

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
APRIL 16, 2009

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

I. Roll Call

PRESENT: D. Brown
T. Longo
D. DePiero
S. Kelly.
W. O'Malley
G. Starr
R. Sulik

The Secretary informed the President a quorum was in attendance.

II. Approval of Minutes

MOTION – Mayor DePiero moved and Mr. Sulik seconded that the minutes of the April 2, 2009 Board meeting be approved. Without objection, the motion carried unanimously.

III. Public Session

Executive Director Ciaccia informed the Board no members from the public registered to speak at Public Session.

IV. Executive Director's Report

Executive Director Ciaccia informed the Board that the District was experiencing technical difficulties with the sound system used to record the Board meeting, but that there is a backup digital recorder in the event the sound system failed.

Executive Director Ciaccia advised that the Executive Director's report provided to the Board was reformatted. Departmental reports and Executive Director Ciaccia's summary report of all pertinent information for discussion will be provided to the Board on a monthly basis. Executive Director Ciaccia's monthly reports are available for public inspection and posted on the District's internet and intranet.

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Executive Director Ciaccia moved discussion to the first report item regarding the Combined Sewer Overflow (hereinafter "CSO") Long-Term Control Plan (hereinafter "LTCP"). Negotiations continue between the District staff and the government. Executive Director Ciaccia indicated that although the District and government have not reached a consensus, fruitful discussions have been held. The District and government are in disagreement over the contingencies incorporated for the Capital Plan, the inclusion of Inflow and Infiltration (hereinafter "I&I") calculations into the Financial Capability Assessment (hereinafter "FCA"), and the assessment of local costs for Sanitary Sewer Overflows (hereinafter "SSOs") and repair and replacement of local systems as well as residential share. Executive Director Ciaccia indicated that this has been a collaborative effort thus far and that the District and government will continue working through these issues.

The District believes for purposes of the FCA, the District falls into a "high-burdened community" classification, but is classified by the government as a "medium-burdened community" at this point in the discussions. This classification determines the District's completion schedule and the burden of capital investments to be endured in order to comply with the CSO LTCP.

A conference call was held on March 12th to discuss the issue of the Capital Improvement Program (hereinafter "CIP") changing from a contract award to a cash flow. The government pointed out some discrepancies pertaining to the change and staff was able to address their concerns.

The next working session is scheduled for May 5th in Washington, D.C. District representatives will attend the National Association of Clean Water Agencies (hereinafter "NACWA") conference from May 3rd through May 6th, in Washington D.C., and plan meeting with the state and federal governments while in Washington D.C. to discuss the FCA, and according to Executive Director Ciaccia, the District has a compelling story.

Executive Director Ciaccia advised that Hatchmont McDonald Engineering resumed design for the Euclid Creek Tunnel (hereinafter "ECT"), and the government indicated that they will grant the Permit to Install for the ECT Project.

The Easterly Tunnel Dewatering Pump Station (hereinafter "ETDPS") will pump water out of the Euclid Creek and Dugway Tunnels which will be used for CSO control. Executive Director Ciaccia advised that the ETDPS is a significant facility and the project is estimated to cost over \$100 million.

Executive Director Ciaccia referred to a graph depicting the proposed site location of the ETDPS and ECT. White City Beach (hereinafter "WCB") is situated west of the Easterly

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facility, and is owned by the District. WCB was initially determined to be the best location for the ETDPS. Prior to Executive Director Ciaccia joining the District, community meetings were held at the Village of Bratenahl wherein the community objected to the District using its WCB property as the ETDPS construction site. Tunneling shafts were originally going to be located at the WCB location as well, and the former District Executive Director agreed not to construct the shafts or the ETDPS at the WCB site. The District proposed to relocate the construction site either southeast or west of the Easterly facility which would be situated near the front of the Easterly plant on Lakeshore Boulevard. According to Executive Director Ciaccia, those two alternative sites were feasible, but not as technically sound or cost efficient as the WCB site.

Subsequent to Executive Director Ciaccia joining the District, additional alternative locations were evaluated as possible construction site locations. Since the District already purchased a substantial piece of property at the Nine Mile Creek (hereinafter "NMC") to accommodate the tunnel shafts, staff considered using the NMC property for the construction of the ETDPS. Executive Director Ciaccia advised that the NMC property is an adequate construction site for the ETDPS and much less controversial for the reason that the NMC property is situated in a predominantly old industrial area. A residential neighborhood is situated north of the NMC property "but will be away from the pump station." The NMC site will be under construction for many years in order to build the shafts and the ETDPS. Executive Director Ciaccia advised that staff is locked in on the NMC site for the ETDPS.

Executive Director Ciaccia indicated that the ETDPS will bring additional automation to the District because it is not a "manned 24-7 facility," and that the NMC property provides a good construction site option while minimizing controversy surrounding the construction of the plant.

Executive Director Ciaccia, Kellie Rotunno, Director of Engineering and Construction, and Richard Switalski, Sewer Design Manager, met with Mayor Licastro of the Village of Bratenahl. Prior to reaching the determination on the NMC site, Mayor Licastro was informed that if the NMC property was evaluated to be an insufficient location, then the District may have to use WCB property since the alternative sites were determined to be technically and monetarily inadequate. Mayor Licastro was hopeful that the NMC would be sufficient given that the District previously committed to forego construction at the WCB site.

Executive Director Ciaccia informed Mayor Licastro based on the discussions held between the District and the government that ultimately something may be built at the WCB site. The government is proposing the District control its bypasses at the Easterly plant through high rate treatment, and that the WCB property is the most logical site for a

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high rate treatment facility. Mayor Licastro appreciated the information and hoped the District would select the NMC site for the ETDPS.

Executive Director Ciaccia indicated that the NMC and WCB properties were evaluated to be technically and monetarily similar and, given the community commitments, the District determined the NMC property to be the best site as well as best use of property in which it has a substantial investment.

Mayor Starr inquired if WCB is contiguous to the Easterly plant wherein Executive Director Ciaccia affirmed. Mayor Starr stated that the community became accustomed to the operation of the Easterly plant since the 1930's, and he inquired about the size and height of the ETDPS and whether it will be intrusive. Mayor Starr questioned if the ETDPS could be screened in or surrounded by a brick or stone buffer.

Ms. Rotunno responded that the above ground portions of the ETDPS can be designed to be aesthetically pleasing and that there are many alternatives available to make the above ground structure less obtrusive. Ms. Rotunno stated that the residents are more concerned about the anticipated construction impediments. Ms. Rotunno advised that the disruption for the tunneling and mining at the NMC property will be active for ten years and the District is taking advantage of building the pump station on an already active construction site.

Mr. Brown inquired if the majority of the mechanics of the ETDPS structure will be located underground. Ms. Rotunno affirmed. Mr. Brown inquired what will be visible above ground. Ms. Rotunno stated that control panels, an overhead crane building for equipment removal, and those facilities supporting the maintenance and operation will be visible.

Executive Director Ciaccia advised that staff will soon make its recommendation to the Board for the design of the ETDPS project.

Mr. Brown questioned which neighborhood and roadway will be impacted by the truck traffic as well as the construction of the ETDPS. Executive Director Ciaccia replied that East 140th will be affected and that the residents' garages on Coleman Street abut the proposed access roadway. The District intends building a buffer between the Coleman Street residents' garages and the access roadway since increased truck traffic caused by the construction of the ETDPS and shafts is expected to be ongoing for several years. Executive Director Ciaccia advised that an old abandoned factory and railroad tracks surround the remaining construction site.

Ms. Kelly inquired whether there will be any odor control issues associated with the ETDPS. Ms. Rotunno replied odor control measures will be built into the ETDPS project

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design but was unsure as to what that would entail at this point. Executive Director Ciaccia affirmed that odor control is incorporated into these types of facilities and that CSO will be captured into these storage tunnels, therefore, the District has to accommodate odor control within the plant.

Executive Director Ciaccia moved to the next report item pertaining to the Stormwater Management Program (hereinafter "SMP"). The District entered its third round of meetings with member communities and these meetings are going very well. The District plans to meet with Summit County officials on May 7th to engage them further on the SMP.

The District presented a resolution to the Northeast Ohio Areawide Coordinating Agency (hereinafter "NOACA") Board urging communities to be involved in the SMP process and to recognize that the District's involvement in the SMP is necessary. NOACA's Environmental Advisory Committee approved this resolution which will be discussed at the NOACA Board meeting in May or June.

Executive Director Ciaccia met with Mayor Frank Jackson to discuss the District's proposed SMP which was "a very good meeting." Executive Director Ciaccia indicated that Mayor Jackson seemed supportive of the SMP proposal.

Matt Zone, Chairman of the Public Utilities Committee of Cleveland requested to meet with the District, and the District plans to present the SMP to the Public Utilities Commission of Cleveland on April 22nd.

The District continues meeting with the Cleveland Water Department (hereinafter "CWD") regarding incorporating the SMP into the new billing system. Executive Director Ciaccia indicated that this is a timing issue because the District does not want to disrupt CWD's plans to go-live with its new billing system. Humberto Sanchez, Director of Information Technology, along with other District staff met with CWD in an effort to avoid infringing upon CWD's resources while attempting to properly time the incorporation of the SMP into the new CWD billing program.

Executive Director Ciaccia moved to the next report item regarding capital management and he advised that District finalized its contract with CH2M Hill for Program Management Phase 2.

The District is finalizing its Asset Management contract with Camp Dresser & McKee, Inc. (hereinafter "CDM") which was initially planned as a \$3 million effort. New accounting rules indicate that this expenditure can no longer be capitalized and must be incorporated into the operating budget. Consequently, the District plans to scale this amount back and appropriate \$658,000 in 2009 toward Asset Management.

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Executive Director Ciaccia moved to the next report item regarding the Renewable Energy Facility (hereinafter "REF") formerly known as the Fluidized Bed Incineration Project. District Contracts 28A, 28B, 28C1 and 28F are underway, and the District anticipates bidding the REF installation contract on August 1st which is estimated to be an \$80 million to \$90 million project.

Executive Director Ciaccia moved to the next report item regarding the Westerly Interceptor Box Culvert Repairs (hereinafter "WIBCR") project. At the request of the City of Cleveland, the District evaluated and agreed to escalate the portion across from the West Shoreway resulting in a project increase of approximately \$70,000. Executive Director Ciaccia advised that there have been considerable traffic impediments and inconvenience at this location. Subsequently, the District agreed to issue a change order to accommodate the City's request. The change orders for the WIBCR project are at 3.4% and within the 10% threshold.

Executive Director Ciaccia advised that the WIBCR project is ahead of schedule. The escalation portion of the WIBCR project is expected to be completed by the end of the April, and as long as there are no unforeseen issues, the entire WIBCR project should be completed by the end of 2009, which is earlier than the initial project conclusion schedule for June 2010.

Executive Director Ciaccia moved to the next report item and informed the Board that included in their Board packets is a spreadsheet and quarterly update report on District litigation matters which was prepared by Marlene Sundheimer, Director of Law, and included on the agenda as an information item. Ms. Sundheimer and Executive Director Ciaccia would entertain any questions or inquiries from the Board regarding these issues of which there were none.

Executive Director Ciaccia advised that the design for the Mill Creek Tunnel 3 (hereinafter "MCT-3"), shaft 14 is nearing completion and the District anticipates advertising for the final portion of the MCT-3 project midyear.

Executive Director Ciaccia advised that the Big Creek Interceptor 3D (hereinafter "BCI-3D") project encountered the failed polyurea lining. The contract to complete the shaft on Ardoyne was awarded to Marous Brothers, the lowest and best bidder. Executive Director Ciaccia advised that the District anticipates advertising for the BCI-3D polyurea lining repair by midyear.

Executive Director Ciaccia referred to the ongoing Chapek Parkway litigation, and he indicated that depositions of the landowners have yet to be scheduled and discovery continues. The District was unable to successfully negotiate easements with Harvard

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Refuse for the relocation of certain sewers and therefore has formally proceeded with an appropriation action.

Executive Director Ciaccia moved to the next report item regarding the Small Business Enterprise (hereinafter "SBE") program. Colette Holt, Esq. of Colette Holt and Associates was present at the meeting to discuss the disparity study and entertain any questions from the Board. Executive Director Ciaccia advised that the final program elements are being completed and that staff will present the SBE program to the Board at its April 30th meeting. Executive Director Ciaccia stated that staff "put a lot of work" into the SBE program and is expecting it to be "an excellent program."

Executive Director Ciaccia moved to the next report and referred to the financial report included in the Board packets. He indicated that, from a budgetary standpoint, the District is in good shape with 79% of its budget remaining after the first quarter.

Executive Director Ciaccia moved to the next report item and advised the Board that the District continues pursuing stimulus funding from the federal and state governments. The District has not received any further information as it pertains to the economic stimulus funding. The Environmental Protection Agency (hereinafter "EPA") will distribute its program components specifying the guidelines that will be used by the EPA for distribution of the stimulus funding, and that the District intends providing its comments to the EPA. The District also engaged consultants that will provide their assistance to better position the District in this regard.

Executive Director Ciaccia advised that the District received a letter of support from Armond Budish, Ohio's Speaker of the House, on behalf of the District's REF project and expects receiving a letter of support from Tim DeGeeter, Chair of the Public Utilities Committee on behalf of three proposed stream restoration projects, of which two of these creeks are located in the District. The District remains hopeful in its attempt to receive funding and will "continue to put the pressure on." Furthermore, Congresswoman Marsha Fudge and Congressman Dennis Kucinich included some District projects in their requests for funding.

Executive Director Ciaccia indicated that he appreciated the Board "stepping up and getting involved" with District issues. Mayor Starr recently visited Washington D.C. and addressed District concerns, and Ms. Kelly had discussion with Congresswoman Fudge relative to the District.

The NACWA conference is approaching and District representatives are expecting to meet with the District's delegation while in Washington D.C. Executive Director Ciaccia encouraged Board members to attend the meetings in Washington D.C.

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Executive Director Ciaccia moved to the next report item regarding issues pertaining to pharmaceuticals in water. Last year, the Associated Press released an article concerning pharmaceuticals in water resulting in the U.S. EPA conducting testing for pharmaceuticals in water at certain utilities.

Executive Director Ciaccia advised that the District initiated its own testing on various pharmaceuticals and is compiling a report of the results. Executive Director Ciaccia indicated that "this is not good science, at this point," but felt it beneficial for the District to obtain this information and be proactive. The report will be available in the future.

Executive Director Ciaccia advised that the Associated Press questioned utilities as to what remedial action has been taken, if any, since the article regarding the pharmaceutical issue was issued. The District informed the Associated Press that it proactively conducted testing and provided them a copy of the draft reporting results.

Executive Director Ciaccia advised that it is expected that pharmaceuticals, personal care products and caffeine enter the sewer system, but "effectively is diminished as it gets to the customer's tap in large way."

Mayor DePiero complimented Executive Director Ciaccia on the new formatting of the Executive Director and departmental reports, and he indicated that the layout was helpful and informative.

V. Consent Agenda

There were no Consent Agenda items.

VI. Action Items

Authorization to Advertise

No discussion ensued on Resolution Nos. 74-09 and 75-09.

Resolution No. 74-09

One (1) year requirement contract for the maintenance and repair services for the District's nineteen (19) stand-by generator maintenance systems at all District facilities. Anticipated expenditure is \$324,844.00.

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Resolution No. 75-09

One (1) year requirement contract for the removal, transportation and disposal of 17,400 tons of sewage sludge cake at the Southerly and Westerly Wastewater Treatment Plants. Anticipated expenditure is \$1,300,000.00.

MOTION – Mayor Starr moved and Mr. Sulik seconded to adopt Resolution Nos. 74-09 and 75-09. Without objection, the motion carried unanimously.

Authorization to Issue Request for Proposals (RFPs)

No discussion ensued on Resolution Nos. 76-09 and 77-09.

Resolution No. 76-09

RFPs for performance management consultant services. Cost not to exceed \$70,000.00.

Resolution No. 77-09

RFPs for retention of brokerage services firm. Cost not to exceed \$80,000.00.

MOTION – Mayor Longo moved and Ms. Kelly seconded to adopt Resolution Nos. 76-09 and 77-09. Without objection, the motion carried unanimously.

Authorization to Enter into Agreement

No discussion ensued on Resolution No. 78-09.

Resolution No. 78-09

Amend the existing agreement with the Village of Orange to provide for the inclusion of the Village of Orange as a member of the Suburban Council of Governments.

MOTION – Mayor Starr moved and Mayor Longo seconded to adopt Resolution No. 78-09. Without objection, the motion carried unanimously.

Authorization to Enter into Contract

**Resolution No. 79-09
(WITHDRAWN)**

Contract for lawn and maintenance services with: 1) Dazzle Lawn Care for west side locations in the amount of \$19,771.50, 2) NLCI Landmanagement for east side locations in the amount of \$19,021.80, and 3) S.A.W., Inc. for south side locations in the amount of \$8,176.14.

Executive Director Ciaccia withdrew Resolution No. 79-09. Mr. Brown inquired whether the District no longer required lawn maintenance services wherein Executive Director Ciaccia indicated that staff is reviewing the recommendation and will bring an amended authorization request back to the Board for said services.

Resolution No. 80-09

One (1) year requirement contract with Kemira Water Solutions, Inc. to supply 2,200,000 pounds of Ferric Chloride Solution for use at all Wastewater Treatment Plants. Cost not to exceed \$605,000.00.

Resolution No. 81-09

Contract with Geo P. Reintjes, Co. for the Southerly, Easterly and Westerly Incinerator Refractory Purchase – Contract IR-13A. Cost not to exceed \$183,337.82.

Resolution No. 82-09

Contract with MWH Americas, Inc., for engineering services during construction of the Huntington Parking Garage Sewer Rehabilitation – Contract HSR. Cost not to exceed \$183,339.00.

MOTION – Mayor Longo moved and Mr. Sulik seconded to adopt Resolution Nos. 80-09 through 82-09. Without objection, the motion carried unanimously.

Authorization of Contract Modification

Resolution No. 83-09

Final adjusting deduct order and close-out of Contract No. 3337, Easterly Interceptor Hydraulic Improvement – Contract EIHIC. Cost decrease of \$398,660.04, bringing the total contract price to \$2,876,839.96.

Mr. Brown commented that this is the first project wherein the Board received final MBE and WBE statistics, and this project resulted in 13.4% MBE and 5.3% WBE participation. Executive Director Ciaccia indicated that the staff intends to incorporate this information in project closeouts heretofore. Mr. Brown appreciated this information and advised that this was the desired outcome. There was much debate about goal setting and the Board was never informed on whether goals on District projects were met; therefore, there was no measurement to determine the program's success. Executive Director Ciaccia indicated that District staff will continue monitoring its SBE or modified SBE with MBE/WBE participation goals and will provide this information to the Board at project closeout. Executive Director Ciaccia advised that certain scope modifications attributed to the contractor not fully meeting its participation goals, and that staff was able to "question exactly what did occur and understand what occurred."

MOTION – Ms. Kelly moved and Mr. O'Malley seconded to adopt Resolution No. 83-09. Without objection, the motion carried unanimously.

Authorization of Progress Payment

No discussion ensued on Resolution No. 84-09.

Resolution No. 84-09

Final payment to NTH Consultants, Inc. for design services related to the Westerly Low Level Interceptor emergency repairs. Cost and final payment in the amount of \$16,383.40.

MOTION – Mr. Sulik moved and Mayor DePiero seconded to adopt Resolution No. 84-09. Without objection, the motion carried unanimously.

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VII. Information Item

1. First Quarter Outside Counsel Report.

Ms. Sundheimer advised the Board that included in their packets was the First Quarter Outside Counsel Report for review, and no formal presentation was given on these matters.

2. First Quarter Disparity Study Update.

Executive Director Ciaccia introduced Colette Holt, Esq. of Colette Holt and Associates, and he advised that she was present at the meeting to provide the Board with a status update of the disparity study.

Ms. Holt referred to a handout which was provided to the Board and she indicated that the "we certainly are off to an excellent start." Ms. Holt indicated that the District is a fantastic client and has been very responsive in providing NERA Economic Consulting (hereinafter "NERA") with the requested information. Ms. Holt stated that she is pleased with the progress thus far and NERA's ability to obtain the necessary information from the District.

NERA began its data gathering process and received the prime contractor data. The next step is to reconstruct any missing subcontractor records, which may necessitate contacting various prime contractors in order to obtain this information. This process may take longer than desired, and NERA intends to diligently obtain this information from the prime contractors. Ms. Holt stated that neither the District nor NERA can guarantee a reasonable response time from the prime contractor.

Ms. Holt indicated that NERA completed 100% of its initial tasks. The disparity study is path dependent and obtaining the prime contractor data is essential. Reconstructing the subcontractor data is vital in order to build the availability database. Business interviews will be conducted and surveys will be disseminated. Ms. Holt assured that good progress is being made and the disparity study is expected to be completed on schedule, but encountering glitches is always a possibility.

Ms. Holt advised that NERA is further along than what was indicated on the Board's handout. Ms. Holt stated that NERA is on schedule and reported no problems at this time.

Mr. Sulik questioned if Ms. Holt could provide a timeframe as to when the disparity study will be completed. Ms. Holt replied the disparity study is scheduled to be completed no later than February 2010.

Mr. Sulik commented that it seems “a lot of information still needs to be gathered.” Ms. Holt explained that the disparity study is path dependent, and what tends to slow the process is obtaining the prime contracting records, and that she witnessed some studies falling a year behind schedule. After the database is built, surveys are distributed, and then focus groups are developed. Ms. Holt assured that she was confident that the District’s disparity study was on schedule.

VIII. Open Session

There were no items for discussion.

IX. Public Session (any subject matter)

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

X. Executive Session

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

MOTION – Mayor Longo moved and Mayor DePiero seconded to enter into Executive Session to discuss the Dugway East Interceptor Relief Sewer bid issues and to specifically designate that all matters discussed in Executive Session be protected from public disclosure in accordance with Ohio Revised Code §121.22(g)(3) and attorney/client privilege, and that a roll call be taken. A roll call vote was taken and without objection, the motion carried unanimously.

The Board met in Executive Session from 1:12 p.m. to 1:53 p.m.

XI. Approval of Items from Executive Session

Add-On

Resolution No. 85-09

Awarding a contract to DiGioia-Suburban Excavating, LLC, 11293 Royalton Road, North Royalton, Ohio 44113, for construction of the Dugway East Interceptor Relief Sewer – Contract DEIRS. Cost not to exceed \$19,382,597.80.

Mr. Brown indicated that after holding discussion with the staff, the Board was prepared to move forward with the recommendation to add and adopt Resolution No. 85-09.

MOTION – Mr. Sulik moved and Mayor DePiero seconded to add and adopt Resolution No. 85-09. Without objection, the motion carried unanimously.

XII. Adjournment

MOTION – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mr. Sulik moved and Mayor DePiero seconded the motion to adjourn at 1:54 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