

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
JANUARY 7, 2010

Meeting of the Board of Trustees of the Northeast Ohio Regional Sewer District was called to order at 12:34 p.m. by Darnell Brown.

I. Roll Call

PRESENT: D. Brown
G. Starr
D. DePiero
S. Kelly
T. Longo
W. O'Malley
R. Sulik

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

II. Approval of Minutes

MOTION – Ms. Kelly moved and Mr. O'Malley seconded that the minutes of the December 17, 2009 Board meeting be approved. Without objection, the motion carried unanimously.

III. Public Session

Executive Director Ciaccia advised that were several members from the public who registered to speak at public session regarding the Stormwater Management Program (hereinafter "SMP"), Resolution No. 01-10, Title V of the *Northeast Ohio Regional Sewer District's Code of Regulations* (hereinafter "Code"), which was on the agenda for Board consideration. The public speakers included Mayor Earl Leiken, City of Shaker Heights; Mayor Joe Cicero, City of Lyndhurst; Anne Marie O'Donnell; Ray Rosenberger; John McLeod; Barbara Hermes; Bob Gardin; Vern Hartenburg, Cleveland Metroparks; David Vasarhelyi, The Trust for Public Land; Mayor Marlene Anielski, Village of Walton Hills; David Beach, GreenCityBlueLake Institute; Justin Glanville; and Jan Rybka. Mr. Brown requested that the public speakers please come forward and address their comments to the Board.

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Mayor Leiken advised that in addition to his capacity in the City of Shaker Heights, he also serves as Vice President to the Suburban Council of Governments (hereinafter "SCOG"). He wished to address the Board as the Mayor of Shaker Heights. Mayor Leiken strongly supported the SMP and urged the Board to vote in favor of the proposed SMP. Mayor Leiken advised that he had the opportunity to see flooding, erosion, maintenance and water quality problems caused by stormwater and that these problems can only be solved at the regional level.

Mayor Leiken indicated that he was aware of the costs associated with the SMP, but that costs will be much greater if we do not deal with these issues through a regional solution now. Mayor Leiken commented that "the District has worked very hard to keep the costs down as much as possible and to be very sensitive to the interests of our residents."

Mayor Leiken stated that "there is no way that these problems can be solved on a local basis and that it has not worked in the past and cannot possibly work in the future because stormwater has no boundaries and one community's solution does not solve the neighboring community's problems and can make that community's problems worse."

Mayor Leiken advised that the City of Shaker Heights is part of the Doan Brook water system and that they experience issues with lakes, dams and creeks that they simply cannot solve on a local level and that need a regional solution.

According to Mayor Leiken, the criticism of the SMP is "off the mark." The SMP is an example of regionalism and "it is time to stop talking about regionalism and actually move towards regional solutions to our common problems."

Mayor Leiken advised that Shaker Heights City Council unanimously and enthusiastically passed a resolution supporting the SMP, and he provided Executive Director Ciaccia and the Board members with a copy of said resolution.

Mayor Cicero stated that the SMP "is not a bad idea" and that he "did not have a problem with the Stormwater Management Program." Mayor Cicero commented that he had "a problem with how this program is being instituted" and how the Board "can make a decision based upon a court order from the 70's that gave you [District] jurisdiction within your regional district for wastewater."

Mayor Cicero stated that the bottom line is that members of the District will be assessed and charged a fee for the SMP, and "there are areas that you [District] are not responsible for that contribute the same as the people within your region, and they're not going to be assessed a fee, but my residents and my businesses will."

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Mayor Cicero requested "that this go to a judge for a declaratory judgment" and he stated that he "appreciated the fact that at your last Board meeting in December, you made that resolution." Mayor Cicero did not understand "why this vote had to take place exactly at this point" and that it would "behoove the trustees and the District to understand that there needs to be input from the area communities, not only that you serve, but the ones that are going to be affected by this as well."

Mayor Cicero did not believe that "assessments should be put in place without the proper authority given, based on just what your Law Director feels is appropriate." According to Mayor Cicero, some of the people he spoke with from other municipalities and developers "would feel much more comfortable if a judge made that decision and gave you the authority without any question."

Mayor Cicero stated that the "Stormwater Management Program is needed and I do not disagree with Mayor Leiken when he said that stormwater has no boundaries, but unfortunately the Regional Sewer District does, so, lets make sure that the decision that is made by this Board is one that is made that's going to benefit the region." Mayor Cicero commented that "we talk about regionalism" but we must remember "that the Sewer District represents only a small number of the communities and the businesses that this stormwater management program will benefit."

Ms. O'Donnell, resident of Broadview Heights, indicated that she shared in Mayor Cicero's objections to the SMP. One-fifth of her city is a member of the Medina County Sewer District, and they will not have to pay for the SMP. According to Ms. O'Donnell, "the only project you have scheduled for Broadview Heights is in the Medina Sewer District, Furnace Run."

Ms. O'Donnell stated that "North Royalton has been dumping their stormwater into our city for years and we have Northeast Ohio Sewer District and nothing has been done." Ms. O'Donnell stated that "North Royalton has their own system and they cannot keep dumping it into our city and leaving judges to make the decision of what's right and wrong."

Ms. O'Donnell stated that "we have paid a huge amount of money to correct a problem for people living in Broadview Heights and yet have a sewer problem from North Royalton." Ms. O'Donnell commented that Broadview Heights has its own stormwater program and she questioned whether "we are going to have to pay double and the very people that it's servicing don't have to pay at all?" Ms. O'Donnell commented that she thought "you had to have a benefit in order to charge any kind of assessment."

Ms. O'Donnell stated that condominium associations and projects have grown and the "water district has only put in one meter and the discount for that meter has to be divided

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between the number of residents; otherwise they are paying top dollar--\$37 or \$38 dollars of their water and sewer bill is based on it." Ms. O'Donnell stated that "there has to be some ruling that the water department cannot do this and that they have to give each person their own water meter." She inquired if this made sense. People living in condominiums are paying a lot more for water and wastewater and people have been paying this for years and they are given no consideration.

Mr. Rosenberger, resident of the City of Parma, advised that his comments were geared towards "factual data" found in a handout, which he provided to the Board. Mr. Rosenberger indicated that his first objection to the SMP was that "not enough research has been done as to the potential health hazards that may be the result of enacting this legislation."

Included in Mr. Rosenberger's handout were two technical bulletins from GAF-Elk which is claimed to be America's largest manufacturer of roofing material. The first technical bulletin was titled "Reclaimed Water from an Asphalt Shingle Roof" and according to this article "reclaimed water from an asphalt shingle roof should not be used for watering fruits or vegetables for human consumption" but the use of such water for irrigation has been proposed.

Mr. Rosenberger stated that "the health issue doesn't really stop there as evidenced by the remaining two pages of the handout, and that in an effort to solve the problem with roof staining, the manufacturers of roofing materials impregnated their products with copper granules as described in both technical bulletins—Corrosion of Aluminum Gutters and Flashings Caused by Copper Granules Used in Algae Resistant Shingles."

Mr. Rosenberger stated that he noticed this staining in the City of Parma, and "this helped abate the staining, but introduced another contaminant to stormwater caused by galvanic reaction. This corrosive interaction between copper and aluminum has resulted in, as yet, an unknown in our water." Mr. Rosenberger believed that "the enactment of stormwater legislation may cause a greater problem than the one it is supposed to be solving."

Mr. Rosenberger stated that his second objection to this proposal is "based on the facts that lead me to believe that enactment of this legislation may not solve the problem." Mr. Rosenberger referenced an article from *The Plain Dealer* dated February 6, 2009, which reads as follows:

"The number of areas with increased flooding and erosion of creeks and tributaries has increased threefold in the last 25 years and so as green space has been turned into developments and parking lots the flooding is a result of good planning gone awry. The problems associated with

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stormwater runoff are negated through adherence to good planning. Flooding in Parma will not be abated until North Royalton follows its zoning. Flooding in Cleveland will not be abated until Parma follows its zoning and so on.”

Mr. Rosenberger stated that this assessment of the problem was echoed in a quote made by the Director of Watershed Programs, Frank Greenland— “many times one community’s fix is to put in a bigger pipe or culvert and simply move the water problems down the line to the next community.”

Mr. Rosenberger indicated that “an even greater concern is that the Northeast Ohio Regional Sewer District stated that they will have no direct say in the granting of zoning variances to a community’s comprehensive land use plan.”

Mr. Rosenberger concluded by encouraging the Board to vote no on enactment of the SMP “until a thorough and safe study can be conducted to identify the real problems as well as permanent solutions.”

Director of Environmental Health for the Cuyahoga County Board of Health (hereinafter “CCBH”), John McLeod, thanked the Board for this opportunity to speak on behalf of CCBH and Health Commissioner Terry Allen. Mr. McLeod stated that the CCBH has been involved with stormwater for its communities through the United States Environmental Protection Agency (hereinafter “USEPA”) Phase 2 Stormwater Requirements. They have seen the impacts of stormwater to the environment and health. CCBH supports the District’s efforts in creating “a more comprehensive, innovative and collaborative approach for our region.” Mr. McLeod indicated that he was appreciative of the District’s SMP efforts and that he would be available for any questions.

Ms. Hermes advised that she is a member of the Board of Trustees West Creek Preservation Committee (hereinafter “WCPC”), and she thanked the District for “tackling this very important but very difficult problem of stormwater management.” Ms. Hermes conveyed the Board of WCPC’s support of the SMP for the reason that managing stormwater is critical for the health of our drinking water, including Lake Erie, the Cuyahoga River, and the downstream creeks and headwaters draining into those water sources. Ms. Hermes reiterated the Board of WCPC’s support of the SMP, and she encouraged the Board to vote in favor of the SMP.

Project Manager of the Big Creek watershed, Bob Gardin, stated that his organization represents several cities including southwest Cleveland, Parma, Parma Heights, Brooklyn, and parts of Brook Park and North Royalton. There are approximately 170,000 people within the Big Creek watershed. Mr. Gardin stated that this is a non-profit organization supported by member communities and agencies throughout this

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region. His organization supports the SMP, which he described as a proactive approach that considers major factors contributing to stormwater problems including flooding, erosion and water quality. The SMP also provides incentives for property owners to mitigate problems stemming from stormwater flow. Mr. Gardin stated that the SMP "is very fair and rational" and that "we do support what we see here." The District is "helping to set a precedent within the state of Ohio, following other examples throughout the country" and that the SMP "is a wise approach to address these particular problems in a more equitable manner than I've seen elsewhere."

Executive Director of the Cleveland Metroparks, Vern Hartenburg, thanked the Board, Executive Director Ciaccia and staff and advised that Cleveland Metroparks supported the District's SMP initiative.

Mr. Hartenburg explained that Cleveland Metroparks was established in 1917 primarily to protect the river valleys within Cuyahoga County. The industrialization that occurred along the Cuyahoga River, the steel mills, was already in place. It was the passion of William Stinchcomb, founder of the Cleveland Metroparks, to protect and preserve other river valleys including Rocky River, Big Creek, Euclid Creek and Chagrin River watersheds because, at the time, "they viewed the Cuyahoga River as already lost."

In 2010, Cleveland Metroparks represents nearly 22,000 acres of parkland distributed throughout Cuyahoga County and 54 municipalities or townships. Cleveland Metroparks is situated within 25 of those jurisdictions, representing the largest single landowner within Cuyahoga County, which positions Cleveland Metroparks as one of the major stewards of these rivers, streams, creeks, lakes and ponds.

Mr. Hartenburg stated that stormwater regulations enacted by local communities and the USEPA Phase 2 Stormwater Regulations have somewhat contributed to reducing stormwater effects from new developments; however, much of Cuyahoga County represents older, urban and suburban infrastructure that was put in place well before water system laws and detention ponds were installed. As a result of increased urbanization, hard surfacing from big box stores and parking lots and the failing undersized, aged infrastructure of much of the other stormwater facilities, Cleveland Metroparks continues receiving much of the County's stormwater runoff. Negative impacts of this stormwater runoff include erosion of the streams and rivers, aquatic quality of life in the waterways, siltation in the wetlands, and regretfully, frequent drowning of youths in ponds and streams as a result of flash flooding, most recently, in Euclid Creek, Big Creek Reservation and Viaduct Park.

Mr. Hartenburg stated that as a result of this rush of water coming into the Cleveland Metroparks, "the park district spends millions of dollars each year in trying to repair, rehabilitate and restore lands from the stormwater." Mr. Hartenburg provided the Board

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with a few recent examples of the monies spent on stormwater. In North Chagrin Reservation, \$1.5 million was spent to restore and reconstruct eroded areas and caused the closing of one mile of parkway to make the area safe. In the Ohio and Erie Canal Reservation, \$400,000 was spent last summer to realign the towpath trail as a result of stream bank erosion. In Brecksville Reservation, \$100,000 was spent to conduct stream bank checking and modification in order to prevent the collapse of an adjacent bridge. In Big Creek Reservation, in Middleburg Heights, an expenditure of \$5.5 million was needed to acquire, restore and preserve 200 acres of Cuyahoga County's largest remaining wetland within the Lake Abrahams and Lake Isaac watershed.

Mr. Hartenburg concluded by stating that stormwater management cannot wait and that it is costing millions of dollars in flooding, property damage, water-filled basements, and is certainly of significant concern to Cleveland Metroparks and area residents in terms of the environmental degradation. Mr. Hartenburg advised that "Cleveland Metroparks is prepared to work closely with the Regional Sewer District to advance the absolute best practices in stormwater and watershed management and we feel the time is right...the time is now."

Mr. Vasarhelyi, resident of Sagamore Hills, stated that for the last 12 years he has been active in the watershed stewardship and conservation through the WCPC and now the Trust for Public Land in Cleveland. Mr. Vasarhelyi commended the Board, Executive Director Ciaccia and District staff on proposing a solution to the many stormwater issues, which Mr. Hartenburg eloquently presented. The SMP will have wide ranging benefits to the communities, property values and the environment. According to Mr. Vasarhelyi, the SMP "will advance northeast Ohio as a progressive region working in cooperation to tackle the difficult issues that have all benefits for all citizens." Mr. Vasarhelyi strongly urged the Board's support in favor of the SMP.

Mayor Marlene Anielski advised that she wished to address the Board on behalf of the residents and businesses of the Village of Walton Hills, and that she wanted to specifically discuss the stormwater fee credits. Mayor Anielski implored the Board and staff to make sure that "all those forms, all the processes are completed prior to any resident, any business getting any charges for their stormwater, and that the process for your approval is done prior to anyone getting the bills." Mayor Anielski requested that the process and forms be "easily understandable for the residents and the businesses, making them easy to fill out and making them accessible." Mayor Anielski suggested that the forms be available through the internet and municipal senior centers, and that the District use a larger font so they are easy to read and complete by senior citizens. Mayor Anielski stated that she "wanted to make sure that everything flows smoothly and that people get the proper credit when the bills start coming through."

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Director of the GreenCityBlueLake Institute, David Beach, stated that he was pleased to be present at the meeting on this very exciting day for northeast Ohio. The GreenCityBlueLake Institute is the sustainability center of the Cleveland Museum of Natural History. Mr. Beach advised that he is a Cleveland resident in the Doan Brook watershed and a longtime customer of the District. Mr. Beach commented that he is always happy to pay his fees for clean water in northeast Ohio.

Mr. Beach stated that for the past 25 years, he has been either a direct participant or close observer of just about every water quality and stormwater planning effort in northeast Ohio.

In 2008, his organization received the State of Ohio Lake Erie Award for its work on water quality issues through the years. Mr. Beach stated that he believed he had some credibility when saying that “this District’s stormwater program is probably one of the most important developments that I’ve seen for water quality in all my years working on these issues, and this is truly an important advance that you’re going to make today, and I applaud you for taking this step.”

Mr. Beach commented that “it is like a dream come true for all of us who have been working in this field for so many years, and at last, we are going to have an agency with professional staff and a real budget to deal with stormwater on a watershed basis.” Mr. Beach stated that “we are going to make real progress on the region’s most serious remaining water quality issues and we will be able to get at the root of these problems instead of just sending them downstream like we have been doing for so many years.”

Mr. Beach agreed with the previous comment made that we are already paying for the stormwater impacts, but we are not solving these problems. The SMP is a way to get at the root and finally solve these problems.

Mr. Beach stated that “it is not often in your professional lives that you have a chance to do something truly transformational for northeast Ohio” and “this is your chance to do something transformational.”

According to Mr. Beach, the SMP is going to be our green infrastructure agency in northeast Ohio, and “we can become a national leader in retrofitting our urban landscape to reduce imperviousness and restore ecological function. This is one of the best opportunities for creating that green city on a blue lake that we all dream about when we dream about our future.”

The SMP is about creating a setting for economic redevelopment; quality of life; neighborhood revitalization; and creating the place that our kids will want to call home in the future.

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Mr. Beach stated that he has been observing the development of the SMP since the District began this process, and he commented that he has been impressed by the professionalism of District staff and how seriously they have taken on this mission. District staff “deserves a lot of credit for thinking this through and finding an approach to solving stormwater problems in the most cost effective manner and in a way that has a funding system that is both reasonable and fair.” Mr. Beach believed that District staff has done a great job of putting the SMP together.

Mr. Beach concluded by stating that “this is the time to do something transformational for our future; to create a great city in Cleveland; to create a great region; and to help the other cities in the District’s area.” Mr. Beach urged the Board to approve the SMP today.

Mr. Glanville represented ParkWorks and Building Cleveland by Design, a local non-profit organization whose mandate is to “bring the latest thinking in urban design and sustainability to building and open space projects.” Mr. Glanville stated that District staff has been an invaluable partner to his organization on many projects through the years, including a plan to restore Doan Brook, Rockefeller Park, the building of a recreational trail and greenway in an old railway bed in the Flats, and the rebuilding of the University East Plaza at University Circle with pervious pavement and native plant species. Mr. Glanville advised that the aforementioned projects have green infrastructure features and that “we have drawn heavily on the Sewer District’s great expertise and follow-through in making them reality.”

Mr. Glanville stated that, at this point, green infrastructure is an important component to his organization’s projects for the reason that it protects our freshwater resources and presents a way to treat and manage stormwater that does not involve building and maintaining an expensive resource and intensive new infrastructure. Mr. Glanville stated that his organization is encouraged to pursue green infrastructure solutions by their local and national funders who recognize these solutions as the wave of the future.

Mr. Glanville advised that his organization supports the SMP for the reason that “it will generate new thinking about best management practices in northeast Ohio and will allow ParkWorks to continue to work with the Sewer District on a growing slate of environmentally and socially responsible projects.”

District Administrator of the Cuyahoga Soil and Water Conservation District (hereinafter “CSWCD”), Jan Rybka, stated that the CSWCD has been in operation since 1949 and that their mission is to protect the land and aquatic resources through technical assistance, stewardship and educational assistance to all landowners within Cuyahoga County. Ms. Rybka advised that her agency partnered with and will continue to collaborate with the various agencies that were present at the meeting.

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Ms. Rybka wanted to focus on the costs of the SMP. Although she did not want to diminish that there will be a cost to all of us and our pocketbooks, the big vision is what we need to consider. This vision was articulated by both Mr. Beach and Mr. Hartenburg. Ms. Rybka stated that "the vision for this city, this county, for this region is that we can really be the "be all/end all" and redevelop this county as a place that people want to live, work and play.

Ms. Rybka commented that her agency has been working with many cities in Cuyahoga County and that their efforts will be enhanced by the SMP, and "we are one agency and it takes collaboration." Furthermore, "the costs the cities are now bearing will be reduced by our collaborative efforts."

On behalf of the Board of Supervisors of the CSWCD, Ms. Rybka thanked the District for presenting this program, and she urged the Board put the SMP in place.

On behalf of the Board and District staff, Mr. Brown thanked the public speakers for their comments and he indicated that they were deeply appreciated. We have and will continue to hear your concerns and continue to shape a policy of our actions based on the informed input of our staff and those we serve in this community.

Mayor Starr informed the Board that other elected officials were present including the Mayor of the City of Olmsted Falls, and he inquired if anyone else wished to address the Board during Public Session.

Executive Director Ciaccia added that Law Director Paul Murphy from the City of Lyndhurst, Councilman James Herron from the City of Middleburg Heights, Mayor Blomquist from the City of Olmsted Falls, Administrator Paul Schweikert from Sagamore Hills Township and Law Director Ken Krause from the City of Strongsville were all present at the Board meeting.

Mr. Brown invited any members from the public wishing to address their comments to the Board regarding the SMP to please come forward. No additional members from the audience wished to address the Board.

IV. Executive Director's Report

Executive Director Ciaccia wished the Board a Happy New Year and stated that he is entering his third year at the District. We accomplished a great deal in 2009 including letting over \$250 million worth of needed construction projects and put greater Clevelanders to work during a time when people are looking for jobs. Executive Director Ciaccia intends to discuss this further at the January 21st Board meeting wherein he will

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present performance results as it relates to the Strategic Plan as well as his performance results.

Executive Director Ciaccia anticipates huge challenges for 2010 including the Combined Sewer Overflow Long Term Control Plan (hereinafter "CSO LTCP"). He advised that the District continues to work with the federal and state governments and that there will most likely be significant movement on the Consent Decree this year since we are getting close to engaging the governments on this issue. The District also continues to manage the unknowns of the federal investigation. The District anticipates going to trial on its two major construction litigations this year: The Big Creek Interceptor 3D (hereinafter "BCI-3D") and the Mill Creek Tunnel Phase 3 (hereinafter "MCT-3") projects.

Another significant initiative for 2010 is the development of the SMP. Executive Director Ciaccia thanked all of the individuals present at the meeting who expressed their views on the SMP, and he stated that there has been much discussion over the past few years and "it is now time to do something."

Executive Director Ciaccia advised that some individuals expressed their concerns as to the timing of implementing the SMP given the current economic situation, but when the program began, the economy was not in the shape it was a year ago. Last year at this time, "we had to take a step back and ask ourselves what we are getting into at this point in time." Although the economy has improved somewhat, the District believed that "if we put this off any further, it is only going to get worse;" and, therefore decided to forge ahead.

Executive Director Ciaccia explained that there has been 30 years of study with a focus on sanitary sewage, and during his tenure with the City of Cleveland Division of Water (hereinafter "CWD"), he witnessed suburban sprawl taking place through the 1970s and 1980s. At that time, the focus was on getting water service or sanitary service out to the suburbs so they could continue to grow. Meanwhile the stormwater problems continued to escalate.

Executive Director Ciaccia questioned if not now, then when is the right time to manage stormwater, and should we hold off until we deal with the CSO, Sanitary Sewer Overflow (hereinafter "SSO") or collection system problems? In the meantime, the stormwater issues will increase from 372% to 500% to 1,000%. Should we wait until we are in the midst of dealing with those other challenges, or when the elections are up for the new county government this year? Executive Director Ciaccia explained that there will always be "state and national elections and unknown dilemmas and misfortunes, so looking for a good time or a better time is elusive...the time is now."

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In response to an issue raised during a television interview wherein it was alleged that the District was lacking with communicating the SMP, Executive Director Ciaccia advised that the District held three rounds of community meetings with mayors, law directors, engineers and service directors. The District offered to meet with city councils at the call of the mayor. The District held over 300 meetings including Executive Director Ciaccia's personal meetings with many of the mayors. The District held six public forums and countless other meetings with other interests, all of which impacted fashioning the SMP.

Thirty (30) articles appeared in the newspaper(s) pertaining to the SMP as well as two editorials supporting the SMP from *The Plain Dealer* and *Akron Beacon Journal*. The District secured media spots on the television and radio and ran advertisements, which included the District's telephone number and web address which provided easy access to anyone interested in communicating with the District, and some did. Furthermore, the District formed a Stormwater Advisory Council. Executive Director Ciaccia stated that communication was our strongest point in moving forward with this program and that he would challenge anybody to say otherwise.

The District spent \$12 million on studies, development contracts as well as countless staff hours and resources. Executive Director Ciaccia commented that he is "very proud of the work that the team has done and that they have done a tremendous job!"

To advance into the SMP, the District worked with watershed organizations, issued small scale demonstration project grants and supported the Water Resource Restoration Sponsorship Program (hereinafter "WRRSP"). Through the WRRSP, money that would be paid in interest to the state is allocated to projects requiring District sponsorship and the District sponsored many projects throughout the region in 2009.

In 2010, many entities have requested District support on projects including \$12 million worth of projects in Summit County and in some communities that we do not serve. The District believes it should support these projects since it is important to the watershed. Executive Director Ciaccia also pointed out that he received no complaints or lawsuits about the District's sponsorship of those projects.

Executive Director Ciaccia reiterated that the time to implement the SMP is now, and staff is requesting the Board to consider voting in the affirmative on Resolution No. 01-10.

In response to issues raised as to the District's authority to implement a SMP, Executive Director Ciaccia stated that at the December 17th meeting, the Board authorized the District to retain outside legal counsel in order to move into court for a declaratory judgment and a revision of our plan of operations. Should the Board vote to implement

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the SMP, we will move forward immediately on those issues in the Cuyahoga County Court of Common Pleas.

Executive Director Ciaccia referenced the issue regarding the Board's authority to take action on the SMP which is pending in the Summit County Court. He advised that the Summit County magistrate "determined not to issue a temporary restraining order because the Board had not acted and there was nothing for him to act on." A conference call is scheduled for Friday, January 8, 2010 after the Board takes action "and we will be taking further action in that part of our region."

Executive Director Ciaccia commented that "it's time now to stop the madness of the piecemeal approach" that has been used thus far to deal with stormwater issues. Executive Director Ciaccia exclaimed that "it is all well and good to move water out of Lyndhurst and move it to South Euclid and Cleveland," and advised that he has heard from Councilman Polensek many times and speculated that Mayor Cicero has heard from him as well regarding the Euclid Creek issues.

Executive Director Ciaccia used an example of when he lived in Brunswick to explain the SMP. There were two large maple trees in his backyard that dropped many leaves. He had a fence with a gate in the backyard. One day while leaving for work, he noticed the leaves and thought to himself that this was going to be a big job when he got home. When he left, he inadvertently left the gate open. Meanwhile, the wind blew all of the leaves from his backyard. The following year, he considered leaving the gate open again, but thought it was not right to pass this task onto his neighbor and made certain that the gate was closed and he raked the leaves.

That being said, Executive Director Ciaccia believed that the District needed to take the same approach and be considerate of our neighbors. Mother Nature will definitely remind us in the spring or during a flash storm during the summer of the need to manage stormwater, and the District would like to be in the position to actually try to do something.

Moving forward the District will hopefully be in court, and Executive Director Ciaccia was hopeful that the communities wishing to participate will do so in a constructive manner in order to reach the end point, and "Mother Nature will get us there sooner or later and I think we need to get there sooner."

Mayor DePiero thanked the public speakers and Executive Director Ciaccia for his presentation. Mayor DePiero referenced a handout provided by Mr. Rosenberger, and he requested that "Mr. Greenland address the position that he writes about...to indicate whether it's accurate or not, so that we have that on the record."

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Mayor DePiero read aloud from the handout:

“Problems associated with stormwater runoff are negated through adherence to good planning. Flooding in Parma will not be abated until North Royalton follows the zoning. Flooding in Cleveland will not be abated until Parma follows the zoning and so on. This was echoed by Mr. Greenland, Director of Watershed Programs who said ‘many times one community’s fix is to put a bigger pipe or culvert and simply move the water problems down the line to the next community.’”

Mayor DePiero questioned if “he is accurate by stating what he states in this?”

Mr. Greenland replied that “with respect to the issues of one community moving problems to other communities, I have been here for 21 years, and I have seen the great fortune or misfortune of getting calls from service directors and engineers on the wastewater side and now on the stormwater side. Without specifically naming communities, there is no question that there have been large inter-community drainage issues, both storm and sanitary across the District.”

Mr. Greenland stated that “the District moved forward with significant efforts to address the inter-community sanitary issues,” and he referred to Heights Hilltop and Southwest CVI inter-community relief sewers. He advised that he continues to receive phone calls from mayors and service directors.

Mr. Greenland advised that the telephone inquiries he received regarding stormwater involved how the upstream or downstream neighboring communities were impacted. The SMP is structured to address inter-community issues since one community’s action can impact the downstream or upstream neighboring communities.

Mayor DePiero inquired if this will “correct or at least go a long way in correcting it?” Mr. Greenland affirmed.

Mayor DePiero referred to a comment made regarding the SMP credits, and he advised that this issue was also discussed at the Cuyahoga County Mayors and City Managers meeting. Mayor DePiero commented that the SMP credits are a very important component of this program, and he suggested that before we start billing and as this goes into effect, there has got to be a very clear program and a very good understanding of how to apply for credits and what credits are worth. Property owners need to understand the value of the credits allowed for the investments made to their properties. Mayor DePiero stressed the importance of the SMP credit component and he stated that if the

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SMP is passed today and “before this goes into effect, I want to see where the comprehensive plan is for credits.”

Mr. Greenland advised that the Credit Policy Manual is being developed. At a December 18th meeting the District responded to community comments from Title V, and at said meeting, District staff informed the meeting participants that the Credit Policy Manual will be distributed to the communities for review and comment around April 2010. Upon finalizing the Credit Policy Manual, it will be posted on the District’s website.

Mr. Greenland felt that the need to communicate the SMP credit policy to the customers is important, and he agreed with Mayor Anielski’s suggestion of ensuring that the forms are easily understood in order to ensure that customers comprehend the application process and criteria used by the District for granting credits.

Executive Director Ciaccia explained that the earliest the District will be able to issue a stormwater bill is July, and that he was unsure how long the court process is going to take. Executive Director Ciaccia assured the Board that the District will not move forward until we are comfortable that the public is ready to receive these bills because these credits are vital to this program.

Mayor DePiero inquired if the estimated cost of the SMP of \$40 million was accurate. Mr. Greenland replied that this amount was fairly accurate and that the SMP costs for the first full year are estimated to be between \$38 million and \$42 million.

Mayor DePiero inquired if the District can spend that much money on the SMP per year. Mr. Greenland stated “yes and when we look at the backlog of problems, we’re talking hundreds of millions of dollars in needed construction and hundreds of millions of dollars in needed operation and maintenance expenditures.”

Mayor DePiero inquired that as the money is spent on an annual basis, will a quarterly or annual report be generated showing how the money is allocated throughout the communities. Mr. Greenland advised that the staff will develop materials to provide the communities with the returns on investments.

Executive Director Ciaccia explained that there will be separate accounting for the SMP program, and that this account will not be combined with the sanitary sewer portion of the District. Mayor DePiero stated “that’s good to hear.”

Mayor DePiero commended the District staff on holding so many meetings with the communities, but he anticipates encountering “hiccups and problems” as the SMP unfolds. Mayor DePiero suggested that we must help communities and groups and continue communicating “all the good things we are doing;” otherwise, “the program will

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fail if people don't think it's working." Mr. Greenland stated that there were at least 200 SMP meetings over the last couple of years, and he guaranteed that there will be at least that many meetings over the next several years as the SMP unfolds. Mr. Greenland stressed the importance of the District connecting with the communities, mayors, engineers and service directors "so that we all work together to really drive a meaningful program forward."

Mr. Brown stated that the District took on this stormwater initiative as a result of strategic planning efforts that occurred about 8 years ago. The District believed it had a responsibility but needed to conduct its due diligence to determine the best way for the District to enter into this line of business. As a result, we spent millions of dollars to conduct due diligence; examine the best practices throughout the County; involve the communities and obtain their input in order for staff to recommend a SMP and its implementation as well as the development of the Code to guide the program's operations.

Mr. Brown stated that he spent over 20 years on the wastewater side running the local collective system and has seen firsthand the impacts of nine watershed groups and the tremendous work that comes from collaboration. Mr. Brown corroborated a previous comment made during Public Session wherein communities must understand that stormwater does not respect political boundaries.

Mr. Brown stated that although some progress has been made with respect to stormwater management, many of us have done all that we can reasonably be expected to do, and "it is time for a more appropriate regional solution."

Stormwater issues have increased over the last 25 years. We have gone from over 200 locations having significant flooding, erosion and water quality impacts to well over 500, at this point, and the number continues to grow.

According to Mr. Brown, the approach to manage stormwater is two-fold. We could deal with stormwater on a regional basis or just continue using more bricks and mortar to build bigger plants and pipes for greater capacity, but this approach does not benefit the environment. The District has an opportunity to position itself to deal with what we all understand to be a regional problem.

Mr. Brown agreed that public outreach and communication is very important, and despite our best intentions, there will be things that we will learn experientially as a result of going down this path. There will be issues as it pertains to capital projects, maintenance and spending of capital funds. It is important to understand that improvements made in Community X will benefit Community X as well as the neighboring downstream

communities. We must continue educating the public on this issue. Mr. Brown stated that this is not a simple problem nor does it have a simple solution.

Mr. Brown congratulated and thanked staff for “putting us in a position where we understand the magnitude of the problem which has been properly framed so that we understand it.” Mr. Brown explained that we have the information so we can mitigate those impacts currently.

The proposed SMP fee structure is based on the square footage of impervious area, or the amount of hard surface that we as property owners should be responsible for, and this is an equitable system. There will be a three-tiered residential system, and a system dealing with industrial and commercial properties.

Customers will have the ability to apply for credits, which Mr. Brown believed to be an understated program component because “it is not only about spending dollars and cents, it really is about changing the lifestyles” of our customers. We are encouraging people to become more environmentally sensitive, and there are ways of doing this on individual properties which actually benefit the environment. Mr. Brown believed that by incorporating this into the SMP’s Code is insightful, and providing customers with the opportunity to take advantage of the SMP credits at the front of this program is an important issue that was raised here today.

Mr. Brown concluded by stating that the Board fully understood what is being recommended by staff today as it pertains to the SMP.

V. Action Items

Authorization to Implement a District Regional Stormwater Management Program

Resolution No. 1-10

Authorization to Implement a District Regional Stormwater Management Program Through Adoption of Title V of the Code of Regulations.

MOTION – Mayor Starr moved and Mayor Longo seconded to adopt Resolution No. 1-10. After discussion, a roll call was taken, and without objection, the motion carried unanimously.

Mayor Starr stated that 1969 was a defining moment in the environmental movement and Earth Day. Not only was the Cuyahoga River polluted and catching fire, but there were many other rivers throughout the nation catching fire. However, “we were lucky enough get the publicity,” which resulted in the enactment of the Clean Water Act (hereinafter

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“CWA”) and the establishment of the Environmental Protection Agency (hereinafter “EPA”). A defining moment for the northeast Ohio environmental movement was the creation of the District.

The District’s initial focus was identifying sources of pollution and treating wastewater, and nearly four years after its inception, the District reached out and began spending money in 1976 on stormwater improvements, beginning with the \$6 million Lakeview Cemetery retention basin project. The District continued spending money on stormwater projects through the 1970s, 1980s and 1990s anywhere from the Chevy branch of the Big Creek, Seven Hills Pilots Restoration Project and Euclid Creek. Projects were completed throughout the service area. Mayor Starr stated that “this is nothing new to us and that we have been working on stormwater projects.

Mayor Starr suggested that that with successful passage of the SMP, the mission statement should be that the District “will address the stormwater flooding on a regional basis, erosion, and enhance water quality standards to a new level on a regional planning basis.”

Mayor Starr questioned whether 60 communities can individually manage stormwater and projects, and he stated “possibly, but not likely.” Mayor Starr inquired that if a 30-acre Super Wal-Mart is constructed upstream that crosses legal boundaries, “how can you possibly regulate, legally, the development in that community if indeed you are a downstream community?”

Mayor Starr advised that he has seen “transparency during the process of over 300 meetings.” Since 2000, the District spent over \$11 million to conduct studies as well as publish meeting minutes on the worldwide web for public inspection.

Mayor Starr referred to the SMP proposal which has two basic principals. Under the role as a stream system manager, the District will assume the responsibility through operation and maintenance and construction projects to address stormwater flooding, erosion and water quality issues. As watershed integrator, the District will provide technical assistance and “a clearing house of vital information.”

According to Mayor Starr, there is a high turnover of mayors in northeast Ohio and that there are a lot of pressing issues when you are a mayor including public safety, fire, police, sanitary and recreation. But stormwater is never a priority, and one “never really acquires knowledge unless you are around for a long time, like Tom Longo.”

Mayor Starr indicated that he liked what was written on page 8 of 10 of the memorandum pertaining to early action planning: “Early action planning, design and construction project recommendations will be developed by the District staff and will move forward

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upon the initiation of the regional SMP.” Mayor Starr believed that early action planning is critical and will be a key element of the SMP.

Mayor Starr referred to the SMP management structure in which there are 10 chapters in Title V of the Code. A lot of mayors have raised concerns about the administrator’s authority and responsibility, and he stated that “this will be flexible.” If problems surface as to the administration of the SMP, Mayor Starr advised that you can expect him to be “one of the first that’s going to ask for changes.”

Mayor Starr concluded by stating that “we have demonstrated an open mind about the changes that we can make, to be flexible in the implementation of clean water, and that’s what we really stand for is clean water, our number one asset here in northeast Ohio.” Mayor Starr thanked the administration on the comprehensive preparation of the SMP and he stated that he was in support of the SMP.

Mayor Longo stated that “we have been over this so many times” and it is challenge because it is such a dynamic process. Mayor Longo commented that he wished his career was just starting as a Board trustee, but it is coming to an end, and in a few months he will no longer be a member of the Board.

Mayor Longo commented that the District is slowly getting better at connecting the dots. The feds are coming down on us, and we have many regulations, and people do not understand what this means.

Mayor Longo stated that Mayor Starr was partially right; most mayors do not understand what this is about, until the storm hits, and he gave the dates of April 13, 1984 and April 13, 1994. According to Mayor Longo, five and a half inches of rain hit his city within four hours. The runoff travels from I-480 and I-271 right through your town and there is nothing you can do, and the “the worst thing about being a mayor is when there isn’t a thing you can do and you get hammered like that.”

Mayor Longo commented that the District has to improve how it connects the dots as to the benefits for the quality of life for our residents, improvement in the watersheds throughout our communities and how this impacts recreation, entertainment and development. Nothing will happen unless we clean these waterways.

Mayor Longo referred to a comment that Mr. Beach made that “this is something that’s actually green and for a blue lake,” and he indicated that this “was right on the money.” Mayor Longo suggested that this become our motto and we should present this to every community and resident. There will be complaints and problems needing to be addressed, but we have to show what this means.

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Mayor Longo suggested that school curriculums include the District stormwater initiative, so that the children understand how this impacts our region so when they graduate and are ready to get married they will raise a family in this area. Mayor Longo believed this to be an important issue that was not discussed.

Mayor Longo felt the SMP to be “regionalism at its best” and that the District is “doing as good a job, if not a better job, than the Metroparks has been doing for decades.”

Mayor Longo expressed well wishes to Mr. Hartenburg on his retirement.

Mayor Longo indicated that he felt strongly about the SMP and he requested that the Board get on with the vote.

Mr. Brown suggested that we continue our discussions with the Ohio Department of Transportation (hereinafter “ODOT”) in order to identify a different approach or infrastructure improvements for transportation and the significant impacts it has on stormwater quality and quantity. Executive Director Ciaccia agreed.

Authorization to Reject Bids and Rescind Resolution

Resolution No. 2-10

Reject Bids and Rescind Resolution No. 228-09 Authorizing the District to Advertise for Bids for Laboratory Chemicals for the Analytical Services Department Due to Pricing Irregularities and Inconsistencies of the Vendors in Properly Completing the Requirements of the Bid Package.

MOTION – Mr. Sulik moved and Mayor Longo seconded to adopt Resolution No. 2-10. Without objection, the motion carried unanimously.

Authorization to Advertise

Resolution No. 3-10

Two Year Requirement Contract Through the End of 2011 to Purchase Laboratory Chemicals for the Analytical Services Department. Expected Expenditure: \$55,000.00.

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Resolution No. 4-10

Two Year Requirement Contract Through the End of 2011 to Purchase Laboratory Chemicals (Dry Chemicals) for the Analytical Services Department. Expected Expenditure: \$35,000.00.

Resolution No. 5-10

Two Year Requirement Contract Through the End of 2011 to Purchase Chemicals, Agars, and Cultures (Microbiologicals) Used for Microbiology Testing and Identification. Expected Expenditure: \$38,000.00.

Resolution No. 6-10

One-Year Requirement Contract to Provide Epoxy Protective Coating Painting for a Chlorine Contact Tank at the Westerly Wastewater Treatment Plant. Anticipated Expenditure: \$120,000.00.

Resolution No. 7-10

One-Year Requirement Contract for the Purchase of 70,000 Pounds of Liquid Polymer for Use in Sludge Dewatering in the Centrifuge Process at the Westerly Wastewater Treatment Plant. Anticipated Expenditure: \$160,000.00.

Resolution No. 8-10

One-Year Requirement Contract for 150,000 Gallons of Liquid Sodium Bisulfite for Use at All Wastewater Treatment Plants. Anticipated Expenditure: \$190,000.00.

MOTION – Mayor Longo moved and Mr. O'Malley seconded to adopt Resolution Nos. 3-10 through 8-10. Without objection, the motion carried unanimously.

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Director of IT, Humberto Sanchez, explained that the District issued Requests for Proposals (hereinafter "RFPs") and local firms were solicited, but after analyzing and evaluating the responses, Westin was determined to be the highest ranking firm.

Ms. Kelly inquired if the District used local firms in the past for this type of strategic planning. Mr. Sanchez advised that IT developed a strategic plan in 2002 and used Gartner, which is also a national firm.

Executive Director Ciaccia stated that the District followed its RFP process. A selection committee reviewed the proposals of many firms, and Westin was the highest rated firm. Furthermore, Westin specializes in water and wastewater utilities, and he assumed this to be the reason why Westin scored the highest.

Authorization to Amend Resolution

Resolution No. 14-10

Amend Resolution No. 337-06 to Extend Contract No. 3033 with Boyd Watterson Asset Management, LLC for the Third Year Option to Provide Investment Advisory Services and Assistance with Security Purchases. Cost: Not to Exceed \$50,000.00.

MOTION – Mayor Starr moved and Mr. Sulik seconded to adopt Resolution No. 14-10. Without objection, the motion carried unanimously.

Authorization of Contract Modification

Resolution No. 15-10

Final Adjustment Deduct Order for Contract No. 3490 with Terrace Construction Co., Inc. for Vista Branch Connection Sewer Contract (MCI-VB). Cost: A Decrease in the Amount of \$140,251.36 Bringing the Total Contract Price to \$1,431,137.24.

Resolution No. 16-10

Final Adjustment Deduct Order for Contract No. 09001137 with Marra Constructors, Inc. for W. 117th Street CSO-071 Outfall Culvert Repair. Cost: A Decrease in the Amount of \$29,754.67 Bringing the Total Contract Price to \$353,607.83.

Resolution No. 17-10

No Cost Contract Time Extension for Contract No. 0000853 with Independence Excavating, Inc. for Biosolids Handling and Incineration Site Preparation (28F). Cost: No Cost Contract Time Extension of 44 Days.

**Resolution No. 18-10
(WITHDRAWN)**

Extension of Contract No. 09000828 with Hahn Loeser & Parks LLP as Special Counsel to the Board of Trustees. Cost: No Cost Contract Time Extension to End March 31, 2010.

MOTION – Ms. Kelly moved and Mr. O’Malley seconded to adopt Resolution Nos. 15-10 through 17-10. Resolution No. 18-10 was withdrawn. Without objection, the motion carried unanimously.

Authorization of Easement

Resolution No. 19-10

Acquire from the City of Cleveland Two Permanent Easements and Two Temporary Easements Necessary for Construction of the Lee Road Relief Sewer Project. Consideration \$62,425.00.

Resolution No. 20-10

Acquire from the City of Cleveland Eight Permanent Easements and Eight Temporary Easements Necessary for Construction of the Dugway East Interceptor Relief Sewer Project. Consideration \$452,000.00.

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MOTION – Mayor Longo moved and Mayor DePiero seconded to adopt Resolution Nos. 19-10 and 20-10. Without objection, the motion carried unanimously.

VI. Information Items

There were no information items.

VII. Open Session

There were no items for discussion.

VIII. Public Session (any subject matter)

From the audience, Mr. Rosenberger indicated that he wished to address additional comments to the Board in follow-up to the action taken on the SMP.

Mr. Rosenberger applauded the action taken by the Board and the thought process used into arriving to their decision. He suggested that the District notify its customers of the community communication meetings by sending a notice with the sewer and/or water bill, therefore, the District will receive its desired turnout.

Mr. Rosenberger accepted Executive Director Ciaccia's challenge for an improvement, and he provided the Board with a document titled "Statistically Valid Community Attitude Survey." Mr. Rosenberger advised that he would be willing to further discuss this material and address any questions from the trustees. According to Mr. Rosenberger, "there is a better method to communicating with people," which he brought here today, and he believed that this information "dovetails perfectly with what this Board is trying to accomplish."

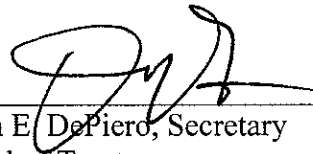
Mr. Brown thanked Mr. Rosenberger for the information and Executive Director Ciaccia advised Mr. Rosenberger that he will meet with him after the Board meeting.

IX. Executive Session

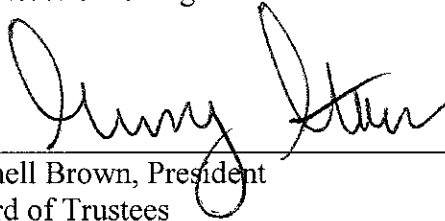
Mr. Brown stated that there was a matter for discussion in Executive Session wherein in Executive Director Ciaccia informed the Board that there were no longer any items to be discussed in Executive Session.

X. Adjournment

MOTION – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mayor DePiero moved and Ms. Kelly seconded the motion to adjourn at 1:57 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