opportunity to recoup any costs in terms of recourse against property owners since they did not do things required by court proceedings. Mr. Luckage, Chief Legal Officer, advised that this is an unfolding scenario and staff will determine whether there is a realistic opportunity for recourse from the prior owner.

CEO Dreyfuss-Wells explained that the District is in this area because there is underground infrastructure related to the Kingsbury Run sewer; the infrastructure and topography led them to these locations. This Woodland Central location is a good place for green infrastructure, allowing for the control of stormwater out of the combined system. District staff knew that the property was raided several years ago for past environmental crimes, but they underestimated the extent of the contamination and the number of tires.

Mayor Bacci stated that the District is paying for the sins of an area that was not managed properly and wanted to know if there may be any recourse. CEO Dreyfuss-Wells agreed that one should not be able to leave a site in this condition and pass it on to future generations. The District has pursued the grants from EPA but there is fairly limited funding. The U.S. EPA's Superfund program is underfunded and understaffed. Staff will look for recourse.

Mayor Bacci stated that needs to be the story. The District tells constituents that they not only fix things related to wastewater, but also things related to environmental.

Mr. Brown noted that Resolution No. 314-18 came in significantly under the engineer's estimate.

Sewer Use Code Matters

Resolution No. 318-18

Authorization to adopt the findings of the Hearing Officer with regard to the sewer account of Mr. Joe Vitu, Sewer District Case No. 18-016, that the customer's request be denied.

MOTION – Ms. Dumas moved and Mr. Sulik seconded to adopt Resolution No. 318-18. Without objection, the motion carried unanimously.

Authorization to Grant Credit

Resolution No. 319-18

Authorize the District to issue a credit adjustment of previously billed stormwater fees in the amount of \$82,451.50 against NEORSD Account #7668369123 for Laurel Lake Retirement Community, Inc. at 200 Laurel Lake Drive, Hudson, OH 44236.

Resolution No. 320-18

Authorize the District to issue a credit adjustment in the amount of \$62,905.44 against outstanding sewer charges on NEORS Account #8034890000 for Eaton Bay Investment, LLC at 2130 W. 110th Street, Cleveland, OH 44102-3510.

MOTION – Mayor Stefanik moved and Mr. Sulik seconded to adopt Resolution Nos. 319-18 through 320-18. Without objection, the motion carried unanimously.

Property-Related Transaction

Resolution No. 321-18

Authorize the District to acquire one permanent easement, two permanent subterranean easements, and four temporary easements located at 10450 Superior Avenue in the City of Cleveland, on portions of PPNs 107-23-002, 107-23-003, 107-23-004, and 107-23-005, owned by Cleveland Business League Development, necessary for the construction of the Doan Valley Relief & Consolidation Sewer Project with a total consideration of \$175,000.00.

Resolution No. 322-18

Authorize the District to acquire one permanent upland easement, located on East Park Drive in the City of Cleveland, on a portion of PPN 114-01-012, owned by the East Shore Park Club Company, necessary for the construction of the CSO 208 Repair Project with a consideration of \$1.00.

Resolution No. 323-18

Authorize payment of the relocation benefit associated with the District's permanent acquisition of PPN 127-17-120, owned by Donald and Annie Nelson, located at 9863 Kingsbury Blvd. in the City of Cleveland, necessary for the construction of the Kingsbury Run Preliminary Engineering Project with a consideration of \$7,945.00.

Resolution No. 324-18

Authorize the District to acquire one parcel in fee simple, located at 18324 Euclid Avenue in the City of Cleveland, known as PPN 117-29-001, owned by CL Prime, LLC, necessary for the construction of the London Road Relief Sewer Project with a consideration of \$115,000.00

Resolution No. 325-18

Authorize the District to appropriate one permanent subterranean easement located at 2885 Detroit Avenue in the City of Cleveland, located on a portion of PPN 003-27-094, owned by MeToo, LLC, necessary for the construction of the Westerly Storage Tunnel project with a consideration of \$4,500.00.

Resolution No. 326-18

Authorize the District to acquire one permanent subterranean easement located at 1532 W. 25th St. in the City of Cleveland, on a portion PPN 003-28-016, owned by The Cleveland Clinic Foundation, dba Lutheran Hospital, necessary for the construction of the Westerly Storage Tunnel Project with a consideration of \$17,450.00.

Resolution No. 327-18

Authorize the District to acquire two parcels in fee simple located at 9175 Avery Road in the City of Broadview Heights, and known as PPNs 583-14-002 and 583-14-015, owned by Nelida R. Enrique, necessary for carrying out the District purposes of protection and improvement of stream flow, function and operation, elimination of erosion threats, and to facilitate stream bank stabilization along the Regional Stormwater System, with a total consideration of \$460,000.00 plus closing costs not-to-exceed \$6,500.00.

Resolution No. 328-18

Authorize the District to acquire one temporary easement located at 7722 East Linden Lane, in the City of Parma, known as part of PPN 457-17-012, owned by Judith L. Snow, necessary for the construction of the Baldwin Creek Bank Stabilization Project with a consideration of \$300.00.

MOTION – Mayor Bacci moved and Mr. Ciaccia seconded to adopt Resolution Nos. 321-18 through 328-18. Without objection, the motion carried unanimously.

Ratification of Issuance of Joint Request for Proposals

Resolution No. 329-18

Authorization to ratify the issuance of a Request for Proposals for energy procurement consultant for possible cooperative electricity and natural gas

purchasing program of City of Cleveland,
Cleveland Metropolitan School District and the
Northeast Ohio Regional Sewer District.

MOTION – Mr. Sulik moved and Mayor Stefanik seconded to adopt Resolution No. 329-18. After the following discussion, without objection, the motion carried unanimously.

Mr. Ciaccia questioned whether the District's contribution would be Southerly and perhaps a couple of substations in terms of electricity. He further questioned whether this includes the facilities under contract with Cleveland Public Power. Mr. Luckage affirmed and further stated that this action is just the RFP for the consultant to try to coordinate the three entities, understanding that they have different contracts for different facilities ending at different times. The consultant's job would be to determine what would make sense for a joint purchasing effort. Whether a consultant is selected and whether the District would participate in a joint program are to be determined.

VI. Information Items

There were no items.

VII. Open Session

There were no items.

VIII. Public Session (any subject matter)

There were no items.

IX. Executive Session

MOTION – Mayor Bacci moved and Mayor Stefanik seconded to go into Executive Session pursuant to Ohio Revised Code Section 121.22(G)(4) to prepare for and review negotiations and bargaining sessions with District employees concerning their compensation and other terms and conditions of employment. After discussion and without objection, the motion carried unanimously by roll call vote.

The Board met in Executive Session from 1:33 p.m. to 1:54 p.m.

X. Approval of Items from Executive Session

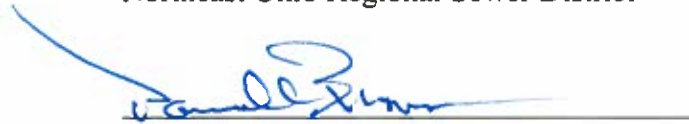
There were no items.

XI. Adjournment

MOTION – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mayor Bacci moved and Ms. Dumas seconded the motion to adjourn at 1:54 p.m. Without objection, the motion carried unanimously.



Timothy J. DeGeeter, Secretary
Board of Trustees
Northeast Ohio Regional Sewer District



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