

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
MARCH 20, 2014

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
W. O'Malley
J. Bacci
T. DeGeeter
S. Dumas
R. Stefanik

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

II. Approval of Minutes

MOTION – Mayor Bacci moved and Mayor DeGeeter seconded to approve the minutes of the March 6, 2014, Board Meeting. Without objection, the motion carried unanimously.

III. Public Session

Executive Director Ciaccia informed the Board that no one signed up to speak about a specific agenda topic.

IV. Executive Director's Report

Executive Director Ciaccia began his report by commenting on an editorial recently written by *The Plain Dealer* subsequent to a series of articles about the District and green infrastructure. He characterized the articles as balanced, although the District's perspective was not presented until the second half of each story.

Executive Director Ciaccia stated that he was confused by the editorial. The headline in the Sunday print edition was that the District was lost in a green/gray "pipe dream."

The headline on Cleveland.com is, "The Northeast Ohio Sewer District must aggressively pursue green projects" -- which he also agrees with. He also agreed with the caption under a picture and that read, "Rain gardens cost less and look better than massive tunnels." They are certainly cheaper but will not achieve the level of combined sewer overflow capture the District is mandated to achieve.

The beginning of the editorial asserts that the District should revisit its decision to build massive, expensive tunnels and instead embrace "potentially" cheaper green options.

Executive Director Ciaccia stated that the editorial indicated the District is not using what was negotiated into the consent order aggressively enough, which could certainly be argued; however, changing course now does not make sense. The editorial claims that other cities such as Cincinnati and New York have chosen green over gray. However, both of those communities are predominantly gray.

Executive Director Ciaccia agrees that the District must aggressively pursue green infrastructure options and that is exactly what District staff is doing. Flexibility to trade green for gray was negotiated into the consent order's two appendices that relate to green infrastructure.

Appendix 3, which from a dollar standpoint currently represents about 2% of the total consent order cost; however, that does not mean that will be the final percentage. New York aspires to achieve more than 30%, but actually achieving it will be another matter. The District is mandated to produce 2% green infrastructure and from there, may go in any direction that makes sense. The editorial seems to miss the point that the flexibility is already in the agreement. Executive Director Ciaccia stated that he was very confused as to how The Plain Dealer came to their determination that the District is "giving the cold shoulder to green," following the series of stories.

The same day the editorial was published, *USA TODAY* ran an article about Washington, D.C.'s system. George Hawkins runs that particular system. Mr. Hawkins was born and raised in Shaker Heights, Ohio and knows the area well. Executive Director Ciaccia advised that what is significant about the article is that Mr. Hawkins said that Washington is considering modifying its plan to incorporate more green options along the lines of ours.

The article reads, "Water Department general manager George Hawkins praises the luscious aesthetics and job opportunities that come with green solutions. But, he says, that alone won't solve the problem. 'The ground can only absorb so much rainfall, and the sewers will still overflow,' Hawkins says. 'But these tunnels — we call them the 'gray solution' — are huge, ready to handle a big storm.'"

Two days later, Mr. Hawkins said, "I support the maximum use of green infrastructure that is possible within an agreed-upon budget combined with an agreed-upon capture target. For

Washington, DC, we are still seeking to attain 96% capture, which means we need the scale of capture that tunnels provide, supplemented (we hope) by a nearly \$100 million investment in green infrastructure."

Executive Director Ciaccia stated that is where things are with Appendix 3. He was disappointed that an individual who was born and raised in Cleveland and is prominent in the industry did not get a call from *The Plain Dealer*, because he certainly referred Mr. Hawkins to them for comment.

A couple weeks ago Executive Director Ciaccia was contacted by a Pittsburgh newspaper, where the same debate is ongoing. They cited the head of the National Green Infrastructure Practice Leader for URS Corporation, a big engineering firm. That person says it is going to be difficult for Pittsburgh because of "topographical issues and that green infrastructure is not a panacea. The region will still need robust gray infrastructure. It is a tool in the toolbox that all communities should consider."

Executive Director Ciaccia stated that the records reflect that other arguments were discussed and debated because the series and editorial in *The Plain Dealer* did not capture them.

Ironically, the EPA issued their Greening CSO Plans: Planning and Modeling Green Infrastructure for Combined Sewer Overflow Control. Page 18 listed examples of green infrastructure planning. It read, "Planning Case Study #1: Northeast Ohio Regional Sewer District. The Northeast Ohio Regional Sewer District performed a systematic evaluation of where to best implement green infrastructure measures within their service area."

Executive Director Ciaccia stated that for the District to be portrayed as some sort of Neanderthal only looking at gray was unfortunate. There is a national discussion of green infrastructure and he was going to lead as they go into the National Association of Clean Water Agencies meeting in April. He will aggressively pursue green.

An excellent planning meeting took place yesterday and real opportunities were emerging for good projects incorporating green and eliminating some gray infrastructure. David Beach was invited to bring external people into the equation. He stated that if there was a shortfall on the part of the District, it was not making external people see the realities that we are up against.

Executive Director Ciaccia advised that he sent a letter to all the mayors and managers in the area summarizing the situation. The District is on the right path and will stay on it.

Mr. Brown suggested staying focused on the District's mission and less on what *The Plain Dealer* has to say. They are a media outlet, but not all the media outlets. There are other opportunities to tell the District's story in a sensible way to the community. The focus should be on the community.

The federal government became sensitive to green infrastructure around 2007 when consent order negotiations had been well under way. Some items had been set in stone by that time. Green flexibility was in there as an opportunity. Mr. Brown stated that staff should not apologize for the consent order because it got 25 years to comply, whereas the EPA wanted 20 years or less.

The focus must be on common goals and objectives. The District Board and staff agree fundamentally that in the final years of the consent decree there is not as much impact for the dollar. Achieving rate relief is where the emphasis needs to be placed.

Mr. Brown stated that the bottom line is gray infrastructure removes the impacts to the environment, which is the reason the EPA sued the District. Ways to substitute green for gray will be pursued as the plan continues, but he advocated not getting stuck on what *The Plain Dealer* says because they have a perspective, but not the only perspective.

Executive Director Ciaccia appreciated those comments and respected their perspective. He takes issue with the confusing editorial and wanted to make sure he addressed some of those confusions on the record.

Executive Director Ciaccia advised that there could be some savings through green. Staff needs to focus on the continued value engineering of projects and good contract and program management. The advanced facilities planning are based on old modeling and there will be opportunities to do things differently.

Integrated planning is a spinoff of the green flexibility and 25 years in the consent order. The EPA adopted a more flexible stance with communities. Staff notified the EPA that it wanted to engage them on integrated planning. They were willing and a meeting is scheduled on Monday. He noted an agenda item to hire McMahon DeGulis to help represent the District during that process.

Executive Director Ciaccia advised that the initial concept regarding integrated planning includes three things communities want: affordability, more time, and relief from other regulatory issues.

The affordability issue is on the table because the EPA's affordability criteria and economic projections were flawed. The impacts of other regulatory pressures such as nutrients and phosphorus also need to be examined. The communities will have pressure for expenditures on their separate sanitary sewer systems commonly known as MS4 requirements. The same ratepayers have to pay even more – an issue that needs to be on the table. Green becomes a fourth tier, if you will, and we already have that flexibility to add more green.

BOARD OF TRUSTEES

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Executive Director Ciaccia explained that the process will not be resolved next year and will require extensive planning to make the case. He was very thankful that Region 5 has been supportive through *The Plain Dealer* series and engaging early with integrated planning.

Moving to another subject, he stated that the Ohio Supreme Court accepted the Stormwater Management Program (hereinafter "SMP") case. Briefs are due April 21 and they will be discussed in Executive Session later in the meeting.

A couple hundred million dollars worth of work is ongoing at Easterly and he noted for the Board that there is a lot of interaction with the community, but not all of it is positive. There are upwards of 160 trucks per day coming in and out of the plant. From a construction standpoint, there is extensive work that the community is experiencing and the External Affairs and Engineering staffs are actively engaged.

Executive Director Ciaccia referenced a letter from Cleveland City Councilman Polensik regarding some of his issues and issues to be resolved with Bratenahl.

Mr. Brown questioned if the Lakeshore Drive issue is a State route, which Executive Director Ciaccia affirmed. Mr. Brown stated that it is not any particular city's road so going to a state route and taking the quickest entrance to the freeway makes sense. There is discussion on that issue Friday between the Councilman from Collinwood and Bratenahl Mayor Licastro. They will be reminded that Lakeshore is a State route and provides access to the U.S. highway system. What should be done is what is in the best interest of the community and efficient. Someone is not going to be happy either way. Executive Director Ciaccia advised that he will be at the meeting and in effect be the middle man.

Mr. Brown stated that it is interesting because this is a conventional construction job and it has brought challenges between communities. He stated he would also like to have a discussion with Executive Director Ciaccia and Director of Engineering & Construction, Kellie Rotunno, regarding green infrastructure storage areas to meet the CSO removal rate requirements in terms of land use. That will provide important information on how much water can be put in different places.

Concluding his report, Executive Director Ciaccia moved to the subject financial status for the first two months of 2014.

Operating revenues are slightly ahead of the budget. Billed revenues are \$28.8 million so far, which is a 19% increase. He advised not read into that because it depends on CWD billing cycles.

Cash is at \$30.1 million, or 7% ahead of last year, which is good considering the 12% rate increase and a 4% to 5% uncollectible rate.

Authorization to Enter Contract

Resolution No. 48-14

Two-Year Requirement Contract with Great Lakes Petroleum Company for Fuel Management Services at All District Facilities. Cost: \$700,774.83.

Resolution No. 49-14

Contract with Schindler Elevator Corp. for Elevator Maintenance Services at All Wastewater Treatment Plants, George J. McMonagle Building and Environmental and Maintenance Services Center. Cost: \$203,126.56.

MOTION – Mr. Sulik moved and Mr. O’Malley seconded to adopt Resolution Nos. 48-14 and 49-14. After discussion and without objection, the motion carried unanimously.

Authorization of Contract Modification

Resolution No. 50-14

Modify Contract No. 13003602 with Novell, Inc. for the Network Operating System Upgrade Project – Phase 2. Cost: An Increase in the Amount of \$98,344.00 Bringing the Total Contract Price to \$144,434.00.

Resolution No. 51-14

Transfer Contract No. 13001760 with Crane America Services, Inc. to Terex Services Due to a Merger.

MOTION – Mayor DeGeeter moved and Mr. Sulik seconded to adopt Resolution Nos. 50-14 and 51-14. After discussion and without objection, the motion carried unanimously.

Property-Related Transaction

Resolution No. 52-14

Grant a Permanent Easement to FirstEnergy Corp. for Improvements Related to Relocation and Installation of FirstEnergy’s Wood Power Poles. Total Consideration Paid to the District: \$3,350.00.

MOTION – Mayor Bacci moved and Mr. Sulik seconded to adopt Resolution No. 52-14. After discussion and without objection, the motion carried unanimously.

Authorization of In-Kind Support

Resolution No. 53-14

Approval to Offer the District's Floatables Control Maintenance Contract as In-Kind Support for the Upcoming U.S. EPA Gorge Dam Removal Study.

MOTION – Mayor DeGeeter moved and Mr. O'Malley seconded to adopt Resolution No. 53-14. After discussion and without objection, the motion carried unanimously.

Mr. Brown questioned the location of the Gorge Dam. Frank Greenland, Director of Watershed Programs, advised that it is the largest dam on the Cuyahoga River, upstream between Akron and Cuyahoga Falls.

Mr. Brown inquired if it is inside the service district. Mr. Greenland advised that it is outside of the service district. They are doing a study on how to remove that dam. A dam in a stream is one of the biggest impediments to water quality. The study does not mean the dam is going to be removed; they are going to study alternatives, what it would cost and how to manage sediment.

Mr. Brown inquired whether this is a potential look at beneficial uses. Mr. Greenland advised that the Cuyahoga River is an area of concern because of pollution problems. One of the beneficial uses is there are a number of water quality impediments along the river. This helps move in the direction of getting rid of one of the beneficial use impairments.

Mr. Brown questioned what would the tie to the District would be. Executive Director Ciaccia advised that the District has a program already being funded and they can use it as a match for funds. There is no cost to the District.

Authorization to Approve Changes

Resolution No. 54-14

Approval of Proposed Changes to Title I Sewer-Use Code and Title II Pretreatment Regulations.

MOTION – Mayor Bacci moved and Mayor DeGeeter seconded to adopt Resolution No. 54-14. After discussion and without objection, the motion carried unanimously.

Authorization to Grant Variance and Enter Into Agreement

Resolution No. 55-14

Grant Variance and Enter Into Agreement with the Ohio Department of Transportation for the Opportunity Corridor Section 1 Project. Agreement Amount: \$650,000.00.

MOTION – Mr. Sulik moved and Mr. O’Malley seconded to adopt Resolution No. 55-14. After discussion and without objection, the motion carried unanimously.

Mr. Brown stated that usually during a construction project staff tries to avoid adverse impacts in terms of additional concrete and avoiding more runoff from the area into the combined sewer than previously existed. In this instance because we seem to be giving them allowance for a project to be named later, how does this relate to the impact as a result of construction? Mr. Greenland explained that Title IV is the combined sewer code and one of the provisions is to not increase flows to the combined sewer system. The District is tied to CSO control targets in the consent decree. Increasing flow to the combined sewer system means that increased overflows could result in problems to the local or interceptor side.

Mr. Greenland stated in the Title IV review process, developers were required to submit data for projects to assess the impact on the combined sewer system. Developers are required to implement certain measures to mitigate impacts. He stated that District staff and ODOT did not like the proposed project, and discussion ensued regarding whether receipt of funding from ODOT could be used to fund green infrastructure grants in lieu of constructing something both thought was not going to work.

Mr. Brown inquired if it was in the same area. Mr. Greenland affirmed and explained that the focus is in the Doan Valley Interceptor area and mitigating the extra flow getting into the system.

Authorization to Retain Law Firm

Resolution No. 56-14

Retain Lou McMahan and the Law Firm of McMahan DeGulis LLP for Integrated Planning and CSO Consent Decree Compliance. Cost: Calculated on the Basis of the Time Involved in Rendering Services with Hourly Rates at \$300 for Partners, \$200-\$275 for Associates and \$100 for Law Clerks.

MOTION – Mr. Sulik moved and Mr. O’Malley seconded to adopt Resolution No. 56-14. After discussion and without objection, the motion carried unanimously.

Executive Director Ciaccia advised that Lou McMahan was in the audience and that he has been involved with integrated planning in Cincinnati, Columbus's consent order and others. Executive Director Ciaccia and his staff thought this firm would be the right one to engage since they have already been practicing in the area.

Mr. Brown inquired how long the undertaking might take. Ms. Rotunno advised that it could be a couple of years.

lift the water from the bottom and to the top. The location of the water line at the bottom of the screw pumps determines how much head they are pumping against.

Freeboard was added at the bottom of the pump station to allow that hydraulic level grade line to be raised. They are pumping, lifting at less distance and using VFDs. \$770,000 in cost savings have been realized, which is about 15% of the project's cost. The 10% value engineering savings on the project was exceeded.

Ms. Rotunno moved discussion to the REF. The \$145 million project is estimated to be complete by the summer of 2014.

During the past month there were issues with a new deaerator level control valve that was added. The good news is that fluidized bed incinerator No. 3 has burned at full capacity and staff ran out of solids to feed it. Emissions control testing is scheduled for next week and that will provide information regarding future air quality improvements under the MACT rules required on the incinerators in the future. Other activities included cleaning the cooling water heat exchangers and centrifuge maintenance training for operators. Incinerator No. 2 is the next in the queue to start up.

Ms. Rotunno moved discussion to the Euclid Creek Tunnel. The \$198 million project is estimated to be completed in April 2015. The tunnel itself is complete. Underground all the near-surface work is ongoing.

The lining at shaft two and the connection to the tunnel is finished. The Tunnel Dewatering Pump Station, which is adjacent to the Euclid Creek Tunnel, has \$73 million of construction costs scheduled to be completed in 2016. Activities in the past month include constructing dewatering tunnels, the structural concrete in the cavern and mechanical piping installation in the cavern.

The suction header is being installed in a deep tunnel dewatering pump station. That is where the water from the tunnel will be fed into tunnel dewatering pump station and ultimately extracted by the pumps into the Easterly interceptor where it will flow by gravity to the Easterly Plant.

Ms. Rotunno advised that the Easterly project will be part of the standard update on a monthly basis. Construction is starting on a secondary system improvements project. The \$74 million project is estimate to go through 2017.

A meeting was held with residents of Cleveland on Tuesday and a meeting with Bratenahl residents will take place tonight. There have been previous meetings with Bratenahl residents. Ms. Rotunno noted that this is the project Executive Director Ciaccia referred to earlier regarding truck traffic. There will be substantial excavation along the edge of the secondaries to make

room for additional tanks. That dirt has to be removed and new foundations will be poured, which means concrete needs to come in and tanks need to be constructed. The area will be a very active construction site through 2017 in addition to activities already taking place at Easterly.

Moving on in the report, Ms. Rotunno stated that currently they are at 79% of planned cash flow. The February goal was 28.3% while the actual figure is 22.3%. The KPI to achieve is 85%.

Ms. Rotunno advised that there had been savings in the past month through value engineering.

No construction jobs have been awarded, so there is nothing to report in terms of the accuracy of engineer's estimates.

Ms. Rotunno stated that cash flow is a little behind the 85% target.

Mr. Brown questioned the status of the Lake Shore refinishing. Ms. Rotunno advised that the District's obligations on Lakeshore Boulevard are complete except for the Lakeshore Boulevard Relief Sewer section currently under construction. When that is completed that stretch of Lakeshore will be refinished. Mr. Brown questioned the limits of the refinishing. Ms. Rotunno advised from the bridge to Rosecliff.

Mr. Brown stated that there continues to be a number of community concerns in relation to these projects. He suggested it may be helpful to create documents to document the concerns being raised by the community and whether there are strategies to address them. Ms. Rotunno stated that she can integrate community concerns into her regular updates on project status.

Ms. Rotunno stated that she has attended resident meetings personally to hear and address their concerns. She has firsthand experience with the issues and what is being done to remedy them from a construction perspective. However, there is more than construction to consider.

Mayor Bacci inquired about the REF's original completion date. Ms. Rotunno stated that it was before mid-2014 and she would report on that when the project closes.

Mayor Bacci questioned if incinerator No. 3 ran at full capacity, which Ms. Rotunno affirmed. Mayor Bacci inquired if it is still running out of solids. Ms. Rotunno advised that at one point it did. However, the feed rate is being corrected while but it is still burning. Stack testing next week will be informative.

Mayor Bacci asked whether that will dramatically reduce the hauling. Ms. Rotunno advised that there has not been hauling since No. 3 has been burning.

Mayor Bacci questioned whether incinerators No.1 and 2. Ms. Rotunno explained that they were not running yet. No. 2 is next in the queue. The order in which they have been starting has been a function of which had fewest problems.

Mayor Bacci inquired if No. 3 started first because it was the least problematic. Ms. Rotunno stated that No. 3 was the least problematic because it made it across the finish line first.

VII. Public Session (any subject matter)

No members of the public registered to speak during Public Session.

VIII. Open Session

There were no items for discussion.

IX. Executive Session

Mr. Brown stated that there were matters for discussion in Executive Session.

MOTION – Mayor Bacci moved to enter into Executive Session to discuss the status of the stormwater litigation. Discussions of these matters in executive session are permitted as specific exemptions to the Public Meetings Act pursuant to Ohio Revised Code Section 121.22(G)(3). He specifically designated matters discussed in Executive Session be protected from public disclosure in accordance with Ohio law and the 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 1:30 p.m. to 1:53 p.m.

X. Approval of Items from Executive Session

Authorization to Retain Law Firm

Resolution No. 59-14

Authorizing Executive Director to Enter Into
Interagency Agreement with the Cleveland
Metroparks.

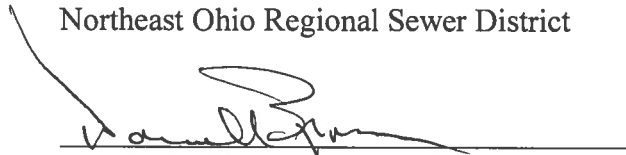
MOTION – Mayor Bacci moved and Mayor DeGeeter seconded to adopt Resolution No. 59-14. After discussion and without objection, the motion carried unanimously.

XI. Adjournment

MOTION – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mr. Sulik moved and Mayor Bacci seconded the motion to adjourn at 1:54 p.m. Without objection, the motion carried unanimously.



Walter O'Malley, Secretary
Board of Trustees
Northeast Ohio Regional Sewer District



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