

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
JANUARY 6, 2011

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
D. DePiero
R. Sulik
J. Bacci
W. O'Malley
G. Starr

Ms. Kelly was absent.

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

II. Approval of Minutes

MOTION – Mr. O'Malley moved and Mayor DePiero seconded that the minutes of the December 16, 2010 Board meeting be approved. Without objection, the motion carried unanimously.

III. Public Session

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

IV. Executive Director's Report

Executive Director Ciaccia thanked the Board and staff for a great 2010 and he provided the Board with an overview of 2010.

The District amended its *Code of Regulations* by adopting Title V, "Stormwater Management Code" and approved the implementation of a Stormwater Management Program (hereinafter "SMP").

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The Combined Sewer Overflow Long-Term Control Plan (hereinafter "CSO LTCP") negotiations concluded and the consent decree was lodged in federal court.

The District completed a bond issue of over \$300 million, which included a bond rating upgrade.

The District completed its disparity study, which resulted in the inclusion of Minority Business Enterprise (hereinafter "MBE") and Women's Business Enterprise (hereinafter "WBE") businesses into the District's Small Business Enterprise (hereinafter "SBE") program.

The District met most of its Key Performance Indicators (hereinafter "KPIs") related to construction contracting.

The District reached a settlement in the KM&M (BCI-3D) litigation matter. The District received a \$1 million settlement and offset costs associated with the claims.

The District completed its first Performance Management reviews of all non-union staff members.

Executive Director Ciaccia congratulated Director of Operations and Maintenance, Dave McNeely, and his staff for achieving no NPDES permit violations at the Easterly, Westerly and Southerly Wastewater Treatment Plants (hereinafter "WWTPs"). Executive Director Ciaccia noted that this was the first time achieving this status at all three plants in a single year since 1999.

Executive Director Ciaccia stated that the federal investigation is wrapping up which resulted in three convictions.

Looking ahead to 2011, Executive Director Ciaccia explained that the rates for 2012 through 2016 will have to be established and that he anticipates a 13% rate increase. The rate study is nearing completion and the staff will be prepared to discuss the rates with the Board at the appropriate time this year.

The rate structure will also have to be discussed. The District currently bills solely based on consumption. The District treats a lot more water than what is actually billed for and there are many fixed costs that we are not recovering due to the continued decline in consumption.

Affordability programs will be discussed at today's meeting.

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Executive Director Ciaccia noted that included in the Board members' packets were recent news articles and he explained that Avon Lake will be adopting over the next two years a 13% rate increase and 7% in the third year. The City of Lakewood will implement a substantial rate increase in 2011. Lakewood has not even begun negotiations with the federal government regarding their CSO program. The City of Toledo will raise their rates and will be carrying out a \$521 million CSO program.

Executive Director Ciaccia explained that there is significant activity as it relates to sewer rates in our region and throughout the country and that the District will be engaging in substantial discussions in 2011 to establish rates for 2012 through 2016.

Executive Director Ciaccia moved discussion to the stormwater litigation and he explained that we are working from a stipulated schedule that was agreed upon with the suburban communities in opposition to the SMP. A hearing for summary judgment will be held on March 15, 2011 on the District's authority to implement a SMP. The trial date is July 18, 2011. Executive Director Ciaccia was hopeful that the District will be able to successfully argue its authority at the March 15th hearing.

Executive Director Ciaccia noted that in the Summit County case the judge officially stayed any activity stating that at this time the issues are being adequately handled in the Cuyahoga County Court and that he will make further determination when a ruling is made in the Cuyahoga County.

Executive Director Ciaccia advised that the City of Solon has removed themselves from the group in opposition to the SMP. They no longer wish to spend money on legal fees in this matter and are now in the group that neither agrees nor disagrees with the District's authority to implement the SMP.

Executive Director Ciaccia noted that the City of Beachwood's City Council has placed a cap on the amount of money the City will spend on legal fees in this matter. Executive Director Ciaccia advised that Beachwood has been paying a significant portion of the legal fees for the suburbs in this matter.

Executive Director Ciaccia moved discussion to the consent order and he advised that the comment period will end on January 29, 2011. This is part of the federal process and 10 to 20 comments have been received thus far. The federal government will assess those comments and proceed accordingly through the courts. This process is expected to take another two to three months.

Executive Director Ciaccia advised that the District is diligently organizing itself to carry out the projects associated with the CSO LTCP as well as fulfilling the monitoring and reporting requirements under the consent order. Executive Director Ciaccia stated that

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the District's team, including Director of Law, Marlene Sundheimer, Director of Engineering and Construction, Kellie Rotunno, Director of Watershed Programs, Frank Greenland and Director of Operations and Maintenance, Dave McNeely, is in the process of establishing matrices of responsibilities and assignments. It is going to be a significant undertaking to simply carry out the monitoring and reporting requirements in order to successfully implement the CSO program.

Executive Director Ciaccia advised that included in the Board members' packets was an article written today regarding the City of Akron's "sewer plan hitting a snag." Executive Director Ciaccia pointed out that there are risks involved with getting into the court environment. Akron was sued by the Environmental Protection Agency (hereinafter "EPA") and a settlement was negotiated inside the court proceeding process in which the judge was not in agreement. The judge believes that it should be stricter and that Akron should complete its CSO program sooner. Executive Director Ciaccia explained that this information reflects why the District made its settlement recommendation to the Board.

Executive Director Ciaccia advised that in 2011 the District must deal with its NPDES permitting, which have been expired for years. Given the consent order and CSO Program, we must settle the NPDES permits with the Ohio Environmental Protection Agency (hereinafter "OEPA"). Executive Director Ciaccia speculated that there will be much activity in getting those permits resolved.

Executive Director Ciaccia explained that the District will focus on emerging regulations in 2011, more specifically, nutrients. The Farm Bill will be up for re-authorization soon in the U.S. Congress and the District as well as the National Association of Clean Water Agencies (hereinafter "NACWA") wants to be at the table. The Farm Bill will provide an opportunity to address the nutrients issue since nutrients are primarily from non-point source agriculture. The District was required to deal with current regulations for its CSO program, but there are additional regulations forthcoming that we must meet head-on before they become regulations.

Executive Director Ciaccia advised that stormwater regulations and sanitary sewer overflow (hereinafter "SSO") regulations are being developed. Those are not necessarily important to the District as an agency, but will impact the member communities that maintain local sewers. Seeing that the member communities are struggling for resources, Executive Director Ciaccia suggested that the District advocate on behalf of our member communities. Executive Director Ciaccia stated that advocacy and government affairs will be very important in 2011.

Executive Director Ciaccia advised that two major litigation matters are set for trial. The MCT-3 matter is scheduled for trial in July and the 3320 Woodland matter, which is

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where the Mill Creek Interceptor collapsed, is scheduled for August. There will be some activity including additional mediation as it relates to the 3320 Woodland matter.

Executive Director Ciaccia advised that the District will continue to work with the City of Cleveland Division of Water (hereinafter "CWD") regarding the billing and accounts receivables issues.

Executive Director Ciaccia moved discussion to the pending audits. The Bricker & Eckler audit of past construction projects is nearing completion and will hopefully conclude this month. The Auditor of State is conducting a performance audit on the District's existing construction contracts that were issued under the current administration. Executive Director Ciaccia stated that we look forward to those results, which are expected to be completed in May.

Executive Director Ciaccia advised that the District is examining the Ethics Policy specifically Section 5.4 dealing with "gifts, favors and other things of value." The District is considering addressing this provision to be more prescriptive as it relates to fundraising and things of that nature.

Executive Director Ciaccia concluded by stating that the District will continue to successfully manage its operations and maintenance, Capital Improvement Program (hereinafter "CIP") and finances through 2011.

Mayor Bacci inquired how the District can take a position with the City of Akron on behalf of this region to prevent communities upstream from negating or hindering the District's efforts in cleaning up the Cuyahoga River and tributaries to Lake Erie.

Executive Director Ciaccia replied that we have not yet contemplated this issue; however, he believed that Akron's CSO program will substantially meet some of the District's goals. He then turned discussion over to Mr. Greenland.

Mr. Greenland added that Akron's situation is similar to the District's as it pertains to the appropriate level of control to protect public health and water quality. Mr. Greenland explained that the discussion between Akron and the governments is similar to the discussions we held with those agencies. There are differences of opinions between Akron's proposed plan and the federal governments' proposal of zero overflows per year in certain locations. Akron will be required to be in compliance with the CSO control policy, which is predicated upon the protection of water quality.

Executive Director Ciaccia explained that we are not certain of Akron's levels of controls at this point and it would make sense if they were consistent with the District's since their water flows into Lake Erie.

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With respect to affordability, Executive Director Ciaccia explained that Akron's customers are only factored into their affordability equation. The District, however, has a much larger rate base. Therefore, the District and Akron have different affordability equations.

Mayor Bacci inquired that in an effort to be custodians to our ratepayers and this region, if we will hold communities upstream accountable to whatever level we can? Executive Director Ciaccia affirmed.

V. Action Items

Authorization to Advertise

Resolution No. 1-11 One (1) year requirement contract for the purchase of centrifuge polymer for use at the Westerly Wastewater Treatment Plant. Anticipated Expenditure: \$144,000.00.

Resolution No. 2-11 Two (2) year requirement contract for overhead door maintenance at all District facilities. Anticipated Expenditure: \$43,000.00.

Resolution No. 3-11 One (1) year requirement contract for sodium bisulfite solution for all Wastewater Treatment Plants. Anticipated Expenditure: \$179,000.00.

MOTION – Mayor DePiero moved and Mr. Sulik seconded to adopt Resolution Nos. 1-11 through 3-11. Without objection, the motion carried unanimously.

Authorization to Re-bid

Resolution No. 4-11 Reject all bids and re-bid the Environmental and Maintenance Services Center HVAC Improvements project. Engineer's opinion of probable construction cost: \$550,000.00.

MOTION – Mr. O'Malley moved and Mayor Bacci seconded to adopt Resolution No. 4-11. Without objection, the motion carried unanimously.

Authorization to Issue Request for Proposal (RFP)

Resolution No. 5-11

Issue Requests for Proposals for Nine Mile
Creek Construction Management Core
Services.

MOTION – Mr. Sulik moved and Mr. O’Malley seconded to adopt Resolution No. 5-11. After discussion and without objection, the motion carried unanimously.

Mr. Brown commented that this is for a five-year commitment to facilitate the projects for infrastructure improvement, and he questioned if this included the pump station, control mechanisms and also the oversight engineering of those procurement services.

Ms. Rotunno replied that this RFP is for the core construction management services intended to augment the District staff that will be managing the construction activities at the Nine Mile Creek (hereinafter “NMC”) site over the next five years. Three construction projects will take place at this location including the Nine Mile Electrical Substation (hereinafter “NMES”), Euclid Creek Tunnel (hereinafter “ECT”) and Tunnel Dewatering Pump Station (hereinafter “TDPS”). Ms. Rotunno stated that District Program Manager, Douglas Gabriel, will oversee those construction activities.

Ms. Rotunno explained that this RFP will provide project controls and administrative support and this is an augmentation of our staff specifically for the construction activities at the NMC site over the next five years.

Mr. Brown inquired if we have an engineer’s estimate of probable construction costs for the aforementioned projects. Ms. Rotunno replied that the estimated cost is \$320 million.

Mayor Starr inquired if the District implemented this system of construction management and controls for the Mill Creek Tunnel (hereinafter “MCT”) project. Ms. Rotunno advised that she was not at the District during the MCT construction period and that there were no project controls in place with respect to cost-loaded scheduling and critical path methodology. The District is now managing its construction projects with that methodology in place.

Mayor Starr asked Mr. Greenland if the process used for the NMC construction projects differed from the MCT construction process. Mr. Greenland replied that this is a higher level of detail than the MCT project.

Mayor Starr inquired as to what percentage over the original budget is the MCT project. Is it 60% or 70%? Executive Director Ciaccia replied near 50%.

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Mayor Starr inquired if the District for the NMC projects is spending this amount to provide assurance to the Board and to the public that this will not happen again?

Executive Director Ciaccia affirmed and explained that the District's new controls are geared toward that goal. The District's current practices including the controls, contract provisions and engineering processes will be included in the audit conducted by the Auditor of State of Ohio. Furthermore, the engineering processes are more standardized and the District engaged a program management consultant and hired staff members having contracting expertise.

Executive Director Ciaccia explained that the NMC site is more complex than the MCT site given that multiple projects will be ongoing simultaneously. Executive Director Ciaccia advised that we will have a lot of work to do in order to ensure that the District is carrying out the improvements at this site.

Ms. Rotunno added that at the conclusion of the MCT project she requested that a "lessons learned" memorandum be prepared by the designer in an effort to identify what lessons we should have learned from the experiences of the MCT project so we could improve our performance during the design and the construction of tunnels.

According to Ms. Rotunno, one of the comments made was that the District was woefully understaffed during the construction of the MCT. One construction manager and at times two were at the site, which is not enough manpower to manage the construction activities of such a complex project.

Ms. Rotunno stated that a big philosophical change is that the District is taking ownership and having appropriately qualified and adequate staff on these construction sites to oversee the contractors' activities. This contract will provide the District with more available resources during construction.

Authorization to Enter Into Contract

Resolution No. 6-11

Two (2) year requirement contract with Quality Ribbon and Supplies for office supplies for use at all District facilities. Cost: \$83,024.98 for core items and \$18,600.00 for non-core items for a total not-to-exceed cost of \$101,624.98.

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Resolution No. 7-11

Two (2) year contract with T.G. Adams & Associates, Inc. for radiation safety consulting services. Cost not-to-exceed \$100,000.00.

Resolution No. 8-11

One (1) year contract with Tucker, Ellis and West, LLP for state advocacy services. Cost not-to-exceed \$57,000.00 for the first year with a one-year option to renew the contract.

Resolution No. 9-11

One (1) year contract with Andrew J. Futey and Associates and North Shore Associates for federal advocacy services. Cost not-to-exceed \$75,000.00 for the first year with a one-year option to renew the contract.

MOTION – Mr. O’Malley moved and Mayor Bacci seconded to adopt Resolution Nos. 6-11 through 9-11. Without objection, Resolution Nos. 6-11 through 8-11 carried unanimously. A roll call vote was taken on Resolution No. 9-11 which carried with one “No” vote by Mayor Starr.

Mayor Starr requested an explanation on Resolution Nos. 8-11 and 9-11.

Executive Director Ciaccia explained that these resolutions are to authorize the District to engage in state and federal advocacy services similar to last year.

Resolution No. 8-11 is making recommendation that the District enter into contract with Tucker, Ellis and West LLP (hereinafter “Tucker Ellis”) for the state advocacy services. There were six proposers and of those Tucker Ellis scored the best by the evaluating committee.

There are a number of issues that the District is continuing to pursue at the state level as it relates to stormwater and the District’s ability to obtain easements. Another emerging issue as mentioned earlier is the negotiations of the NPDES permits. Executive Director Ciaccia anticipates needing substantial help at the state level and that Tucker Ellis will position the District accordingly. Although many of the terms were negotiated during the consent decree discussions, several issues still need to be addressed with respect to the NPDES permits and the District wants to ensure that the requirements are kept to a minimum. There may be new opportunities for the District at the state level given the new administration, Statehouse representatives and State Senators.

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Executive Director Ciaccia reminded the Board that one legislative attempt was made to limit the District's ability to carry out its SMP. The District wants to stay ahead of those issues.

The District is making recommendation to the Board to enter into contract with Andrew J. Futey and Associates and North Shore Associates for federal advocacy services. In 2010, the District engaged with Alcalde and Fay, a firm located in Washington D.C., for federal advocacy services. At that time, the District primarily focused on funding options. We did not have much success, which was not surprising given the federal deficit.

The District decided to engage with a local firm for federal advocacy services. There were seven firms that submitted proposals. The District will continue to focus on funding. WRDA (Water Resource Development Act) grants may be available although Executive Director Ciaccia did not expect them to be enough to significantly offset our rate increases.

Executive Director Ciaccia stated that we want to be ahead of the emerging regulations. NACWA is an organization based in Washington D.C. that advocates on the District's behalf, but we also need to have our own local advocates working closely with our delegation in order to ensure that they are fighting for us on issues such as nutrients, stormwater, SSOs and the Farm Bill.

Executive Director Ciaccia explained that the state and federal advocacy firms were hired through a process involving an evaluation committee in which he was not a participant. Said committee ranked the proposers and brought their recommendation to Executive Director Ciaccia and before the internal Consultant Review Committee (hereinafter "CRC").

Mayor Starr questioned which firm did the District hire to handle federal advocacy services, how much was that contract and what was accomplished? Executive Director Ciaccia replied that we engaged the firm Alcalde and Fay at a rate of \$5,000.00 a month. Some grants were submitted on the District's behalf, but those were not approved by Congress.

Executive Director Ciaccia explained that the firm Alclade and Fay was very well positioned with Congresswoman Eddie Bernice Johnson of Texas, chair of the Water Resources & Environment subcommittee in the last Congress.

Through our delegation, Congresswoman Marcia Fudge, Congressman Dennis Kucinich, Senator George Voinovich and Senator Sherrod Brown, an \$800,000.00 WRDA grant

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was submitted. If the Democrats had maintained control of Congress, then the District would have been very well positioned to have those funds approved; however, now we will end up with zero funding.

Mayor Starr questioned as to what is the District's current criteria. Executive Director Ciaccia replied that they are expected to advocate on behalf of the District as it relates to the emerging regulations and for our delegation to advance our positions on particular issues.

Mayor Starr inquired about how switching from a Washington firm to a Cleveland firm to lobby Washington D.C. will affect us. Executive Director Ciaccia stated that our delegation is in Washington but also here at home and that the firm will be expected to occasionally travel on our behalf.

Authorization to Amend Resolution

Resolution No. 10-11

Amend Resolution No. 337-06 to extend Contract No. 3303 for the fourth year option with Boyd Watterson Asset Management, LLC for investment advisory services and assistance with security purchases. Cost not-to-exceed \$50,000.00.

MOTION – Mr. Sulik moved and Mayor Starr seconded to adopt Resolution No. 10-11. Without objection, the motion carried unanimously.

Authorization of Contract Modification

Resolution No. 11-11

Modify Contract No. 10001483 with Marie Heckaman & Associates, Inc. to provide temporary staffing services to perform customer service in the area of wastewater, stormwater and other billing concerns. Cost: A time extension of one-year with no change in the contract price.

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Resolution No. 12-11

Modify Contract No. 10001965 with Trax Construction Co. for the S.O.M. Center Road Relief Sewer-Pepper Pike (SOMRS-PP) project. Cost: A time extension of 110 days with no change in the contract price.

MOTION – Mayor DePiero moved and Mr. O’Malley seconded to adopt Resolution Nos. 11-11 and 12-11. After discussion and without objection, the motion carried unanimously.

Mayor DePiero referred to Resolution No. 11-11 and he inquired if the District was using these temporary services to manage the heavy call volume customer service is receiving. Discussion was turned over to Director of Finance, Jennifer Demmerle.

Ms. Demmerle replied that a portion of the contract was to assist customer service with heavy call volume. We are anticipating the call volume to again increase when the SMP is implemented.

Mayor DePiero questioned as to reasoning why customer service is now receiving an increased call volume. Ms. Demmerle replied that it is related to the CWD billing issues.

Mayor DePiero questioned if the billing issues are getting resolved. Ms. Demmerle replied that it is leveling off and that we expect another peak to take place once the SMP is implemented.

Executive Director Ciaccia noted that the District budgeted \$51,000.00 for the contract but did not spend that amount since the SMP has not yet been implemented. We are requesting a time extension for this particular contract.

Sewer Use Code Matter

Resolution No. 13-11

Authorization to enter Into settlement agreement with Newport Harbor Association pursuant to Northeast Ohio Regional Sewer District Administrative Hearing Case No. 10-009.

MOTION – Mayor Bacci moved and Mayor Starr seconded to adopt Resolution Nos. 13-11. Without objection, the motion carried unanimously.

VI. Information Items

1. 2010 Performance Plan Year-End Report.

Executive Director Ciaccia advised that no separate verbal report would be given since he covered the highlights during his Executive Director's report to the Board. However, Executive Director Ciaccia indicated that he would entertain any questions the Board may have.

Mr. Brown requested that the Board review Executive Director Ciaccia's report and he encouraged the Board members to provide him with any feedback as we begin to develop the 2011 performance criteria for Executive Director Ciaccia. There were no questions or comments at this time for Executive Director Ciaccia.

2. Wastewater Affordability Program Presentation.

Mr. Brown stated that at the December 16th Board meeting he had requested that Executive Director Ciaccia direct staff to examine affordability opportunities as we move forward with the consent decree and future rate structure and increases. Discussion was turned over to Deputy Executive Director, F. Michael Bucci to discuss the District's proposed wastewater affordability program.

Mr. Bucci summarized today's discussion to include the background, reasons for implementing this type of program, the District's current program, alternative options, program others have implemented and the District's recommendations.

The District believes it has a social responsibility and that an affordability program will have limited impact on our revenue. We anticipate having a 13% rate increase. We have a large environmental justice area that was discussed during CSO negotiations and a large increasing number of delinquencies and write-offs.

The District currently offers a Homestead rate program available to customers 65 years or older or to anyone under the age of 65 who may be totally or permanently disabled. There is a household income limit and the home must be owner-occupied. The current discount is 33%.

The District offers a Summer Sprinkling program for owner-occupied one- to four-family homes. This program is effective May 1st through September 30th. The summer sewer bills are based on the lower average winter usage or summer consumption, whichever is lower.

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Our objectives during the affordability design included establishing a program to assist low-income customers demonstrating financial need.

Available options include billing discounts, write-offs, crisis vouchers, rate structure options and a lifeline rate. Mr. Bucci explained that a lifeline rate is similar to Homestead except there is no income eligibility. It would be available to anyone over a certain age.

Mr. Bucci advised that water efficiency options and education, leak detection, plumbing assistance, financial counseling and disconnection moratoriums are programs that will be examined during this process.

Mr. Bucci provided the Board with an overview of the various affordability programs offered by other utility agencies. In Portland, they offer customers bill discounts, crisis vouchers and a toilet replacement grant program.

Like the District, the City of Cleveland offers its customers the Homestead program. They follow the same income criteria as the District. Mr. Bucci explained that the Homestead program at the City and District is administered the same.

The CWD offers a 20% discount to qualifying households. There are income limits for these programs which are based on 175% federally established poverty level. For example, the income limit for a family of five is \$40,950.00.

Mr. Bucci explained that the City of Cleveland is considering a similar affordability program as part of their rate package and increasing the percentage.

The CWD has a plumbing assistance program for residents owning single-family homes, which is limited to \$1,500.00 per year.

Water Pollution Control offers residents a sewer line repair plan, which is limited to \$7,500.00 per occurrence.

The District examined bill assistance, a rate reduction, crisis voucher emergency grant program, sewer line replacement and repairs, toilet replacement, rain barrels and rain gardens.

The District is proposing a rate reduction and crisis voucher program. The District proposes increasing the Homestead reduction from 33% to 40%. The same eligibility requirements established by the City of Cleveland will be followed. The customer applies one-time and, if qualified, will be eligible for the District and CWD affordability

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programs. The current income level is set at 175% of federally established poverty level. Mr. Bucci advised that the City is looking to increase this percentage to 200%.

The crisis voucher program will include examining eligibility criteria for extraordinary medical expenses, recent changes in employment status or household status which would cause a hardship resulting in the customer not having the ability to meet their financial obligations.

The customer would first be placed on a 12-month payment plan. During said time any water shutoff actions would be suspended. The District would pay up to \$300.00 or six months of the amount owed, whichever is less.

The District is requesting \$500,000.00 per year during the five-year rate period to fund this program. Mr. Bucci explained that the program would be funded at a certain level and when that level was met, the program would be suspended until the following year.

We are anticipating a 13% rate increase. An average quarterly bill is \$100.69. Customers eligible for the discount in year 2012 will see the decrease. The amount will remain below what they are currently paying until 2016. In 2016, the average bill will be \$111.00, which is an average 3% increase. Customers will experience a decrease in the first four years.

Mr. Bucci concluded by stating that the District's proposal includes changing the Homestead program from 33% to 40% and establishing an affordability program that offers a 40% rate reduction for eligible customers as well as establishing and funding a crisis voucher program at \$500,000.00 per year for extraordinary medical expenses, changes in employment and/or household status.

Mr. Sulik inquired as to the difference between the proposed 40% rate reduction plan versus the 40% Homestead rate. Mr. Bucci replied that the rate will be the same and that the difference is that customers currently qualifying for Homestead receive a 33% reduction. In 2011, those customers qualifying for the reduced rate will pay \$67.61 and if this plan is adopted, then Homestead customers will be paying the same rate, which would be 40% of the rate.

Mr. Sulik inquired as to who would qualify for the affordability program. Mr. Bucci explained that there are annual income guidelines. For example a family of one cannot exceed \$17,150.00 annually to be eligible and for a family of four the limit is \$35,000.00. The current income requirement for customers qualifying for Homestead is \$30,385 for the entire household. If a customer is over the age of 65 and their income exceeds \$32,000.00, then they would not qualify for Homestead, but they would qualify under the family of four under the District's proposed affordability program.

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Mr. O'Malley inquired as to the percentage of ratepayers that would qualify for the proposed affordability program. Mr. Bucci replied that the estimated amount between Homestead customers and the affordability program is 22,000 customers.

Mayor Starr inquired of the 330,000 District customers 22,000 would qualify for the affordability program. Mr. Bucci clarified that the District is estimating that 22,000 customers will apply for the program and will most likely qualify.

Mr. Bucci advised that the District plans engaging the public in an outreach effort to educate the customers on the affordability program.

Mayor Starr referred to the comments made regarding the limited revenue impacts the affordability program will have on the District and he questioned, "This will have a minimum of the half million dollars over five years?" Mr. Bucci explained that was for the crisis voucher program. The crisis voucher, increasing Homestead reduction and the discounted rate will result in an additional \$2.4 million to the amount the Homestead customers already receive each year.

Mayor Starr questioned if this will get shifted to the ratepayers. Executive Director Ciaccia affirmed. Mr. Bucci explained that there are overall revenue requirements needed for the operation of the District. The affordability program would be similar to the Summer Sprinkling Program in that those discounts are shifted.

Mayor Starr stated that the 13% rate increase may be higher in order to subsidize an affordability program which may or may not be a benefit.

Executive Director Ciaccia advised that he did not believe the affordability program would greatly impact the 13% rate increase. The costs of District operations still need to be covered. Executive Director Ciaccia indicated that years ago he argued that the District's Summer Sprinkling Program was a regressive program since it "hits the poorer people harder than the richer people" by offering discounts to customers having large lawns and sprinklers. The money saved by the Summer Sprinkling customers had to be picked up by those who do not sprinkle. The affordability program has a similar concept but benefits the lower income customers.

Mr. Sulik inquired if the District plans maintaining the Summer Sprinkling Program. Mr. Bucci affirmed.

With respect to the crisis voucher program, Mr. Sulik inquired whether the District has the authority over water shutoff actions. Mr. Bucci advised that the District works

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collaboratively with the CWD and has the ability to set up a payment plan and therefore discontinue the shutoff notice, which is our current practice.

Mr. Sulik inquired if the \$300.00 would apply towards the sewer bill and not the water bill. Mr. Bucci affirmed and clarified that it would apply to the District's portion of the sewer bill and does not include the local charges.

Mayor DePiero inquired as to how the District will verify if a customer loses their job or is eligible for the program. Mr. Bucci explained that the City of Cleveland currently uses the Cleveland Housing Network (hereinafter "CHN") to administer its affordability program.

The District is engaged in discussions with CHN regarding the development of the exact criteria for our program. The program will have a third-party administrator to determine whether a customer qualifies. Mr. Bucci advised that the District does not have much detail on this process at this time for the reason that they wanted to receive concurrence from the Board prior to moving forward.

Mr. Sulik inquired as to the status of switching over to monthly billing and he commented that it would be more affordable for customers to budget their dollars and pay a monthly bill.

Mr. Brown explained that once the automated meter reading program is in place then data can be retrieved immediately, therefore, providing for an opportunity to move to a monthly billing cycle. Installation of the automated meter readers will be completed over a four year period. Mr. Brown suggested that going forward we can contemplate and plan for monthly billing implementation and that it could be one of the factors to consider for the District's purposes.

Mr. Brown thanked the staff on their proposed affordability program and for providing the Board with options to consider with respect to a program suitable for the District. Mr. Brown assumed that the Board will have time to deliberate and raise additional questions. Mr. Bucci affirmed and stated that the final affordability program will be presented to the Board along with the 2012 through 2016 rate study recommendations.

Mr. Brown commented that the CSO LTCP was based upon the number of projects getting constructed over a period of time that will reduce CSOs and pollution. To complete those projects, we estimated what the District's costs would be. The District borrowed money at a fixed rate and we will probably come in under the amount we requested versus what we were able to get from the bond counsel. Initial projects are coming in below the estimated amount and therefore we may have a little cushion in the initial amount budgeted versus the actual program costs. This is a result of us being good

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stewards and conducting our due diligence and having the ability to implement these programs. Mr. Brown thanked Executive Director Ciaccia and the staff and stated that the Board will determine the next steps.

VII. Open Session

Mr. Brown stated that he was concerned about workings of the Board processes towards the latter part of 2010 and that he wanted to recommend a course of action. Processes are in place to protect the integrity of the Board in terms of its discharge of fiduciary responsibilities. Under state law, parts of our processes have to be guarded by confidentiality. Those principals are underscored in the oaths of offices taken by each trustee, the Board's Bylaws and the District's Code of Ethics. Mr. Brown described this as a binding contract for each Board member.

Mr. Brown advised that he engaged in discussions with the Board's outside legal counsel advising him that he wanted to address some of issues involving the Board. Mr. Brown indicated that he wanted to establish an Ad-Hoc Committee consisting of three trustees. Said committee will be charged with working with the Board's outside legal counsel to review and recommend appropriate changes to the Board's Bylaws and Code of Ethics.

Mr. Brown stated that "in light of one of our own trustees, Mayor Starr's admission, that he publicly disclosed information that was provided to the Board in Executive Session that was declared to be confidential and related to the then pending legal matter regarding the long-term control program," the committee will be charged with examining Mayor Starr's conduct to determine whether it violated the Board's Bylaws or ethics.

Mr. Brown stated that he takes the Board members' oaths of offices very personally and that it is the Board's responsibility to ensure that we protect the integrity of this Board and the processes that are engaged.

Mr. Brown appointed Mr. Sulik, as chairman, and Mr. O'Malley and Ms. Kelly as committee members. Mr. Brown requested that Mr. Sulik, Mr. O'Malley and Ms. Kelly engage with the Board's outside legal counsel to determine a scope of work to be completed in certain timeframe and to return to the Board with any questions, issues or concerns that the committee may have.

Mayor Starr stated that he had an item to be discussed during open session. The Audit Committee met today and he stated that it was an excellent presentation. The Audit Committee is a very important oversight Board that reviews District finances and the expenditures of hundreds of millions of dollars.

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The Audit Committee reviewed external audit updates, audit reports, audit planning process and the audit plan update for 2010 through 2012.

Mayor Starr advised that one item discussed was the independence of the Audit Committee. He read aloud from an article provided by the staff which stated that "the purpose of this Audit Committee is an extra set of eyes and ears, checks and balances and the important function is that they be independent and that they be objective."

Mayor Starr stated that audit committees in the private and public sector serve at the pleasure of the administration or the board. Mayor Starr wanted to underscore that at the District, the Audit Committee serves both the Board and the administration.

Mayor Starr thanked staff for the presentation and he stated that we have never had this process before. The District's reputation was stained over the years with massive cost overruns and misappropriation of money. According to Mayor Starr, "we are well on the way to good oversight."

Mr. Brown thanked Mayor Starr for his comments and he stated that the oversight of the Audit Committee has continued to do good work and that we appreciate those efforts.

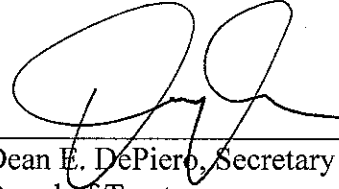
Executive Director Ciaccia introduced the federal advocacy team which included Andrew Futey of Andrew J. Futey and Associates and former Congressman Dennis Eckart and Eddie Eckart with North Shore Associates. Executive Director Ciaccia advised that the state advocacy team consisting of Matt Cox and Michelle Waller of Tucker Ellis were present at the meeting but left prior to this introduction.

VIII. Public Session (any subject matter)

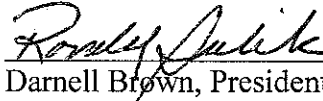
No members from the public registered to speak at Public Session.

IX. Adjournment

MOTION – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mr. Sulik moved and Mayor DePiero seconded the motion to adjourn at 1:42 p.m. Without objection, the motion carried unanimously.



Dean E. DePiero, Secretary
Board of Trustees
Northeast Ohio Regional Sewer District



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