

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
MARCH 4, 2021

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

President Brown opened the meeting by addressing the COVID-19 pandemic, and read the following statement:

Due to the COVID emergency, we are again conducting our board meeting via live stream video conference using the Zoom Video Communications tool and pursuant to continuing authority of House Bill 404.

Members of the public may observe and hear the meeting using the Zoom login link found on the top of the District website, and those who wished to address the Board were able to make that request through the Zoom system prior to the start of the meeting.

I. Roll Call

PRESENT: Darnell Brown
Ronald Sulik
Samuel Alai
Jack Bacci
Timothy DeGeeter
Sharon Dumas

ABSENT: Terence Joyce

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

II. Approval of Minutes

MOTION – Mayor Bacci moved, and Mayor Alai seconded to approve the Minutes of the February 18, 2021, Board Meeting. Without objection, the motion carried unanimously.

III. Public Session

There were no items.

IV. Chief Executive Officer's Report

Kyle Dreyfuss-Wells, Chief Executive Officer, provided an update regarding the District's ongoing COVID-19 pandemic response. Ms. Dreyfuss-Wells informed the Board that as of March

BOARD OF TRUSTEES

Regular Meeting

March 4, 2021

Page 2 of 7

4, 2021, the District staff has eight active COVID-19 cases, of whom three have recovered and are in various stages of the return-to-work process, and five are convalescing. There is one symptomatic employee awaiting test results. The District wishes them a full and speedy recovery. There has been a total of seventy-eight employees with confirmed diagnoses since the beginning of the pandemic, with seventy having recovered and returned to work. There is currently one District employee who is not experiencing COVID-like symptoms remaining at home because a member of their household has tested positive for COVID-19.

The District held two virtual COVID-19 vaccine information forums on February 19 and 23, which were open to all employees. John Gonzalez, Communications Manager, led a panel discussion with medical professionals Dr. Greg Hall, President of Cuyahoga County Board of Health, and Dr. Amanda Hagen of the Cleveland Clinic Foundation, as well as District staff Elizabeth Brooks, Director of Human Resources, and Michelle Tanski, Human Resources Manager of Labor Relations. Drs. Hall and Hagen took a personal approach and discussed their medical practices, medical expertise, and their decisions to be vaccinated. The doctors answered questions from some of the more than 300 District employees in attendance. The videos are available to watch on the District's Intranet.

On March 1, the District restarted its slow and gradual reconstitution for the second time. Reconstitution was halted in the fall as the infection rates were rising and Cuyahoga County issued a stay-at-home order. All senior staff have returned to the office at least two days per week. Beginning April 5, some portion of the employees with offices will begin to return onsite. The specifics are being worked out by each department director and the reconstitution team. The District will evaluate the next step of the process after April.

V. Action Items

Authorization to Enter Into Agreement

- | | |
|----------------------|--|
| Resolution No. 68-21 | Authorization to enter into an agreement with the City of Cleveland and the Cleveland Museum of Natural History's GreenCityBlueLake Institute as fiscal agent, to sponsor District-related projects, including the assembly of more than 4,500 rain barrels for distribution to Cleveland residents, to be implemented under Mayor Frank G. Jackson's 2021 Youth Summer Employment Program in an amount not-to-exceed \$19,998.00. |
| Resolution No. 69-21 | Authorization to enter into a ten-year agreement with the City of Cleveland, Division of Cleveland Public Power (CPP), for the provision of CPP electric service to the Westerly Tunnel Dewatering Pump Station (WTDPS) at the rates presented, with an option to renew the agreement for an additional five-year period. |

Resolution No. 70-21 Authorization to enter into a loan agreement with the Ohio EPA and the Ohio Water Development Authority to accept WPCLF funding for construction costs related to the Southerly Primary Settling Tanks 1-10 Valves project for a total amount up to \$1,206,400.00.

Resolution No. 71-21 Authorization to enter into a project agreement with the Village of Valley View to provide local match funding toward the Village's Federal Emergency Management Agency's (FEMA) Hazard Mitigation Grant Program for the elevation of a residential structure located in the Special Flood Hazard Zone of the Cuyahoga River, in an amount not-to-exceed \$10,875.00.

Resolution No. 72-21 Authorization to enter into a project agreement with West Creek Conservancy (WCC) to provide local match funding toward WCC's Clean Ohio Green Space Conservation Program grant under its Big Creek Greenway project for the acquisition of six residential parcels along the Regional Stormwater System located in the Cities of Parma and Brooklyn necessary to demolish residential structures to facilitate operation and maintenance of Big Creek, in a total amount not-to-exceed \$600,000.00.

MOTION – Mr. Sulik moved, and Mayor Alai seconded to adopt Resolution No. 68-21. Without objection, by roll call vote, the motion carried with all present members voting yes and recusal from discussion and abstention from voting by Mr. Brown and Ms. Dumas.

MOTION – Mr. Sulik moved, and Mayor Alai seconded to adopt Resolution No. 69-21. Without objection, by roll call vote, the motion carried with all present members voting yes and recusal from discussion and abstention from voting by Mr. Brown and Ms. Dumas.

MOTION – Mayor Bacci moved, and Mr. Sulik seconded to adopt Resolution Nos. 70-21 through 72-21. Without objection, the motion carried unanimously.

Authorization to Amend Agreement

Resolution No. 73-21 Authorizing final adjusting change order for design-build Agreement No. 18005286 with Brewer-Garrett Company for the District-Wide Energy Conservation and Management project by decreasing the agreement amount by \$76,725.58, thereby bringing the total agreement amount to \$3,362,899.62.

MOTION – Ms. Dumas moved, and Mayor Bacci seconded to adopt Resolution No. 73-21. Without objection, the motion carried unanimously.

Authorization to Enter Into Contract

- Resolution No. 74-21 Authorization to enter into a three-year requirement contract with Star Crane & Hoist, Inc. for crane inspection, maintenance and repair services at all wastewater treatment plants and pump stations in an amount not-to-exceed \$246,716.96.
- Resolution No. 75-21 Authorization to enter into a construction contract with Northstar Contracting, Inc. for the Easterly Tunnel System Improvements project in an amount not-to-exceed \$521,986.23.
- Resolution No. 76-21 Authorization to enter into a three-year requirement contract with NBW, Inc. for waste heat boiler preventive maintenance and repair services at the District's Renewable Energy Facility (REF) in an amount not-to-exceed \$650,974.80.

MOTION – Mr. Sulik moved, and Mayor Alai seconded to adopt Resolution Nos. 74-21 through 76-21. After the following discussion, without objection, the motion carried unanimously.

President Brown asked, regarding Resolution No. 75-21, whether Northstar is a minority-owned business now serving as the prime contractor for the project and whether it has expanded its opportunities under the District's Business Opportunity Program (BOP). Devona Marshall, Director of Engineering and Construction, explained that Northstar is a minority-owned business that the District has worked with as a specialized subcontractor over the years. In the past, Northstar has provided specialized services as a subcontractor on larger projects. This project to upgrade gate control structures is a great opportunity for Northstar to serve as the prime contractor within their specialty. President Brown expressed his appreciation, noting that this is an example of the BOP removing barriers for smaller businesses to take on larger roles at a higher level and offered congratulations for the accomplishment.

Property Related Transaction

- Resolution No. 77-21 Authorization to enter into a license agreement with the City of Cleveland for the temporary use of the properties known as PPNs 511-15-010 and 511-18-001, located on Raus Road, in the City of Cleveland, owned by the City of Cleveland, necessary for the construction of the Burke Open Channel Improvement project with total consideration of \$1.00.
- Resolution No. 78-21 Authorization to enter into a Right of Entry agreement with J.D. Williamson Construction Company, Inc. (JD) granting JD the temporary use of the District-owned property known as PPN 029-08-003, located on Grayton Road, in the City of Cleveland, necessary for JD to stage a construction trailer required for an Ohio

Department of Transportation (ODOT) project, with total consideration of \$1.00.

Resolution No. 79-21 Authorization to appropriate one permanent sewer easement including the entire property known as PPN 108-08-023, located at 557 East 99th Street, in the City of Cleveland, owned by Aileen Kilburn, Owen A. Wynn (deceased), Bertha M. Wynn (deceased), Mary Smith (deceased), and Clarence Kilburn (deceased), necessary for the construction and maintenance of the Shoreline Storage Tunnel project and to deposit \$800.00 with the Cuyahoga County Probate Court as consideration for the same.

Resolution No. 80-21 Authorization to acquire one permanent stormwater easement including the entirety of properties known as PPNs 871-27-025, 871-28-033, and 871-28-034, located on Gates Mills Blvd., in the City of Pepper Pike, owned by the City of Pepper Pike, necessary for the construction and maintenance of the Pepper Luce Creek Culvert Rehabilitation at Gates Mills project with total consideration of \$1.00.

MOTION – Mr. Sulik moved, and Mayor Alai seconded to adopt Resolution No. 77-21. Without objection, by roll call vote, the motion carried with all present members voting yes and recusal from discussion and abstention from voting by Mr. Brown and Ms. Dumas.

MOTION – Ms. Dumas moved, and Mayor Bacci seconded to adopt Resolution Nos. 78-21 through 80-21. Without objection, the motion carried unanimously.

Authorization to Retain Legal Counsel

Resolution No. 81-21 Authorizing the District to retain McDonald Hopkins, LLC as outside legal counsel to advise and represent the District in the pending legal matter, *Ptacek Real Estate, Ltd, et al. v. City of Strongsville, et al.*, and to also provide general litigation advice, support and as-needed representation to supplement in-house staff representing the District in other litigation matters.

MOTION – Mayor Bacci moved, and Ms. Dumas seconded to adopt Resolution No. 81-21. After the following discussion, without objection, the motion carried unanimously.

President Brown asked for an overview of the case. Eric Luckage, Chief Legal Officer, explained that the lawsuit was filed in Cuyahoga County Common Pleas Court by Ptacek Real Estate and Ta-Check Financial Ltd., which are respectively the office building owner and tenant of a building located in a portion of Strongsville outside of the District's service area. They claim to have experienced flooding in the building with damages in excess of \$250,000 as the result of a storm

event in March of 2020. The lawsuit was filed against the District, City of Strongsville, City of Middleburg Heights, and The Home Depot, which is an adjacent property owner.

The Plaintiffs claim that accumulated debris caused one or more blockages that impeded conveyance of the stormwater causing the stormwater to inundate their building and cause the damages. They allege that the government bodies collectively were somehow negligent in their maintenance of the stormwater system, thereby causing the flooding to occur. The Plaintiffs further allege that The Home Depot failed to maintain a dry basin adjacent to the property.

The District considered several firms to represent us in this matter and settled on McDonald Hopkins. Teresa Metcalf Beasley is our primary contact at the firm and will manage the engagement. The District has previously worked with Ms. Metcalf Beasley and her partner, Jennifer Armstrong, in an unrelated litigation matter, and we had a good experience. Ms. Armstrong and Michael Matasich, another attorney at the firm, will handle the litigation.

Included in this engagement request, the District is asking the Board to also authorize general litigation support. Mr. Luckage explained that when in-house counsel represents the District in litigation matters, it is beneficial to have an outside attorney with litigation expertise with whom our staff can consult, or who can provide supplemental representation, as needed.

President Brown thanked Mr. Luckage for the explanation and added that there was significant rainfall and flooding in March of 2020, which he imagines initiated an all-hands-on-deck response. Additionally, it is interesting that the property is located outside of the District's service area.

Mayor DeGeeter asked who Plaintiffs' counsel is and what judge was assigned to the case. Mr. Luckage advised that Plaintiffs' counsel is Christopher Freeman, and the case is assigned to Judge John Russo.

VI. Information Items

There were no items.

Open Session

Ms. Dumas offered her appreciation to Ms. Dreyfuss-Wells and Mr. Luckage for providing additional information regarding cybersecurity to the Board Members prior to the start of the public meeting.

Ms. Dumas confirmed that the Finance Committee meeting is scheduled to be held via videoconference on Thursday, March 11, 2021, at 10:00 a.m.

VII. Public Session (any subject matter)

There were no items.

VIII. Executive Session

There were no items.

IX. Approval of Items from Executive Session

There were no items.

X. Adjournment

MOTION – President Brown stated business having been concluded, he would entertain a motion to adjourn. Mayor Bacci moved, and Ms. Dumas seconded the motion to adjourn at 12:59 p.m. Without objection, the motion carried unanimously.



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



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