

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
APRIL 5, 2012

Meeting of the Board of Trustees of the Northeast Ohio Regional Sewer District was called to order at 12:33 p.m. by Darnell Brown.

I. Roll Call

PRESENT: D. Brown
R. Sulik
S. Kelly
J. Bacci
T. DeGeeter
W. O'Malley
G. Starr

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

II. Approval of Minutes

MOTION – Mr. O'Malley moved and Mayor Bacci seconded that the minutes of the March 15, 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 stated that he had brief updates regarding District litigation.

As reported in *The Plain Dealer* and the previous Board meeting, staff signed a term sheet with KMM&K to settle the MCT-3 case. The settlement is being finalized and he was hopeful of a quick turnaround getting the terms settled within the next 30 days.

Executive Director Ciaccia advised that he wished to clarify the mathematics because in *The Plain Dealer* it appeared as if the District settled for only \$12 million. He explained

that the settlement includes \$12 million in cash secured by a letter of credit with a bank. KMM&K had claimed \$13 million against the District for non-payment for work they performed. In 2007 staff began holding money back for work that was authorized and performed. As part of the settlement they will walk away from that \$13 million.

That accounts for \$25 million in recovery for the District. The contract bid award was \$58 million, and the District paid KMM&K \$81 million under the contract, leaving a difference of \$23 million over the contract price. Executive Director Ciaccia stated that upwards of \$6 million was spent in litigation, and when those costs are subtracted from the \$25 million, it comes down to a \$19 million recovery for the District.

The settlement is a little short of full recovery. However, the Travelers crime policy is still in play and staff is very aggressively pursuing the claim. The policy is either \$5 million or \$7.5 million depending on which was in place at the time of the crime. Executive Director Ciaccia stated that the District has come out in good shape, and he clarified the financial figures with *The Plain Dealer* editorial staff.

Additionally, restitution in the amount of \$680,000 was received from Robert Kassouf. Executive Director Ciaccia advised that staff will continue to pursue Travelers and will try to keep litigation costs to a minimum because the heavy work has been done.

Executive Director Ciaccia moved conversation to the 3320 Woodland litigation in regards to the landfill and the collapse of the Mill Creek interceptor. The case is scheduled for trial in July and staff is well prepared. He explained that this week staff settled with some of the parties in the lawsuit – including Fabrizi Trucking, which was the contractor associated with the landfill owners. The settlement agreement was authorized by the Board in the amount of \$2 million. Another settlement was reached with Wade Trim, who was the engineer on the case, for less money and in-kind services they will perform at a later date.

A settlement offer has been extended to Nerone & Sons and is awaiting final confirmation. If Nerone settles, Executive Director Ciaccia advised that leaves the property owners as the only party that has not settled, and staff is prepared to go to trial with them in July.

Executive Director Ciaccia stated that District staff had been scheduled to have a meeting on March 19 with Judge Pokorny in regards to the Stormwater Management Program (hereinafter “SMP”). On March 16 the eleven opposing communities and the business interests represented by Sheldon Berns filed an appeal in the Cuyahoga County Appeals Court. Therefore, District staff did attend the meeting with Judge Pokorny on March 19; however, the community representatives felt it would be improper for the Judge to

proceed with that hearing since they filed an appeal. He agreed and cancelled the hearing.

The Court of Appeals threw out the appeals by the community and business interests for being premature because Judge Pokorny had not issued a final order. Executive Director Ciaccia advised that Judge Pokorny's intention was to convene the meeting on March 19 and subsequently issue a final order. He was barred from doing so because of the appeal. Now that the appeal has been thrown out and staff will wait for him to reconvene. However, yesterday the suburban communities in opposition and the business interests filed a motion with the Appeals Court to reconsider the dismissal of their appeals. Staff expects that the motion for reconsideration will also be thrown out and a meeting will be held with Judge Pokorny in the near future.

Executive Director Ciaccia stated that the District keeps winning at every turn in regards to the SMP litigation and staff is happy about that. In the meantime, planning will continue in order to get the program up and running as soon as possible. Staff is working with the Cleveland Water Department (hereinafter "CWD") on the billing system in an effort to kick off by January 2013.

Executive Director Ciaccia was very hopeful to resolve all the litigation this year. The District has been steeped in litigation since his arrival and it will be beneficial to the organization to get these cases behind us. The District will save money in litigation costs, too.

Discussions have been held regarding contractor reporting. A draft debarment policy was distributed to the Board. Executive Director Ciaccia clarified that the policy had not yet been finalized. A draft on central reporting for dissatisfaction of performance had also been developed.

Executive Director Ciaccia advised that staff believed it was appropriate to develop a central reporting policy as the issue was raised recently when staff decided to not take the lowest bidder. The policy intends to centralize documentation in one place when there is dissatisfaction with a contractor's performance and they are duly informed.

Moving to the next topic, Executive Director Ciaccia advised the District has 650 employees of which more than 50% are non-union. Historically, the non-union employees, from a compensation and benefits standpoint, have been treated equally as unionized employees. In general, whatever the unionized employees negotiated applied to the non-union employees, including the Executive Director.

Executive Director Ciaccia advised that staff will consider whether that is the best approach. A performance management system has been in place for two years and the

BOARD OF TRUSTEES

Regular Meeting

April 5, 2012

Page 4 of 16

next logical step may be tying compensation to performance in some form. Staff has no recommendations at this point but an internal committee has been established to examine the options and return to the Board for recommendation. He informed the Board those discussions were being held at the staff level and inquired if they had any concerns in going that direction.

Mr. Brown stated that pay-for-performance has been used effectively as a tool in a number of areas. Its applicability at the District requires due diligence to look at similar organizations that have been successful. Prior to any recommendation there needs to be a framing of the discussion so what is being considered and the intended outcome are clear.

Mr. Brown stated that the most important aspect is the betterment as a result of pay-for-performance that drives employee performance and efficiency. The issue of appropriate compensation also emerges and what the upside is for the District.

Mayor Starr stated that performance-based compensation is an acceptable practice in the private sector driven by the fact that there are no public records requests in the private sector. He stated that performance-based compensation records for a public entity are public records -- unless the Director of Law informs him there is an exclusion in the public records laws -- so everyone generally knows what others are being paid, and that can sometimes be subjective.

Mayor Starr inquired if the District regularly updates job descriptions and whether positions are valued competitively. Executive Director Ciaccia stated that Mayor Starr made some excellent points and they are things staff considers. The District is a public-sector entity and must be mindful of that. He asked Douglas Dykes, Director of Human Resources (hereinafter "HR"), to elaborate on the other points raised by Mayor Starr.

Mr. Dykes advised that staff went through an extensive process a year and a half ago to update non-union job descriptions. Job descriptions are also regularly updated any time a job is posted. He explained that HR compares market salaries regularly and provides the Executive Director with that information with each employment recommendation.

Mayor Starr questioned if there are unusual turnover rates in any department or job classifications. Mr. Dykes advised that there are a couple of Information Technology ("hereinafter IT")-focused jobs not necessarily in IT that have a greater turnover than most of the organization. The overall turnover rate is below 5%.

Mr. Brown stated that the foundation for any good pay-for-performance process must be built upon a good performance management program with objective metrics. The District has been in the midst of implementing it with the non-union staff but also needs a

BOARD OF TRUSTEES

Regular Meeting

April 5, 2012

Page 5 of 16

fair level of comfort in terms of holding employees accountable with respect to performance management.

Executive Director Ciaccia stated that the current system has worked well over the past two years. Employees set their goals with their managers and have a mid-year review. The year-end review and rating is a three-point system. He advised that if pay for performance is implemented the current performance plan will likely be modified.

Employees have gotten fairly comfortable with the system. Staff's intention was to start slowly so everyone would get used to setting annual goals and managing the performance process. He stated that there is still work to do but it may be implemented next year.

Executive Director Ciaccia advised that he wanted to open the issue for discussion this year and form a reasonable recommendation. The issue becomes clear during labor negotiations, when management, in effect, is negotiating against itself on pay increases. That creates a problem when an agreement cannot be reached, and months after the contract has expired, non-union and union employees are both unclear on their compensation.

Executive Director Ciaccia explained that this result typically ends with a large back-pay for all employees, and it would be helpful to break away from that practice. He does not have the notion that this would be the great motivator but it will bring equity to the positions in the non-union classification.

Mayor Starr inquired if internal equity adjustments are made when conducting external surveys of job descriptions and salary ranges. He questioned what occurs when inequity is found such as instances when union employees receive a cost of living increase and whether non-union employees receive the same. Executive Director Ciaccia explained that the wage increase last year was 2% and was not a cost of living increase, but a negotiated increase with the unions. Non-union employees received it as well for parity. Additionally, every year the Board authorizes the Executive Director a pool of money for merit and equity increases that is used sparingly. The presence of the performance management program enables some increases with a rationale as opposed to prior practices. Staff wants to broaden that process.

Ms. Kelly stated that she would like to see the invitation go to the Board members for attending the meeting with staff. Executive Director Ciaccia advised that F. Michael Bucci, Deputy Executive Director, will head the group. The process will be explored and he wanted to determine whether the Board had any objections before executing it. Staff's intention is to obtain input from employees, focus groups and the Board.

BOARD OF TRUSTEES

Regular Meeting

April 5, 2012

Page 6 of 16

Mr. Brown noted that the agenda for the meeting looked different than normal. There are three items that normally do not appear. The normal request of whether anyone had asked to speak on a specific topic did not appear.

V. Action Items

Authorization to Advertise

Resolution No. 73-12 One-Year Requirement Contract for the Lubricants Product Class. Anticipated Expenditure: \$58,400.00.

Resolution No. 74-12 Southerly Primary Treatment Improvements SFPI-2 Project. Engineer's Opinion of Probable Construction Cost: \$43,500,000.00.

Resolution No. 75-12 Southerly Wastewater Treatment Center, Preliminary Treatment Facility Improvements, Contract SFPI-1 Project. Engineer's Opinion of Probable Construction Cost: \$19,194,250.00.

MOTION – Mr. Sulik moved and Mr. O'Malley seconded to adopt Resolution Nos. 73-12 through 75-12. After discussion and without objection, the motion carried unanimously.

Referencing Resolution No. 74-12, Mayor Starr inquired if the equipment being replaced was the original equipment and over 30 years old. Dave McNeeley, Director of Operations & Maintenance, confirmed that the equipment in question is original and was installed in the early 1980s. Mayor Starr questioned if 25 to 30 years was the lifespan of this equipment. Mr. McNeeley confirmed.

Mr. Brown stated that in the description it says this is to install equipment necessary to complete the pilot studies for chemically-enhanced high-rate treatment. He asked for clarification regarding the pilot studies. Kellie Rotunno, Director of Engineering & Construction, advised that the project is a part of Project Clean Lake for the high-rate treatment of wet weather flow required at Easterly, Westerly and Southerly. This includes pilot work to demonstrate whether the facility can make the chemically-enhanced high-rate treatment that achieves the disinfection levels that regulators want, or whether the District would have to proceed with the more expensive ballast and flocculation technology.

Mr. Brown stated that this goes back to the negotiations with the federal government on how to achieve adequate removal rates. He questioned if these pilot studies are the District's effort to demonstrate what staff proposed can be done with fewer dollars. Ms.

BOARD OF TRUSTEES

Regular Meeting

April 5, 2012

Page 7 of 16

Rotunno advised that was correct. She explained that this project is both the replacement and rehabilitation of equipment in the primary settling tanks and the adaption of the facility to accommodate pilot plans for all three plants.

Mr. Brown inquired if the goal for the project is 20%, which Ms. Rotunno confirmed.

Mr. Brown stated that Resolution No. 75-12 references rehabilitating and upgrading problems identified at Southerly and doing something with the head works. He inquired if this refers to mitigating the risk of head works and what factor is being mitigated. Ms. Rotunno advised that there was a flood event at Southerly that occurred at the head works area. Research indicated that there were issues with the screens that needed to be improved in the hydraulics. This project was underway already to rehab the screen area and has been enhanced to improve removal efficiency and provide the hydraulic relief that might be necessary. Should there be similar circumstances in the future the plant would handle it at the head works, rather than overflowing and blowing through the screens.

Mr. Brown inquired if this provides an adequate level of protection. Mr. McNeeley stated that it will at the head works.

Authorization to Re-Bid

Resolution No. 76-12 Reject All Bids and Re-Bid Laboratory Chemicals: BOD-COD Chemicals, Standards, and Supplies Requirement Contract.

Resolution No. 77-12 Reject the Sole Bid Received and Rebid the Purchase of an Articulated Crane Truck for the Sewer System Maintenance and Operations Department. Cost: \$225,000.00.

MOTION – Ms. Kelly moved and Mayor Bacci seconded to adopt Resolution No. 76-12 through 77-12. After discussion and without objection, the motion carried unanimously.

Authorization to Enter Into Agreement

Resolution No. 78-12 Sponsorship Agreement with Greater Cleveland Aquarium. Cost: \$40,000.00.

MOTION – Mayor Bacci moved and Mayor DeGeeter seconded to adopt Resolution No. 78-12. After discussion and without objection, the motion carried unanimously.

Authorization to Enter Into Contract

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| Resolution No. 79-12 | Two-Year Requirement Contract with Hagemeyer N.A., Inc. for the Purchase of Portable Multi-Gas Detection Devices and Associated Equipment. Cost: Not-to-Exceed \$90,974.50. |
| Resolution No. 80-12 | Two-Year Contract with Precision Analytical, Inc. for Laboratory Services (Organic and Inorganic Analyses). Cost: Not-to-Exceed \$45,000.00. |
| Resolution No. 81-12 | Two-Year Requirement Contract with Qorpack, Division of Berlin Packaging, for Laboratory Bottles. Cost: Not-to-Exceed \$38,648.37. |
| Resolution No. 82-12 | Contract with Midwest Biodiversity Institute for Benthic Macroinvertebrate Identifications. Cost: \$26,570.71. |
| Resolution No. 83-12 | Three-Year Requirement Contract with Herbst Electric Company for Substation Preventative Maintenance and Repair Services at All Wastewater Treatment Plants and the Environmental and Maintenance Services Center. Cost: \$679,884.80. |
| Resolution No. 84-12 | Contract with Shook, Inc., Northern Division, for the Easterly Wastewater Treatment Plant EFPI-2 Code and Safety Project. Contract Amount: \$5,578,436.50. |
| Resolution No. 85-12 | One-Year Contract with Ask Reply, Inc. for the Annual Software Licensing and Support of B2GNow Software. Cost: \$22,845.00. |

MOTION – Mr. Sulik moved and Mr. O’Malley seconded to adopt Resolution Nos. 79-12 through 82-12 and 84-12 through 85-12. After discussion and without objection, the motion carried unanimously. Mr. O’Malley requested a roll call vote on Resolution No. 83-12. A roll call vote was taken, and Resolution No. 83-12 passed with one abstention by Mr. O’Malley.

Mayor Starr noted that the engineer’s estimate was around \$8 million and the bid associated with Resolution No. 84-12 was \$5.5 million. He inquired if staff was confident the contractor could deliver for that price. Greg Binder, Engineering Program Manager, stated that staff is confident Shook, Inc. can perform the work. Shook has performed work for the District and is a very capable contractor. He explained that the bids are

BOARD OF TRUSTEES

Regular Meeting

April 5, 2012

Page 9 of 16

lower than the estimate because of the large number of bidders and equipment that is difficult to get a contractor's price on equipment. The District would get a budget price from a supplier but when they compete for prices the contractor will acquire a much better price than from the engineer's estimates.

Executive Director Ciaccia advised that the bids were tightly bundled which is indicative that the contractors all understood the bid.

Mr. Brown agreed but was concerned that the bids came in between \$5 and \$6.5 million while the estimate was \$8.5 million. He believed it may suggest that "our pencil is not sharp enough." Executive Director Ciaccia agreed.

Mr. Binder advised that Engineering has been communicating with the designers continually regarding the accuracy of estimates. However, in the current economic conditions many contractors are fighting for work. Executive Director Ciaccia advised that the District maintains a KPI for bid estimates and they are currently lower by more than 10%. Work will be done to improve in this area because if the engineers are ultra-conservative it results in financing more money than needed on bond issues.

Mr. Brown stated that Executive Director Ciaccia made excellent points. He continued to state that construction estimating is a skill and competency. He would not rule out additional training in the discipline so estimates come back into alignment with the private sector in that regard. Executive Director Ciaccia explained that many estimates are developed by consulting engineers, not in-house engineers. Estimate accuracy becomes a KPI in engineering contracts.

Mr. Brown stated that consultants work for the District and it is the Board's job to provide oversight. The Board ought to know what it is overseeing and understand the discipline. He stated that if construction estimates are a KPI for the consultants at some point a discussion will be held about their performance. Executive Director Ciaccia agreed and stated that he makes no excuses for them. He was glad that the Engineering staff and consulting world was hearing it from the Board.

Authorization to Pay Dues

Resolution No. 86-12

Renew the District's Membership with the Build Up Greater Cleveland (BUGC) Infrastructure Network for the Year 2012. Cost: \$40,000.00.

MOTION – Mayor Bacci moved and Ms. Kelly seconded to adopt Resolution No. 86-12. Without objection, the motion carried unanimously.

Authorization to Amend Resolution

Resolution No. 25-12a

Amend Resolution No. 25-12 with Triad Engineering and Contracting, Inc. for Emergency 18" Sewer Replacement at East 26th Street and Lakeside Avenue. Cost: \$174,638.90.

MOTION – Mr. O'Malley moved and Mayor DeGeeter seconded to adopt Resolution No. 25-12a. Without objection, the motion carried unanimously.

Authorization to Amend Agreement

Resolution No. 87-12

Amend Service Agreement with Summit County to Include an Additional Portion of the Village of Boston Heights Within the Service Area.

MOTION – Mayor Bacci moved and Mr. Sulik seconded to adopt Resolution No. 87-12. After discussion and without objection, the motion carried unanimously.

Mr. Brown stated that given that the District has had issues from time to time with Summit County; he inquired as to why they are so benevolent as to want the organization to take on this additional responsibility. Deputy Executive Director Bucci explained that there is a small area in Boston Heights they want to add to the agreement to serve a maintenance facility for the Ohio Department of Transportation (hereinafter "ODOT"). A sewer would be installed that would run from the ODOT facility through Hudson and tie into the system. He noted that the District would not be the entity installing the sewer. Summit County requested to change the service agreement to add service to this facility.

Mr. Brown questioned what would happen without this agreement. Deputy Executive Director Bucci advised that the area in question is not part of the District and would therefore not receive service. The ODOT facility would have to find another location to send their sewage.

Executive Director Ciaccia stated that a meeting will be held tomorrow with representatives from Summit County. They are interested in settling the stormwater litigation. He was not sure how that could be done practically but indicated they are in a cooperative mood and the Board would only be authorizing staff to enter into the agreement if it is in the best interest. He added that this would add a new customer.

Authorization of Contract Modification

Resolution No. 88-12 Final Adjustment Deduct Order for Flats East Development Sewer Separation Project 3 (FED-3). Cost: A Decrease in the Amount of \$96,183.64 Bringing the Total Contract Amount to \$788,426.36.

MOTION – Ms. Kelly moved and Mayor Bacci seconded to adopt Resolution No. 88-12. After discussion and without objection, the motion carried unanimously.

Authorization to Implement Program

Resolution No. 89-12 Implement 2012 Small Scale Stormwater Demonstration Project Grants Program. Cost: Not-to-Exceed \$150,000.00.

MOTION – Mayor Bacci moved and Mr. O’Malley seconded to adopt Resolution No. 89-12. Without objection, the motion carried unanimously.

Sewer Use Code Matters

Resolution No. 90-12 Adopting the Findings of the Hearing Examiner with Regard to the Sewer Account of The Companies of North Coast, c/o Rich Petrovich, President, Sewer District Case No. 12-004. Cost: \$500.00.

MOTION – Mr. Sulik moved and Mayor DeGeeter seconded to adopt Resolution No. 90-12. Without objection, the motion carried unanimously.

VI. Information Items

1. Industrial Pretreatment Program Legal Notice

Executive Director Ciaccia advised that the industrial pretreatment legal notice provided to the Board annually is a list of industries in significant non-compliance with applicable pretreatment requirements. The District will publish the list as required.

Scott Broski, Manager of Water Quality and Industrial Surveillance (hereinafter “WQIS”), advised that the District has been delegated the authority by the Ohio Environmental Protection Agency (hereinafter “EPA”) to regulate all the industrial discharges to its sewer system. WQIS monitors those industries on an annual basis by collecting wastewater discharge data and determining whether there are violations and issuing notices of violations where they exist.

BOARD OF TRUSTEES

Regular Meeting

April 5, 2012

Page 12 of 16

The industries are required to conduct self-monitoring and provide that data to the District. On an annual basis that data is evaluated and it is determined whether they are in significant non-compliance. The industries are then required to be published annually in the newspaper of largest circulation in the service area.

Mr. Broski explained that significant non-compliance takes into account pollutant parameters versus individual parameters versus the total number of parameters of analysis for the year. An industry is considered to be in significant non-compliance when 33% of analysis exceeds the discharge limits by 20%. Chronic significant non-compliance is when violations that exceed the limit by any amount 66% of the time. He advised that 17 companies were in significant non-compliance this year as opposed to 21 last year, which is the fewest number listed since 2002.

Mr. Brown inquired regarding repeat offenders. Mr. Broski advised that five companies were repeat offenders from last year, and one has been listed three straight years. The seven companies will be staff's focus this year to help them come back into compliance. Mr. Broski noted that there were 37 in significant non-compliance in 2005, showing that industries are complying with the discharge regulations.

Mr. Brown appreciated the overview and inquired when the encouragement and correction becomes punitive. Mr. Broski advised that something that the degree of the violation and how frequently they occur are important factors. Staff increases enforcement action against those in significant non-compliance.

Mr. Broski explained that WQIS has an enforcement response plan varying from a written notice of a violation, a compliance administrative order, ordering specific changes and carrying out capital improvements in their facilities. They must have sound engineering and housekeeping and implement their plans to come back into compliance.

2. Tuition Assistance Program Update

Constance Haqq, Director of Administration & External Affairs, stated that Mr. Sulik previously requested a presentation on the Tuition Assistance Program (hereinafter "TAP"). She stated that is a great benefit the District provides to all employees and introduced Russ Rys, from the Organization and Employee Development Department.

Mr. Rys stated that he asked three employees who have recently completed a degree program to explain how TAP helped their careers and work at the District.

The program has increased since its launch in 2007. In 2011 there were 12 new participants. He advised that program enrollment fluctuates from year to year. On average the District provides \$2,690 each year to employees in the program. Mr. Rys

BOARD OF TRUSTEES

Regular Meeting

April 5, 2012

Page 13 of 16

advised that the Operations & Maintenance Department constitutes about half of enrollees.

Mr. Sulik inquired how many employees were retained after completing a degree program. Mr. Rys indicated he could provide that information following research.

According to Mr. Rys, 31 employees have either completed a degree or certificate program, including three in attendance.

Benjamin Tedrick advised that he was currently a WPO at Southerly and joined the District as a co-op in Analytical Services in 2004.

Mr. Tedrick stated that he earned a Bachelor's degree in Biology which was useful in a lab setting. He decided to pursue further education in the Environmental Studies field when he realized the District utilizes various talents in the field in terms of protecting the environment. He enrolled at Cleveland State University in 2008 and with the help of TAP completed an array of courses ranging from environmental policy, administration, planning and sustainability, as well as retuning his chemistry, biology and statistics skills. He completed the program with honors in Spring 2011.

Mr. Tedrick explained that completing the degree program would have been very difficult without TAP. He explained that TAP covered the majority of tuition and some books costs.

Kandis Morrisette stated that she works in the Finance Department and earned a Bachelor's degree in Business Administration and Finance from Cleveland State University in May 2009.

Ms. Morrisette stated that TAP helped her realize her goal of higher education and enhanced her qualifications, which has led to progression with the District. She joined the District as a co-op and later became an accounting clerk, an assistant accountant and then an accountant. She was pleased to be part of an organization that encourages its employees to increase their knowledge and thanked those who make TAP possible.

Elizabeth Toot-Levy stated that she began her career at the District in 2001 in WQIS. She has a Bachelor's degree in Water Resources and Environmental Science.

Ms. Toot-Levy advised that she came to enjoy working with environmental policy. She utilized TAP to attend Cleveland State University and obtain a Master's degree in Environmental Studies. She has put that knowledge into practice in the Regulatory Compliance Department.

BOARD OF TRUSTEES

Regular Meeting

April 5, 2012

Page 14 of 16

Ms. Toot-Levy appreciated having the opportunity to work and attend school simultaneously.

3. Proposed Bylaws Changes

Mr. Brown advised that the Governance Committee (hereinafter "Committee") met several weeks ago with staff to discuss Bylaws revisions. The Committee asked staff, and particularly the Director of Law, to provide a packet of information. He stated that Marlene Sundheimer, the Director of Law, will explain the proposed changes and proceed with the guidelines on how the Board will review and respond.

Ms. Sundheimer explained that the Bylaws revision process began in 2011. Staff brought a first draft to the Governance Committee in September 2011, at which time comments were received and changes were made. The second draft was presented to the Committee in March 2012, and at that meeting the Committee recommended forwarding the proposed revisions to the Board for review and comment.

The Board was provided with hard copies of the summary and a table which documents each change as well as a redlined copy of the Bylaws. A comment column is located on the table which explains why the changes were made. She indicated the revisions mostly include grammatical changes, reorganizing, adding captions and headings for clarification and adjustment of some provisions so the document flowed better.

Ms. Sundheimer advised that there are three major substantive changes for the Board's consideration. The first is Article I in "Officers and Committee Roles." Language was added at the Audit Committee's recommendation to restructure it with two additional external members. The new external individuals would have a business and finance background, serve a term of two years and be compensated with a stipend of \$100 per meeting.

The next substantive change is a new article entitled "Authorizations for Settlement and Release Agreements." This article would authorize the Executive Director and Director of Law to resolve legal claims and disputes on behalf of the District, the cost of which do not exceed \$25,000, without Board approval.

Ms. Sundheimer advised that currently staff is required to bring all legal settlements to the Board for approval regardless of value. A survey was taken of the claims from 2008 through August 2011 in the various categories of non-contested easements, appropriations, customer account claims, code violations, employee complaints and Workers' Compensation. There were 78 settlements during that period, of which only 17 resulted in settlements over \$25,000.

BOARD OF TRUSTEES

Regular Meeting

April 5, 2012

Page 15 of 16

This provision would grant the Executive Director and Director of Law the limited authority to settle minor claims without bringing them to the Board.

Mr. Brown stated that language was added that would require periodically, but not less than annually, a complete report presented to the Board of all settlements. Ms. Sundheimer affirmed that a provision was added indicating the Director of Law would report at least annually on settlements and more often if the Board desires.

Ms. Sundheimer advised that the final area of substantive changes was in "Contracting and Procurement." That article was reorganized so it reads better and to bring it into compliance with Ohio Revised Code Section 6119.10.

New language was added in Paragraph H under "Contract Modifications" to clarify that District staff may modify contracts valued under \$25,000 without bringing a resolution request to the Board. The definition of contract modification was adjusted with regard to contract schedule. The change applies to contract schedule changes that extend the original completion date of the contract more than 180 days. These changes constitute contract modifications that require Board approval.

Ms. Sundheimer explained that under the Bylaws as currently written, all contract extensions of schedule are considered contract modifications and must be brought to the Board for approval. She stated that this language pertains particularly to construction contracts that are extended beyond the original completion date even though there is no change in the contract value.

With regard to specific and general allowances, new language authorizes the Executive Director to approve work orders and construction change directives under which the specific and general allowance funds are used. She explained that language clarifies that the Executive Director has that authority to approve the work orders and change directives without Board approval as long as the general or specific allowance is not exceeded.

Ms. Sundheimer advised that the Board will have more than 45 days to review the changes and to provide comments to her or the Executive Director. She intends to return to the Board on May 17 to request formal adoption of the revisions.

Mr. Brown thanked Mayor DeGeeter and Mayor Bacci for their efforts working with staff on the Bylaws.

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

There were no matters for Executive Session.

X. Adjournment

MOTION – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mayor Bacci moved and Mayor DeGeeter seconded the motion to adjourn at 1:39 p.m. Without objection, the motion carried unanimously.



Sheila J. Kelly, Secretary
Board of Trustees
Northeast Ohio Regional Sewer District



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