

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
JANUARY 20, 2011

Meeting of the Board of Trustees of the Northeast Ohio Regional Sewer District was called to order at 12:30 p.m. by Ronald Sulik.

I. Roll Call

PRESENT: R. Sulik
D. DePiero
J. Bacci
S. Kelly
W. O'Malley
G. Starr

Mr. Brown was absent.

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

II. Approval of Minutes

MOTION – Mayor DePiero moved and Mr. O'Malley seconded that the minutes of the January 6, 2011 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 moved to the first report item regarding the District's finances and he advised that some information is still being reconciled by District staff. The District's operating revenues will be on the negative side. We budgeted for \$171 million, which was adjusted throughout 2010 when funds were allocated for uncollectible accounts. Therefore, the budgeted amount for operations was actually \$167 million. We have projected ending 2010 at \$165 million.

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Executive Director Ciaccia was happy to report that the District is projecting to finish at \$1.5 million under budget for the District's operations and maintenance. He stated that we will have to work on our revenues projections for 2011.

Executive Director Ciaccia referred to an article in *The Plain Dealer* regarding the City of Cleveland Division of Water (hereinafter "CWD") billing. Although there have been some improvements, accounts receivables continue to be a problem. The District is performing an analysis of the accounts receivables in an effort to determine the contributing factors of the dramatic increase and whether it is the economy or the CWD's new billing system. Executive Director Ciaccia advised that all of the accounts receivables were not delinquent accounts and that the District is attempting to determine what those numbers represent as well as examine other collections options including possibly taking over the billing system. Executive Director Ciaccia advised that we want to ensure a good handle on our finances going into 2011.

Mr. Sulik requested that the record reflect that Mayor Starr was now present at the meeting.

Mayor Starr questioned, "How far back are we going on these accounts receivables?" Is it one, two or five years? When was it detected that we were encountering billing problems?

Executive Director Ciaccia replied that the District was experiencing a \$4 million to \$5 million increase each year and that rate increases or the economy were contributing factors. The third quarter of 2009 was showing that same trend; however, we ended 2009 with an extremely larger number. The District noticed that something had occurred during the same time CWD went live with its new billing system which resulted in suppressed bills, which Executive Director Ciaccia believed was a significant factor in our current accounts receivables. Additionally, some of the customers did not receive a bill for months or even a year because of the suppressed bills and Executive Director Ciaccia suspected that those bills were high and customers were put on payment plans. Executive Director Ciaccia advised that we are focusing on September 2009 through January 2010 to present.

Mayor Starr inquired as to why the District does not plan going back any further. Executive Director Ciaccia replied that during our analysis the District will have to go back further in order to fully understand the trends.

Mayor Starr questioned if the City of Cleveland underwent performance audits. Executive Director Ciaccia stated not to his knowledge.

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Mayor Starr inquired as to when the Board will receive the administration's recommendation on this matter. Executive Director Ciaccia advised that the District is considering other business arrangements with CWD and outside of CWD and will be meeting on this matter next week. He then turned discussion over to Director of Finance, Jennifer Demmerle, to speak on accounts receivables analysis.

Ms. Demmerle stated that the District anticipates having the analysis completed by the end of March before the auditors come in April. The District wants to ensure that analysis is accurate before the audit begins.

Ms. Kelly inquired if the District and CWD discussed a potential partnership so that the District could help address some of the billing issues. Ms. Kelly stated that the District has been able to bring a substantial amount of assistance for final billing on individual accounts and that the District might be able to help the CWD on a temporary basis.

Executive Director Ciaccia replied that the District has offered its assistance and participated with the CWD in the financial reporting and reconfiguring of the Summer Sprinkling program. He then turned discussion over to Director of Information Technology, Humbeto Sanchez.

Mr. Sanchez added that IBM Corporation essentially addressed the billing and collection processes and that we examined the reporting and internal processes to ensure that they were working effectively. Some of those processes have been revised and are being implemented. Mr. Sanchez suspected that there may be additional systemic processes within the system that will have to be addressed.

Executive Director Ciaccia advised that there are always challenges when installing a new billing system and that we believe CWD's new billing system will work; however, we need to ensure that they have the necessary resources.

Executive Director Ciaccia moved to the next report item regarding the KMM&K MCT-3 lawsuit. Trial is scheduled for July 2011 and there has been some mediation discussion.

Trial is scheduled for August 8, 2011 in the Chapek Parkway 3320 Woodland matter.

Steven Painton Corporation has filed a lawsuit involving a claim related to the Train Avenue Relief Sewer (hereinafter "TARS") project for \$434,000.00 for alleged differing site conditions related to jet grouting. The District denied that claim as a change order or contract modification for the reason that we do not believe the claim has merit. This matter has been assigned to Judge John J. Russo in the Cuyahoga County Court of Common Pleas. It is the District's intent to litigate this matter using in-house attorneys and therefore we do not anticipate having any outside legal counsel fees.

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Mayor DePiero inquired as to when the District anticipates receiving the final audit report from Bricker & Eckler. Executive Director Ciaccia advised that a couple of drafts have been submitted. District staff, along with the attorneys involved in the MCT-3 litigation, are reviewing those reports to address any sensitive material as it relates to that particular case. Executive Director Ciaccia anticipates releasing Bricker & Eckler's audit report early next month.

V. Action Items

Authorization to Advertise

Resolution No. 14-11

One (1) year requirement contract for the lubricants product class for use at District facilities. Anticipated Value: \$48,600.00.

Resolution No. 15-11

Advertise for bids for the Easterly Wastewater Treatment Plant Final Clarifier Rehabilitation Contract FCR-6. Engineer's opinion of probable construction cost: \$2,300,000.00.

MOTION – Mayor DePiero moved and Mayor Bacci seconded to adopt Resolution Nos. 14-11 and 15-11. Without objection, the motion carried unanimously.

Authorization to Issue Request for Proposals

Resolution No. 16-11

RFPs for design and construction administration/resident engineering services for the Easterly Secondary System Improvements.

MOTION – Mr. O'Malley moved and Mayor Starr seconded to adopt Resolution No. 16-11. Without objection, the motion carried unanimously.

Authorization to Enter Into Agreement(s) and to Issue Request for Proposals

Resolution No. 17-11

Enter into agreement(s) required by the Ohio Department of Transportation (ODOT) for the relocation of portions of the District's Westerly Interceptor and to issue RFPs for design and professional services for the relocation of portions of the District's facilities necessary for ODOT's Lakefront West Project.

MOTION – Mayor DePiero moved and Ms. Kelly seconded to adopt Resolution No. 17-11. Without objection, the motion carried unanimously.

Authorization to Enter Into Agreement

Resolution No. 18-11

One (1) year agreement with the Cuyahoga County Board of Health for the Bear Creek Restoration project. Cost: \$15,000.00 reimbursement to the District for services provided.

MOTION – Mayor Bacci moved and Mr. O'Malley seconded to adopt Resolution No. 18-11. Without objection, the motion carried unanimously.

Authorization to Enter Into Contract

Resolution No. 19-11

Authorize the first of three one (1) year contract renewal options with Cintas Document Management, L.L.C. for offsite storage of inactive electronic media, hard copy records and in-house document shredding services. Cost: \$32,100.00 with two one (1) year options to renew.

Resolution No. 20-11

Contract with John G. Johnson Construction Co. for the Southerly Wastewater Treatment Center Maintenance Building Exterior Wall Restoration. Cost: \$2,629,900.00.

Resolution No. 21-11

One (1) year contract with Oracle USA, Inc. for the annual maintenance and support of the Oracle databases & Oracle eBusiness application. Cost: \$129,872.51.

MOTION – Mr. O’Malley moved and Mayor Bacci seconded to adopt Resolution Nos. 19-11 through 21-11. Without objection, the motion carried unanimously.

Authorization to Amend Agreement

Resolution No. 22-11

Amend agreement for Information Technology network services discount with SBC Global Services, Inc. dba AT&T Global Services to extend the agreement for an additional period of thirty-six (36) months. Cost: \$227,600.00 per year.

MOTION – Ms. Kelly moved and Mayor Bacci seconded to adopt Resolution No. 22-11. Without objection, the motion carried unanimously.

Authorization for Arbitrage Rebate

Resolution No. 23-11

Arbitrage rebate for Wastewater Improvement Revenue Refunding Bonds, Series 2005. Cost: \$350,833.83.

MOTION – Mayor DePiero moved and Mr. O’Malley seconded to adopt Resolution No. 23-11. After discussion and without objection, the motion carried unanimously.

Mayor Starr inquired if this is a local or national firm wherein Ms. Demmerle advised that this firm is located in Texas and charges approximately \$1,000.00 to conduct the calculation. Ms. Demmerle advised that this was handled through a quote process.

Mayor Starr inquired if the District used this firm before. Ms. Demmerle replied that they conduct District arbitrage calculations for our bond issues.

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Sewer Use Code Matter

Resolution No. 24-11

Adopting the findings of the hearing examiner with regard to the sewer account of M.C. Company, c/o Marvin Chermin, Northeast Ohio Regional Sewer District Case No. 10-008.

MOTION – Mayor Starr moved and Mayor Bacci seconded to adopt Resolution Nos. 24-11. After discussion and without objection, the motion carried unanimously.

Mayor DePiero inquired about the sewer use code appeals process and he questioned who conducts those hearings. Executive Director Ciaccia advised that Deputy Executive Director, F. Michael, Bucci is the hearing examiner and turned discussion over to Mr. Bucci.

Mr. Bucci explained that these cases usually arise when a customer is dissatisfied with their bill or needs a water leak adjustment. The customer first tries resolving the issue with customer service directly. If a customer is dissatisfied with the proposed resolution, then he or she may request a hearing before the hearing examiner, which is held in the District's public meeting room. The customer attends the hearing and brings any supporting evidence, witnesses and facts. Representatives from Customer Service or the Water Quality Industrial Surveillance departments may also be required to attend those hearings. The facts are presented before the hearing examiner who then makes a ruling on the case. The hearing examiner's findings come before the Board for approval. The hearing examiner is appointed by the Board. If the customer is dissatisfied with the hearing examiner's ruling, then the customer can bring an action in court.

Mayor DePiero inquired whether the District is able to resolve most of these matters internally before they are brought before the Board for consideration. Executive Director Ciaccia advised that most of the complaints are first handled through the CWD. If the customer is not satisfied with the adjustment, then they come before the District's hearing examiner. There are however special cases including SCCBOUTS or industrial discharge issues that come directly to the District.

Mr. Bucci added that water leak adjustments come before the District. The City of Cleveland grants 50% on a water leak adjustment and the District usually grants the remaining 50% on the sewer.

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VI. Information Items

1. Program Management Status Report and Update – December 2010.

Director of Engineering & Construction, Kellie Rotunno, presented the Board with the year-end 2010 Capital Improvement Program (hereinafter "CIP") report. Ms. Rotunno stated that the District awarded 33 projects for \$277 million in 2010.

Ms. Rotunno referred to a chart depicting the breakdown of projects that were awarded in 2010 which included CSO projects, collections projects and WTPs projects. The graphic also showed that \$39 million was awarded in design projects and that \$277 million was awarded in construction projects. The majority of the program costs were incurred on the CSO program which was largely attributable to the Euclid Creek Tunnel (hereinafter "ECT") project, which cost \$198 million.

Ms. Rotunno stated that over 23% of the 2010 construction went to Minority Business Enterprises (hereinafter MBEs"), Women's Business Enterprises (hereinafter "WBEs") and Small Business Enterprises (hereinafter "SBEs"). There are still legacy projects that were bid under the District's former MBE/WBE program and newer projects were awarded under the SBE program.

The ECT project was the largest project awarded in 2010 and is one of the largest projects in the District's history. The average CIP award was \$2 million.

Ms. Rotunno advised that the District retooled its CIP processes in an effort to improve project delivery. The District awarded 33 projects in 2010, which was the second highest in the District's history. The first being in 2009 wherein the District awarded 37 projects. Ms. Rotunno stated that the District was awarding more work and subsequently had more work in the queue to be managed in 2009. The District needs to develop its staff, processes and tools in order to maintain this level of project delivery and management. Ms. Rotunno referred back to a presentation that she made when she first joined the District wherein she indicated that there will be a tremendous increase in the volume of output through the CIP. She stated that we are now managing this predicted level of workload.

Landmark projects in 2010 included the Renewable Energy Facility (hereinafter "REF"), which is on schedule and on budget. The Nine Mile Creek (hereinafter "NMC"), which is being prepared for about \$500 million worth of District CSO infrastructure investments that will take place over the next 10 years. The NMC Electrical Substation was awarded in 2010 and the Tunnel Dewatering Pump Station (hereinafter "TDPS") will be awarded in 2011. Ms. Rotunno advised that the District plans investing \$284 million at the NMC site and those projects are being driven by our consent decree.

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Ms. Rotunno moved discussion to the Key Performance Indicators (hereinafter "KPIs") on project delivery and she advised that the District ended 2010 at 90%. The District delivered 33 contracts, which was our target, and awarded \$277 million in new contracts.

Ms. Rotunno advised that several projects carried over from 2010 to 2011 for the reason that there were irregularities in the bids or some of them were extended due to design challenges that resulted in extended scope negotiations. Ms. Rotunno stated that "we've learned from this process not to back-end load the construction awards" and therefore we plan to move those into early fourth quarter so we can still award those projects in the targeted calendar year.

Ms. Rotunno stated that the District reached its KPI at 100% for the engineer's estimate of probable construction cost. The District's bids averaged 3.2% under the engineer's estimate of probable construction cost and 18 construction projects were bid in 2010.

Ms. Rotunno moved discussion to the KPI for the management of construction project change orders. At 85%, Ms. Rotunno advised that we were short of our goal and that 13 of the 16 jobs finished within that KPI.

Ms. Rotunno advised that the District met its KPI for closing out projects within 105% of the base contract amount.

Ms. Rotunno referred to a graphic depicting work orders against the general allowances that were authorized through December 2010 and she advised that \$2.8 million was committed on general allowances which represents less than 1% of the total construction contract value.

Ms. Rotunno referred to a graphic depicting project closeouts and she stated that the red bar represented the 105% wherein three projects exceeded that bar. The District opted to fully use the general allowances on the LS-3 project for the reason that it was funded under the American Recovery and Reinvestment Act (hereinafter "ARRA") and we either "use it or we lose it" and therefore the District decided to spend that general allowance. Ms. Rotunno explained that the other two projects involved electrical work, which we struggle with in terms of design and construction. The District missed that KPI but managed those change orders without running into project modifications or construction cost overruns.

Ms. Rotunno moved discussion to the MBE, WBE and SBE goals. The District met or exceeded their MBE bid commitments on 10 of 12 projects. The Westerly Interceptor Box Culvert Replacement (hereinafter "WIBCR") project did not meet its goal. Ms. Rotunno explained that this project was challenging to manage and therefore "it would be

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expected that they might not be able to achieve their goal.” Ms. Rotunno advised that 7 of 12 contractors met their WBE commitments. Only four projects closed out under the SBE program in 2010 and each of those exceeded the contractor’s bid commitment and the District’s SBE participation goals.

Ms. Rotunno moved discussion to consent decree compliance. The District signed the consent decree on December 28, 2010. It has since been lodged in the court and the 30-day comment period will end on January 28, 2011. The District submitted three high-rate treatment pilot program work plans to the Environmental Protection Agency (hereinafter “EPA”) in 2010. Ms. Rotunno advised that the District met its first compliance deadlines under the consent decree in 2010 and will be facing more 2011.

Looking ahead to 2011, Ms. Rotunno advised that the District has another record year of project awards and plans improving its delivery processes. The District anticipates awarding 40 projects in 2011 valuing \$200 million. There will be more projects and therefore more paperwork for the District to manage. Those projects will most likely be equally divided in the CSO, collections and WWTPs areas. The average project cost in 2011 is \$5 million and the District anticipates front-end loading its CIP schedules to avoid slippage into 2012.

Ms. Rotunno advised that the District intends adjusting its KPIs in 2011. The District will raise its CIP delivery KPI from 90% to 95% and maintain its KPI for the engineer’s estimate and its 105% budget KPI for construction projects. A KPI will be added for SBE compliance, which will be 80% of District projects achieving the SBE goal. Ms. Rotunno encouraged the Board to provide her with any feedback as it relates to project tracking, reporting processes and or suggested KPIs.

Ms. Rotunno moved discussion to deadlines in 2011. A semiannual report regarding the District’s consent decree progress is due July 1, 2011 and the green infrastructure plans are due December 31, 2011.

Ms. Rotunno concluded her report by advising that the CIP status report and update will now be given at the first Board meeting of each month in an effort to present the Board with more timely data.

Mr. Sulik commented that Ms. Rotunno’s monthly reports keeps the Board apprised on the status of District projects. He further stated that Ms. Rotunno has done “an excellent job in working with the Engineering Department and bringing in upgrades” to keep the Board more informed than before. Mr. Sulik congratulated Ms. Rotunno “on doing an excellent job.”

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2. Ad Hoc committee on Review of Ethics.

Mr. Sulik reported that the Ad Hoc Committee will be reviewing the Ethics Policy and is scheduled to meet immediately following the Board meeting on February 3, 2011. Mr. Sulik indicated that he requested feedback or ideas from Executive Director Ciaccia and that information has been included in the Board members' packets for review.

Mr. Sulik advised that there have been some ethics concerns as it pertains to Cuyahoga County administration and holding public offices in various communities and this has been reported on in *The Plain Dealer*. Mr. Sulik indicated that the Ad Hoc Committee will be examining those instances as it pertains to District employees holding public office within their respective communities.

VII. Open Session

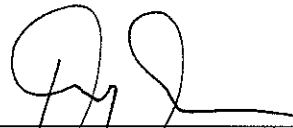
There were no items for discussion.

VIII. Public Session (any subject matter)

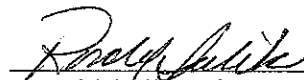
No members from the public registered to speak at Public Session.

IX. Adjournment

MOTION – Mr. Sulik stated business having been concluded, he would entertain a motion to adjourn. Mr. O'Malley moved and Mayor Bacci seconded the motion to adjourn at 1:05 p.m. Without objection, the motion carried unanimously.



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



Ronald Sulik, Vice President
Board of Trustees
Northeast Ohio Regional Sewer District