

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
FEBRUARY 2, 2012

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

I. Roll Call

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

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

II. Approval of Minutes

MOTION – Mr. DePiero moved and Ms. Kelly seconded that the minutes of the January 19, 2012, Board Meeting be approved. Without objection, the motion carried unanimously.

III. Public Session

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

IV. Executive Director's Report

Executive Director Ciaccia began his report with an update in regards to the KMM&K litigation associated with the Mill Creek Tunnel 3 project. A two-day mediation session was held and did not result in a settlement. A pretrial meeting with Judge O'Donnell is scheduled on February 7 at 1:30 p.m. He was hopeful that the Judge would set a trial date at that time.

In the meantime, mediation will reconvene on February 27 with the joint venture parties, as agreed to at the conclusion of the most recent mediation session.

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Executive Director Ciaccia stated that District staff continues to wait for a decision from Judge Pokorny in regards to the Stormwater Management Program (hereinafter "SMP") litigation. He advised that staff had come to an agreement with the Cleveland Municipal School District and continues to work with the Cleveland Catholic Diocese on issues they have had. He believes a resolution is within grasp on that front.

Executive Director Ciaccia advised that three Board terms were set to expire on March 1.

The Suburban Council of Governments met last week and unanimously elected Ronald Sulik to another term in the population seat.

Additionally, City of Cleveland Mayor Frank Jackson has reappointed Walter O'Malley to the flow seat he currently holds.

Mr. Brown congratulated both Mr. Sulik and Mr. O'Malley.

In regards to the Board seat appointed by Cuyahoga County (hereinafter "County"), Executive Director Ciaccia stated that Mr. DePiero indicated he was not seeking reappointment. County Executive Ed FitzGerald sent a letter to the District nominating City of Parma Mayor Timothy DeGeeter to fill the seat, which is subject to the County's confirmation process. Executive Director Ciaccia advised that all indications are the County intends to complete the confirmation before March 1.

The Board will be required to elect a new secretary upon Mr. DePiero's departure, either at the conclusion of the next meeting or the beginning of the March 1 meeting

Executive Director Ciaccia stated that staff has completed preparation of the 2012 budget and he anticipates submitting the books for the February 16 Board meeting. The budget is smaller than last year's and staff has done a good job keeping expenses in-line and within the revenues.

A Finance Committee meeting will be held on February 28 to review the budget, after which the Board will discuss it during its March 1 meeting.

V. Action Items

Authorization to Advertise

Resolution No. 27-12

Two-Year Requirement Contract for the Purchase of Gas Detection Devices and Associated Equipment.
Anticipated Expenditure: \$110,000.00.

MOTION – After discussion, Mr. Sulik moved and Mr. O'Malley seconded to adopt

Resolution No. 27-12. Without objection, the motion carried unanimously.

Ms. Kelly inquired as to why no Small Business Enterprise (hereinafter "SBE") or Woman's Business Enterprise (hereinafter "WBE") vendors submitted a bid, over what period of time the District has used this gas detection device and where they are manufactured.

Executive Director Ciaccia indicated that he could not particularly answer those questions; however, as indicated in the documentation the equipment from this company is not going to be supported any longer. He asked the Board to hold the resolution since the staff member knowledgeable on the subject was not present.

Mr. Brown stated that the procurement of the device -- the technology itself -- is a manufactured product that must meet a certain set of specifications for the District's needs and purposes; beyond that is the requirement for maintenance provided over a period of time to make sure they are calibrated properly to function as designed. He inquired whether there are firms that can provide that type of service in one of those classifications.

Jacqueline Williams, Manager of Procurement Services, explained that when gas detectors are ordered staff wants to stay with the manufacturer's warranty. Additionally, there are no MBEs or SBEs in this particular area because the District buys the gas detectors on a regular basis. Staff tried to get it under contract; in the past the detectors were ordered through regular purchase order means. There are no SBEs that supply these particular gas detectors.

Ms. Kelly inquired where the products are purchased, to which Ms. Williams advised that she could retrieve that information.

Ms. Kelly inquired if the vendor is local, which Ms. Williams affirmed. Mr. Brown stated that the vendor is probably local but the product is not manufactured locally. Ms. Williams affirmed.

Mr. Brown stated that there is likely an approved authorized vendor that sells the product. Ms. Williams affirmed and stated that there may be two or three.

Ms. Kelly asked what makes the product so unique. Ms. Williams explained that the specification makes it unique. She stated that although she was not a gas detector expert, it is a safety issue in terms of how it is calibrated and how it is supposed to be used.

Kellie Rotunno, Director of Engineering & Construction, advised that the devices detect gases such as carbon monoxide, hydrogen sulfide, oxygen, and the explosive limit of

potentially explosive gases prior to confined space entry. The devices are complexly-engineered products that are not manufactured locally but provided through local vendors. She indicated that a small business could not manufacture a device of that specialized nature. The device is a very highly scientific instrument similar to what is used in laboratories, and much of the equipment purchased under lab agreements. These are used by personnel doing confined space entry for personnel protection.

Mr. Brown noted that is an Occupational Safety and Health Administration requirement. Ms. Rotunno affirmed. Ms. Williams added that staff does not want to play around with the warranties and the safeties.

Executive Director Ciaccia stated that if Ms. Kelly was satisfied with staff's response he would withdraw his recommendation to hold the resolution. Ms. Kelly indicated that the explanation was satisfactory.

Authorization of Contract Modification

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| Resolution No. 28-12 | Modify Contract No. 11001687 with Marous Brothers Company, Inc. for the Southerly Spiral Screw Pump Replacement (SSPR-2) Project. Cost: A Time Extension of 182 Days with No Change in the Contract Price. |
| Resolution No. 29-12 | Final Adjustment Deduct Order for Contract No. 10002506 with Inland Waters Pollution Control, Inc. for the Easterly Interceptor Service Agreement Contract. Cost: A Decrease in the Amount of \$1,632,512.88 Bringing the Total Contract Price to \$2,714,716.67. |
| Resolution No. 30-12 | Modify Contract No. 11000801 with Cintas Document Management, L.L.C. for Offsite Storage of Electronic Media, Hard Copy Records and In-House Document Shredding Services to Exercise Two (2) One-Year Options to Renew for Calendar Years 2012 and 2013. Cost: \$32,100.00 Per Year for a Total Cost of \$64,200.00. |

MOTION – After discussion, Mayor Starr moved and Mayor Bacci seconded to adopt Resolution Nos. 28-12 through 30-12. Without objection, the motion carried unanimously.

Authorization to Rescind Resolutions and Adopt Policy Statement

Resolution No. 31-12 Rescind Resolution Numbers 174-74 and 5-78, and
Adopt an Equal Employment Opportunity Policy
Statement.

MOTION – After discussion, Mr. O’Malley moved and Mr. Sulik seconded to adopt Resolution No. 31-12. Without objection, the motion carried unanimously.

Mayor Starr asked for an explanation.

Douglas Dykes, Director of Human Resources, advised that in 1974 the Board adopted an Equal Opportunity Policy and in 1978 adopted an Affirmative Action plan. Some of the information is no longer accurate and up to date. He cited language regarding a specific position administering the Affirmative Action plan and specifics on percentages of what is supposed to be reached when it comes to Affirmative Action.

The Equal Opportunity Policy does not have the current expansive definition of discriminatory. Mr. Dykes advised that staff recommends an updated policy statement. Additionally, staff believes Affirmative Action is included under the Diversity & Inclusion program and current and future practices when it comes to recruitment.

Authorization to Adopt Resolution

Resolution No. 32-12 2012 Salary Resolution.

MOTION – After discussion, Mr. DePiero moved and Mayor Bacci seconded to adopt Resolution No. 32-12. Without objection, the motion carried unanimously.

Executive Director Ciaccia advised that some classifications and pay grades have been changed while new classifications have been created and some were deleted. He stated that this type of action is taken every year. He asked Mr. Dykes to expand on how it relates to vacation and other details.

Mr. Dykes explained that every year jobs change and sometimes new jobs are required. All District job titles are now contained within the salary resolution. The second significant change is in regards to vacation accrual. The current policy dictates that Tier 2, which encompasses employees with five years of service up to less than twelve, and Tier 3, which includes employees with twelve to less than twenty years’ experience. This resolution would change Tier 2 to from five years’ service and less than ten and Tier 3 to between ten years and less than twenty.

Mayor Starr inquired as to the equity in the application of benefits to collective bargaining employees and non-bargaining employees. Mr. Dykes advised that the benefits are very close with the Local 860 and 18S unions. The security and 18S contracts direct that their benefits will be in line with the benefits listed in the District handbook and may be changed without negotiation as long as they are not a detriment to the employees.

The largest union among District employees is Local 2798. The actual policy statements are in their contract and a new contract is currently in the process of negotiation. If the contract is negotiated successfully their tiers will also change. The other two unions are automatic as long as it is not a detriment to the employees.

Executive Director Ciaccia stated that non-union employees' benefits are similar to union employees' benefits.

Mayor Starr stated that the basic reason why there are both internal and external equity adjustments is to make sure the organization is paying competitive benefits and able to attract the most talented individuals with low turnover. Mr. Dykes agreed

Mayor Starr questioned if the District maintains a low turnover rate. Mr. Dykes stated that turnover is not high.

Executive Director Ciaccia stated not only is the turnover not high, but the organization has been very successful attracting talent from the private sector, which is a testament to the competitiveness of the salaries and benefits.

Executive Director Ciaccia stated that it has been established that governments offer good benefits. While salaries may be a bit lower, the overall package has put the District into a competitive situation in terms of recruitment, particularly as major construction programs are implemented in the future. The addition of well qualified talent from the private sector in the engineering and construction fields will help reduce the reliance on more expensive professional services contracts.

VI. Information Items

1. Business Opportunity Program Update

Executive Director Ciaccia advised that the compilation of statistics associated with the Business Opportunity Program update reflect a mixture of programs. The initial program ran for many years and was not supported by a disparity study. That program was shelved in 2008 and replaced by an SBE program that was race- and gender-neutral.

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Subsequently, the new MBE, WBE and SBE program was instituted and was supported by a disparity study.

Executive Director Ciaccia explained that a variety of projects are under different programs and could be confusing at times. Eventually all projects will be under the program and staff will be able to draw more conclusions as it relates to goals.

At that time, he turned the meeting over to Tiffany Jordan, Contract Compliance Manager.

Ms. Jordan began by thanking her staff.

The Office of Contract Compliance was created in 2008 for the purpose of tracking SBE, MBE and WBE goals, monitoring prevailing wages and outreach services for certified firms.

Ms. Jordan advised that she would discuss information from the former and current programs.

Currently 827 firms are certified as an SBE, MBE or WBE. The areas of certification include goods, services, construction and engineering.

There is a total of \$20 million in terms of goods and services for 2010 and 2011. She noted that it is not an “apples to apples” comparison. Ms. Jordan referenced Ms. Kelly’s inquiry regarding the breakdown of direct payments to certified firms.

Executive Director Ciaccia explained that there are no goals as it relates to goods and services, but certain statistics are being monitored. He indicated that the figures being presented were direct payments, not a subcontracting portion of the program.

Ms. Jordan advised that the percentages of direct payments are as follows: SBE at 5.3% in 2010 and 6% in 2011; MBE at 1.7% in 2010 and 2.1% in 2011; and WBE at 2.1% in 2010 and 2% in 2011.

\$102 million in direct payments to certified firms were made in 2010 on capital projects in which goals were established. That figure climbed to \$175 million in 2011. Executive Director Ciaccia explained these are traditional projects that have been tracked for many years and are mostly contractors who were SBEs, MBEs or WBEs. This is in reference to the subcontracting portion of the program.

Ms. Jordan advised that SBE increased by 21%, WBE by 6.8% and MBE declined slightly in total program dollars in 2011. To date \$64.4 million has been spent with local

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companies. She stated that actual dollars spent is very important because it shows the money went to local small companies certified in the program. The SBE total for 2011 was \$37.7 million; \$13.3 million for MBE; and \$12.2 million for WBE.

Ms. Jordan referenced a question regarding why two projects -- the Big Creek Interceptor and SOM Center Road -- did not meet their goals. The Big Creek Interceptor project missed its goal by 0.02%, or \$332. The Chagrin SOM Center Road project did not meet its goal due to a change in scope. The goal was 20% and fell short by 7% or \$42,000.

Ms. Jordan advised that \$37.7 million was awarded through the program in 2011 with \$9.5 million in design and \$25.2 million in construction. There is currently 24%, or \$42 million, on all active construction projects. She advised that this figure encompasses data from 2008 to present and both the disbanded program and the Business Opportunity Program.

Ms. Jordan stated that a staff objective is to perform outreach programs for certified firms to provide them with the tools and resources they need to become certified. She thanked Constance Haqq, Director of Administration & External Affairs, and her staff, in achieving success. MBE certification has increased by 17% and WBE enrollment has increased by 4.3%. She explained that increased enrollment should lead to an increase in meeting Business Opportunity goals.

Outreach events have included a two-day period during which 200 companies were invited to the District to meet with managers and directors from each department to educate certified firms of organizational initiatives. The objective of the event was to educate certified firms with banking institutions, federal projects and federal funding to enroll and become successful.

Additional outreach events include business opportunity exchange breakfasts. She advised that it is like an advisory committee of seven rotating companies with which she meets to discuss their concerns and issues about the program.

Ms. Jordan stated that she and her staff participate in 13 types of events to raise awareness about the certification program. She credited the outreach efforts for the increased enrollment.

Moving to 2012 initiatives, Ms. Jordan advised that staff will work with the Commission on Economic Inclusion with their training program to provide bonding financial readiness and business assessment for certified firms. Ten to 20 firms are chosen to participate. Staff will work with the Urban League of Greater Cleveland on certification workshops with a 12-county reach. The objective of that endeavor is to reach outside Cuyahoga County to increase the pool of certified firms. Staff will also work with organizations

such as the Greater Cleveland Rapid Transit Authority (hereinafter "RTA"), the Airport and the City of Cleveland. Business Opportunity exchange breakfasts will also continue.

Ms. Jordan informed the Board that staff has been contacted by the Cleveland Institute of Art, the Cleveland Public Library, the Cuyahoga County Board of Developmental Disabilities and Cuyahoga County Council in regards to best practices in developing their own programs.

Mr. DePiero inquired how many companies are MBEs and SBEs. Ms. Jordan advised that there are about 300 MBEs. Mr. DePiero stated that figure represents a little less than half of all certified. He questioned if that number doubled over the past three or four years due to these programs. Ms. Jordan advised that enrollment has increased significantly every year but has increased tremendously since the implementation of the Business Opportunity Program and outreach efforts. She began tracking the performance since the disparity study was incorporated.

Ms. Kelly inquired if a company could be an SBE, MBE and WBE simultaneously. Ms. Jordan explained that all are considered to be an SBE. The MBE/WBE classification is based on race and gender. A company could be more than one classification.

Ms. Kelly inquired regarding the categorization. She questioned if a minority, woman-owned firm would be an SBE, MBE or WEB, and how program participation is calculated. Ms. Jordan explained that the numbers are calculated as it relates to goals on projects. A woman considered an African-American would be an MBE. Ms. Kelly inquired if that is how it would be counted. Ms. Jordan affirmed.

Mr. Brown stated that the Board's interest moving forward was more along the lines of actual outcome performance as opposed to goals and that is now happening.

2. Audit Committee Composition

Deputy Executive Director, F. Michael Bucci, advised that John Wasko, Manager of Internal Audit, will make a presentation. He first wanted to provide a brief overview.

Deputy Executive Director Bucci advised that in the early 2000s audit comments from external auditors and other state agencies recommending the creation of an audit committee. At that time it was decided that the Board in its entirety would be the Audit Committee.

The Board formed committees and incorporated them into the Bylaws in 2008. The Audit Committee was established as standing committee comprised of three Board members. Mayor Starr is currently the committee chairman.

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Presentations were made to the Audit Committee regarding the composition of other agencies in the area. Those discussions included the possibility of adding external members to the Committee. The Committee felt this was a topic that should be brought to the Board as a whole. He had a discussion with Mr. Brown and he agreed that would be a good topic for discussion.

At that time he turned the meeting over to Mr. Wasko for a short presentation and a recommendation.

John Wasko, Internal Audit Manager, advised that staff recommends the Board refer the issue to the Governance Committee because it would require tweaks to the Board's Bylaws.

Mr. Wasko stated that his presentation will touch on two areas: an organizational comparison of audit committees of selected agencies in the area and attributes of the audit committees for professional standards from professional organizations.

Mr. Wasko presented a slide that evidenced various audit committees in Northeast Ohio and their composition. The Cuyahoga County and City of Cleveland audit committees' external component is determined by a formula and agreement between the executive and legislative branches. Cuyahoga Metropolitan Housing Authority (hereinafter "CMHA") appointees are at the discretion of the chairman of the board and each of the Cleveland Metroparks commissioners makes an appointment. The RTA audit committee is a composition of their board

A best practice highlighted by the Government Finance Officers Association and the Institute of Internal Auditors is the financial acumen and skill within the audit committee. The appearance of independence on the Committee would provide an increased opportunity to have Certified Public Auditors (hereinafter "CPA") and Certified Internal Auditors (hereinafter "CIA") in the committee makeup.

Mr. Wasko explained that the other tenant is to assist the organization's drive towards transparency. A more independent audit committee will further help the organization have a more transparent view of its operation.

Mr. Wasko advised that it is the same entity's view that a more external audit committee would improve the internal audits since they both report to the Audit Committee.

The recommendations by staff and the Audit Committee is to continue with one Board member acting as chairman and provide for two independent members with some CPA, CIA or Certified Fraud Examiner background on a two-year term. The selection of

members per the District Bylaws is by the Board and a \$100 stipend per meeting would defray costs.

Mr. Brown deferred to Mayor Starr, who serves as Audit Committee chairman.

Mayor Starr stated that he believed there was a big difference between external members from the public and private sectors. He asked if Mr. Wasko agreed. Mr. Wasko advised that while appointments would be at the Board's discretion staff would be more than willing to assist in canvassing candidates. Three pools of candidates were identified: those from a manufacturing background, given the processes the organization performs; public accountants; and governmental. He stated that there are three candidate pools for two seats and public or private sector experience would be considered.

Mayor Starr clarified that the members would serve two-year terms, which Mr. Wasko affirmed.

Mayor Starr inquired about the term length other organizations use and stated that two years seems like a short duration. Mr. Wasko advised that CMHA has two-year terms, the Metroparks are three years and Cuyahoga County is three years.

Mayor Starr inquired if external members would be term-limited. Mr. Wasko advised that members may be reappointed at the Board's discretion.

Mayor Starr stated that external members would essentially be volunteers. Mr. Wasko agreed and explained that is why a minimal stipend to cover transit and time is included.

Mayor Starr inquired how other governmental entities have attracted talented individuals to volunteer their time. Mr. Wasko advised that he was a member of the CMHA audit committee and they have done an excellent job pulling from both governmental and development agencies within the city. The Detroit Shoreway area has a representative as does the City of Cleveland. The RTA and the Metroparks are also finding members from private and public practice.

Deputy Executive Director Bucci advised that the Cleveland Metroparks' external members were all from CPA firms. They do not go outside for audit and there is no stipend. He advised that District staff had informal discussions with some accounting firms and thinks volunteers could be located. The District is viewed as a utility more so than the Metroparks or Cleveland Zoo.

Mayor Starr inquired if the Board would make the appointment and the appointee would report to the Board. Mr. Wasko affirmed. Mayor Starr agreed and added that his only

concern would be the low level of compensation; otherwise he was in agreement with the concept and formation.

Mr. Sulik stated that the matter would be referred to the Governance Committee.
Mr. Brown stated that his expectation was that the Governance Committee would discuss the recommendation and formulate the appropriate language to be incorporated into the Bylaws. Mayor Starr noted that a resolution would then be presented to the Board for formal adoption.

Executive Director Ciaccia advised that there are additional Bylaws issues staff wanted to discuss with the Governance Committee.

VII. Public Session (any subject matter)

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

VIII. Open Session

There were no items for discussion.

IX. Executive Session

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

MOTION – Mayor Bacci moved to enter into Executive Session to consult with legal counsel and District administration regarding the retention of outside counsel for the Board, a District personnel matter and a discussion of KMM&K litigation. Mayor Bacci stated that discussion of these matters in Executive Session are permitted as specific exceptions to the Public Meetings Act pursuant to Ohio Revised Code §121.22(G) and he specifically designated all matters discussed in Executive Session to be protected from public disclosure in accordance with Ohio Revised Code §121.22(G), and attorney-client privilege. A roll call vote was taken and the motion carried unanimously to adjourn into Executive Session.

The Board met in Executive Session from 1:17 p.m. to 1:52 p.m.

X. Approval of Items from Executive Session

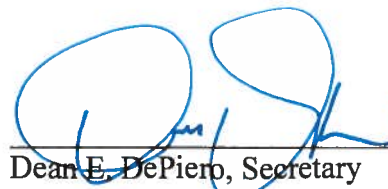
Resolution No. 33-12

Authorization to Enter Into Legal Settlement Agreement [Authorizing Settlement of Employee Robert Handlovics Matter]

MOTION – After discussion, Mr. Sulik moved and Mr. O’Malley seconded to adopt Resolution No. 33-12. Without objection, the motion carried unanimously.

XI. Adjournment

MOTION – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mayor Bacci moved and Ms. Kelly seconded the motion to adjourn at 1:53 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