

MINUTES  
NORTHEAST OHIO REGIONAL SEWER DISTRICT  
BOARD OF TRUSTEES MEETING  
JUNE 3, 2010

Meeting of the Board of Trustees of the Northeast Ohio Regional Sewer District was called to order at 12:32 p.m. by Darnell Brown.

I. Roll Call

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

*Mayor Starr was absent.*

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

II. Approval of Minutes

**MOTION** – Mayor DePiero moved and Mr. Sulik seconded that the minutes of the May 20, 2010 Board meeting be approved. Without objection, the motion carried unanimously.

III. Election of Officers

The Nominating Committee (hereinafter “Committee”) to elect the Board officers for the upcoming year consisted of Ms. Kelly, Mr. Sulik and Mayor Bacci. The Committee nominated Darnell Brown as President, Ronald Sulik as Vice President and Mayor Dean DePiero as Secretary to the Board for a period of one year.

**MOTION** – Ms. Kelly moved and Mr. O'Malley seconded the motion to elect Mr. Brown as President, Mr. Sulik as Vice President and Mayor DePiero as Secretary to the Board. Without objection, the motion carried unanimously.

Mr. Brown thanked the Board for its continued confidence in the direction that “we as a group and me as the President” continue to take the District. We are in the state of positive transition and reached a lot of good outcomes as a result of efforts made by this

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Board and staff. Mr. Brown congratulated Mr. Sulik and Mayor DePiero and thanked the Committee.

The swearing in for the 2010 – 2011 Board officers will take place at the July 1<sup>st</sup> Board meeting.

#### IV. Public Session

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

#### V. Executive Director's Report

Executive Director Ciaccia congratulated Mr. Brown, Mr. Sulik and Mayor DePiero.

Executive Director Ciaccia moved to the first report item regarding the contract review being conducted by Bricker & Eckler LLP (hereinafter "Bricker & Eckler"). The Board's comments made at the May 20<sup>th</sup> meeting were taken into consideration and a list of 20 projects was compiled. The majority of the projects to be reviewed were within the last 10 years and contracts involving contractors that are no longer in business were removed.

Executive Director Ciaccia indicated that two projects exceeding the 10-year timeframe which were included on the list were KM&M's Mill Creek Tunnel 1 (hereinafter "MCT") project and the Fairmount Boulevard Intercommunity Relief Sewer project. The District is involved in ongoing litigation involving KMM&K on the MCT-2 and MCT-3 projects and KM&M on the BCI-3D project.

Executive Director Ciaccia informed the Board that staff had a presentation prepared for today's meeting in response to the comments made by Mayor Starr at the May 20<sup>th</sup> meeting pertaining to contingency audits. Deputy Executive Director F. Michael Bucci and Internal Audit Manager John Wasko were prepared to present this information to the Board. Since Mayor Starr was not present at the meeting, Executive Director Ciaccia suggested that the presentation be held for the June 17<sup>th</sup> meeting. Mr. Brown indicated that since the questions and concerns were primarily raised by Mayor Starr, the Board concurred with holding the presentation until the next Board meeting.

Executive Director Ciaccia moved to the next report item regarding the Combined Sewer Overflow Long Term Control Plan (hereinafter "CSO LTCP") negotiations with the State and Federal Governments. The recent meeting with the Governments went well. Topics of discussion included the District's ability to pay; determining whether the District will be considered a high-burdened community; the term of the CSO LTCP as it relates to constructability and cost issues; green infrastructure; and the Consent Decree.

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Executive Director Ciaccia indicated that the primary focus was the Consent Decree. A line by line review of the Governments' draft Consent Decree took place and District representatives provided the Governments with their comments. Executive Director Ciaccia described the discussions held with the Governments to be "very good" and he advised that the next meeting is scheduled for June 15<sup>th</sup>.

Executive Director Ciaccia moved to the next report item, stormwater. At a recent Case Management Conference (hereinafter "CMC"), Judge Pokorny advised the communities to assign themselves to one of four groups and each group would then select a lead attorney. The four groups are: 1) Consent Group, which agrees with the District's authority to implement a Stormwater Management Program (hereinafter "SMP"); 2) communities that believe the court should make specific decisions as to the details of the District's authority; 3) communities in disagreement with the District's authority to implement the SMP and generally opposed to its efforts; and 4) those communities that are not situated within Cuyahoga County.

Executive Director Ciaccia advised that 14 communities were a party to a Motion for More Definite Statement which requested clarification of the District's claim. Judge Pokorny overruled said motion and indicated that the District's claims were "clear enough," and that the communities should select a group. All group selections must be completed by June 11<sup>th</sup>. Lead legal counsel within the four groups must be completed by June 25<sup>th</sup>.

Following the CMC, the District filed a Stipulation with the Court indicating that the stormwater fee shall not be effective earlier than October 1, 2010 and therefore not implemented on July 1, 2010 as currently permitted under Title V, SMP Code. Separate from the litigation, implementation of the stormwater billing was delayed due to issues with the City of Cleveland Division of Water (hereinafter "CWD") billing system and the need to effectively communicate with the communities and other entities regarding the SMP Credit Program.

Executive Director Ciaccia advised that Judge Pokorny disclosed a potential conflict of interest. For over 10 years, Judge Pokorny has been a member of the Board of Trustees of the St. Augustine Health Campus and he is a current Board representative and volunteer at the Holy Family Home and Hospice. Those institutions are controlled by the Catholic Diocese of Cleveland and, since the Catholic Diocese has filed a Motion to Intervene, Judge Pokorny disclosed this information. The District, however, did not find this conflict to be "significant enough" nor had any of the communities objected to this potential conflict by the time of the Board meeting. [Subsequently, however, a group of twelve communities generally opposed to the District's SMP sent a letter to the Court indicating that they declined to waive the apparent conflict.]

Executive Director Ciaccia moved to the next report item and advised that the District is a finalist on the Great Lakes Restoration Initiative (hereinafter "GLRI") list for the possible awarding of funds. The Environmental Protection Agency (hereinafter "EPA") Great Lakes National Program office invited 270 finalists to submit applications for a total of \$161 million in competitive grant funding. The District will submit three projects, including the installation incentives for dental amalgam separators for \$250,000, process-based predictive models for complex urban beaches for \$248,060, and the rapid method data comparison at bathing beaches in Ohio for \$87,988, for a total amount of \$586,000. Executive Director Ciaccia indicated that the District's application for those projects is 51 pages.

Director of Watershed Programs, Frank Greenland, added that the second program mentioned (predictive models for complex urban beaches) was written by the late Lester Stumpe and "it is really great that that got funded."

Executive Director Ciaccia added that in addition to the potential \$500,000 in funds for the District, several County agencies have applied for \$4.5 million in funding, which would be good for our region.

Executive Director Ciaccia moved to the last report item and urged Board members to review the publication included in their packets entitled "Water/Craft" issued by the Cleveland Urban Design Collaborative of Kent State University. This publication will be distributed throughout our region. Communications Specialist John Gonzales and Environmental Education Specialist Linda Mayer-Mack both contributed to the publication, as well as Executive Director Ciaccia, who contributed to the forward.

## VI. Action Items

### Resolution of Acknowledgment

Resolution No. 164-10

Resolution of acknowledgment and appreciation to Terry Meister in recognition of his more than thirty-six years of outstanding service and noteworthy contributions to the Northeast Ohio Regional Sewer District.

Mr. Brown presented retiring Superintendent Terry Meister with a resolution acknowledging his 36 years of service at the District and indicated that he made many noteworthy contributions. Mr. Meister began his career at the District on March 11, 1974 as a clerk in the Research and Development Office. Mr. Meister was a dependable and

loyal employee. The Board and District acknowledged Mr. Meister's contributions to the growth and development of this organization and expressed its appreciation to Mr. Meister for his dedication to public service. The Board and District also expressed their best wishes to Mr. Meister and his family.

Accepting his plaque, Mr. Meister stated:

"It has been a heck of a ride. It has been 36 years [and] I had a ball all 36 years of it. It's amazing that the Sewer District managed to turn me loose and let me run amuck for all this time and particularly for the last 10 years when I was able to get back out into the plants and it was a real pip. I'll have to do it again sometime when I've got 36 years to spare. Thank you very much."

**MOTION** – Ms. Kelly moved and Mr. Sulik seconded to adopt the Resolution No. 164-10. Without objection, the motion carried unanimously.

Authorization to Advertise

Resolution No. 148-10

Contract for the replacement of one (1) return sludge screw pump in the Second Stage Aeration Unit at the Southerly Wastewater Treatment Plant. Anticipated expenditure: \$150,000.00.

Resolution No. 149-10

SOM Center Relief Sewer – Pepper Pike (SOMRS-PP). Engineer's opinion of probable construction cost: \$790,000.00.

**MOTION** – Mr. Sulik moved and Mr. O'Malley seconded to adopt Resolution Nos. 148-10 and 149-10. Without objection, the motion carried unanimously.

Authorization to Issue Request for Proposals (RFPs)

Resolution No. 150-10

Underwriting services to issue bonds.

Resolution No. 151-10

RFPs for Design and Construction Administration/Resident Engineering (CA/RE) services for the Easterly Electrical Infrastructure Improvements.

**MOTION** – Ms. Kelly moved and Mayor Bacci seconded to adopt Resolution Nos. 150-10 and 151-10. Without objection, the motion carried unanimously.

Authorization to Purchase

Resolution No. 152-10

Purchase from M Tech Company, through the State of Ohio Procurement Program, of a replacement camera and crawler unit for the Sewer System Maintenance and Operation Department. Cost not to exceed \$41,706.31.

**MOTION** – Mr. O'Malley moved and Mr. Sulik seconded to adopt Resolution No. 152-10. Without objection, the motion carried unanimously.

Authorization to Enter Into Agreements

Resolution No. 153-10

Agreements with the City of Cleveland and the GreenCityBlueLake Institute of the Cleveland Natural History Museum for the Youth Opportunity Unlimited Summer Jobs Program. Cost not to exceed \$24,914.18.

**MOTION** – Ms. Kelly moved and Mayor Bacci seconded to adopt Resolution No. 153-10. Without objection, the motion carried unanimously.

Authorization to Negotiate and Enter Into Contract

Resolution No. 154-10

Negotiate and enter into contracts with IBM Global Business Services (IBM) and the City of Cleveland (City), Divisions of Water and Fiscal Control, to implement the District's Stormwater Billing System and improve financial reporting processes related to the City of Cleveland Division of Water's Customer Care and Billing System. Estimated cost of City Contract: \$2,145,000.00. Estimated cost of IBM Contract: \$1,148,880.00.

**MOTION** – After discussion, Mr. Sulik moved and Mr. O'Malley seconded to adopt Resolution No. 154-10. Without objection, the motion carried with an abstention by Mr. Brown.

Mr. Sulik requested an explanation on Resolution No. 154-10.

Executive Director Ciaccia advised that this is a two-part resolution. CWD is in the process of creating a stormwater component to be implemented into their billing system. CWD consultants quoted the District over \$2 million in order to accomplish this integration. CWD has run into some issues as it relates to financial reporting with the new billing system. There will be changes as to how we handle financial reporting, and an engagement will be necessary in order to accommodate the integration. In order to expedite the process, Commissioner Nielsen from CWD suggested that the District take on this contracting authority, since its procurement process is less challenging than the City of Cleveland's.

Executive Director Ciaccia indicated that the District would contract with IBM directly, and that Director of Information Technology, Humberto Sanchez, has been appointed as the lead on this initiative. The IBM contract fee would then be credited against the total amount the District would have to pay to CWD for the stormwater billing integration. Therefore, the District will be required to pay CWD approximately \$990,000 for the stormwater billing instead of \$2 million.

Executive Director Ciaccia turned discussion over to Mr. Sanchez to provide the Board with an overview of the project scope.

Mr. Sanchez explained that we are trying to address reporting problems. Mr. Sanchez indicated that he agreed with CWD that we have to look beyond the financial reports

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themselves and examine the business processes and the rules that were programmed into the billing system in order to determine the cause of the problem. That is how we will define the scope of work for this project.

Executive Director Ciaccia inquired if Director of Finance, Jennifer Demmerle, had anything further to add to the discussion, wherein she indicated that she did not.

Mr. Sulik stated that he was aware that the District was encountering problems with "getting good reports." He inquired as to which bill the District will receive the \$1.1 million credit being expended to identify and correct the problem. Will the credit be taken from the "stormwater billing charge that we are going to pay \$2 million to implement?"

Executive Director Ciaccia affirmed and advised that CWD will charge the District \$2.145 million for the development and integration of stormwater into their billing system. The District has proposed to take on the \$1.148 million contract with IBM and that amount will then be credited against the grand total for the stormwater billing. Therefore, the amount the District will pay to CWD for the stormwater billing will be \$2.1 million less the amount of \$1.148 million for the IBM contract.

Mr. Sulik stated that "we are paying three million two and we are getting a million dollar credit so we are paying \$2.1 million." Mr. Bucci replied that "at the end of the day, we are paying \$2.1 million, \$900,000 to the City of Cleveland and \$1.1 [million] to IBM, so a total of \$2.1 [million] for this effort."

Mr. Sulik inquired whether we are paying \$2.1 million to set up our stormwater billing system. Mr. Bucci affirmed.

Mr. Sulik questioned if the District will pay an additional \$1.1 million to resolve the problems with the billing system and then we will be credited "somewhere down the road" for that amount. Mr. Bucci explained that the \$1.1 million will be credited against the \$2.1 million CWD stormwater fee.

Mr. Sulik questioned as to why we do not simply enter into "a one million contract and a one million contract?" Mr. Bucci replied that "the agreement will be in whole with the credit spelled out in there."

Mr. Sulik commented "so we're going to be paying \$2 million to set up our billing system...it's what it nets to." Mr. Bucci affirmed. Mr. Sulik inquired if the District will be billed by the CWD "every time they collect data?" Mr. Bucci replied that "we are going to be working out a billing agreement for both wastewater and stormwater." At this time, there have been no detailed discussions as it relates to the billing fees.



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Mr. Sulik questioned whether this \$2 million that the District will pay is going to be factored into the billing process. Mr. Bucci explained that the \$2 million is to set up the stormwater billing system. The billing and collection fee is an "operations charge" and is based upon the collection of the data or the information needed in order for CWD to bill for stormwater, including the mailing of the bills, processing of the bills and the staffing needs.

Mr. Sulik commented that stormwater billing should not be as difficult, since it is calculated by plot and not by consumption. Mr. Bucci stated that this was correct and added that there will be "less of a charge" since it will not be necessary to send out meter readers. In this instance, the District will be supplying the stormwater data to the CWD.

Mr. Sulik commented "so it should be less" and "that will be taken into consideration in the billing process." Mr. Bucci affirmed.

Mayor DePiero indicated that he is a "strong supporter of the stormwater program" and was hopeful that "the Court finds that the District has the authority to enter into this program." In the event the Court rules against the District in this process, however, and finds that the District does not have the authority to implement the SMP, he questioned, "What happens with the billing system?" Mayor DePiero questioned whether "there is an out on this contract if that happens?" If the District has to "scrap the program...is there something that can be written into the contract or should we wait?"

Executive Director Ciaccia indicated that if we wait, "we are definitely pushing into next year." Millions of dollars have already been invested in the stormwater initiative on the basis of various legal opinions" indicating that the District had the authority. Many communities questioned this authority and therefore we felt it was within in our best interest to have the Court affirm this authority since one of those communities expressed that it intended to bring an action against the District anyhow.

Executive Director Ciaccia stated that "we definitely need to move forward" and that this is unfortunately going to cost more than initially anticipated. If the Court rules that the District does not have the authority, then this can be handled like any consulting contract and the process will be halted. Executive Director Ciaccia indicated that he was not sure how quickly the Court will make its decision.

Deputy Director of Law, Lawrence English, stated that in addition to seeking to validate the District's authority, and in the event the Court rules against our authority, we have also asked that the Judgment Entry be amended to give us that authority.

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Mayor DePiero indicated that he was comfortable with both of those answers and suggested that the proper language be included in the contract in the event “something goes bad” so we can “at least mitigate our damages.”

Executive Director Ciaccia agreed and stated that stormwater management is “sorely needed in this region.” Furthermore, the District was aware of the risks involved with the implementation of the SMP, and that we intend to “to proceed with the risk in mind.”

Ms. Kelly indicated that she was still unclear as to the costs associated with this program. Will the cost be \$900,000 or \$2.1 million? Mr. Bucci replied, \$2.1 million. Ms. Kelly inquired where the \$1.48 million credit will be applied. Mr. Bucci referred to a chart in the resolution request which showed the total of the two contracts less the credit. He advised that the District’s total cost for the implementation of the SMP billing will be \$2.1 million.

Ms. Kelly questioned the comment made regarding the District’s net costs being “just under a million dollars.” Mr. Bucci stated, “That’s the payment to City of Cleveland after we get the credit of the \$1.1 million.” The agreement between the District and the CWD was in the amount of \$2.1 million. Since the District is agreeing to take on the \$1 million contract with IBM, that amount will be credited against the final bill to the CWD bringing the remaining amount to approximately \$900,000. The \$900,000 plus \$1.1 million totals the \$2.1 million.

Ms. Kelly inquired if the “\$900,000 number is the number that is paid to Cleveland Water?” Mr. Bucci affirmed.

Executive Director Ciaccia clarified that the District will pay CWD \$997,000.

Authorization to Enter Into Contract

Resolution No. 155-10

Three (3) year contract with Prism Municipal Advisors, LLC for financial advisory services. Cost not to exceed \$276,000.00.

Resolution No. 156-10

Contract with Maria Heckaman and Associates, Inc. for the temporary staffing services of three (3) Customer Service Representatives for the District’s Stormwater Management Program. Cost not to exceed \$61,500.00.

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- Resolution No. 157-10                      Requirement contract with Cleveland  
Plastics F&S, Inc. to replace ferric chloride  
tanks at the Southerly Wastewater  
Treatment Plant. Cost: \$109,700.00.
- Resolution No. 158-10                      Two (2) year requirement contract with  
Inland Waters of Ohio, Inc. for skimmings  
removal at all Wastewater Treatment  
Plants. Cost: \$101,675.00.
- Resolution No. 159-10                      One (1) year requirement contract with  
Kurtz Brothers, Inc. for the removal,  
transportation and disposal of biosolids  
from the Southerly and Westerly  
Wastewater Treatment Plants. Cost not to  
exceed \$687,930.00.
- Resolution No. 160-10                      One (1) year requirement contract with  
Polydyne, Inc. for gravity belt thickener  
polymer for use at the Southerly  
Wastewater Treatment Plant.      Cost:  
\$356,150.00.

**MOTION** – Mayor DePiero moved and Mr. Sulik seconded to adopt Resolution Nos. 155-10 through 160-10. Without objection, the motion carried unanimously.

Authorization of Contract Modification

- Resolution No. 161-10                      Final adjustment and deduct order for  
Contract No. 09001907 with Building  
Technicians Corporation for Southerly  
Wastewater Treatment Center Roof  
Renovations (RRN-5). A cost decrease in  
the amount of \$93,849.19, bringing the  
total contract amount to \$369,686.81.

Resolution No. 162-10

Final adjustment and deduct order for Contract No. 09002522 with Inland Waters Pollution Control, Inc. for Easterly Interceptor – CSO – 093 Huntington Garage Sewer Rehabilitation. A cost decrease in the amount of \$189,187.30, bringing the total contract amount to \$866,492.08.

**MOTION** – Ms. Kelly moved and Mr. O’Malley seconded to adopt Resolution Nos. 161-10 and 162-10. Without objection, the motion carried unanimously.

Authorization to Adopt Policy

Resolution No. 163-10  
**[HOLD]**

Red Flag Rule Policy.

Resolution No. 163-10 was held.

VII. Information Item

1. Program Management Status Report and Update – April.

Director of Engineering and Construction Kellie Rotunno, provided the Board with the Capital Improvement Program (hereinafter “CIP”) update for the month of April. The Board had held the information item at the May 20<sup>th</sup> meeting.

The District poured its first concrete slab at Southerly’s Renewable Energy Facility (hereinafter “REF”).

The District received seven responses to the Request for Proposals (hereinafter “RFPs”) which were issued for the green infrastructure consultant. Those bids are being evaluated and staff will make its recommendation as to the green infrastructure consultant selection at an upcoming Board meeting.

Ms. Rotunno advised that the Euclid Creek Tunnel (hereinafter “ECT”) project completed its “90% review milestone and the Technical Review Board was convened.” The target bid date is July 10<sup>th</sup>. Ms. Rotunno, Director of Administration and External Affairs Constance Haqq and Contract Compliance Manager Tiffany Jordan are working to organize this event for the prime contractors, which are expected to be out-of-town contractors given the construction method that will be used on this project.

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In advance of the ECT bid being advertised, the District is engaging in some contractor outreach activities. Ms. Rotunno indicated that the District will create a “contractor connection opportunity” to introduce out-of-town contractors to local SBE [Small Business Enterprises] subcontractors.

The Easterly Tunnel Dewatering Pump Station (hereinafter “TDPS”) design is proceeding and we elected to use a cavern construction option, which Ms. Rotunno described as a “unique way to construct a tunnel dewatering pump station.” She explained that rather than constructing a large diameter shaft and the associated excavation, the contractor can “sink a much smaller diameter shaft and then excavate into the side once they get down to the bottom.” According to Ms. Rotunno, this method will reduce capital costs and the amount of greenhouse gas emissions due to the decrease in truck traffic. The District was pleased with this innovative design alternative that will save us money.

Ms. Rotunno discussed the 2010 Key Performance Indicators (hereinafter “KPIs”). The District reached its project delivery goal and has awarded five projects to date. The District is on target to reach its year-end KPI goal of 38.

The CIP awards on a cash flow basis, we expected to be at \$4.5 million, but we are actually at \$3.1 million, which is less than our KPI. Ms. Rotunno explained that this can occur when projects are awarded out of sequence. In this instance, smaller projects were awarded before larger projects. Ms. Rotunno indicated that we are expecting to meet the KPI goal of \$258 million in contract awards by the end of the year. Ms. Rotunno referred to a graphic depicting that contract activity will increase towards the end of the year.

Ms. Rotunno discussed the KPI for bids relative to the engineer’s estimates and noted that the average bid of the projects in 2010 is 2.9% below the KPI range, averaging 12.9% below the engineer’s estimate. Ms. Rotunno advised that the bidding climate continues to be competitive, but that this gap will likely close as the year progresses.

Ms. Rotunno moved discussion to project management during construction. The District closed nine out of ten projects within 105% of the base contract amount. Ms. Rotunno stated that “the one contract that bumped up over that was a small dollar project with a small dollar general allowance where we expended \$41,000 of the \$44,000 general allowance for conduit modifications.” The overall District CIP is tracking well with that KPI.

Ms. Rotunno referred to a graphic depicting contract performance on projects that closed out from 2008 to 2010. Highlighted in red were three projects that were brought to the Board for modification requiring additional funding. Those three projects were bid prior

to the arrival of the new Senior Staff. Highlighted in green were two projects which exceeded the 105% base contract amount, but neither of those projects exceeded the total contract value. Ms. Rotunno stated that the District has demonstrated strong fiscal management of its construction program over the last three years. Ms. Rotunno advised that “we continue to keep a short reign” on the 2010 general allowances as well as continue to effectively manage our contingency allowance KPI.

Ms. Rotunno indicated that she wanted to discuss three construction issues. In the Train Avenue Relief Sewer (hereinafter “TARS”) project, a jet grouting claim was made and the District has prepared a response letter rejecting the contractor’s claim. District staff will be meeting with the contractor later this month and the Board will be provided with an update.

On May 6<sup>th</sup>, a public meeting was held with Beulah Park residents to discuss the ECT project. Representatives from the Ohio Environmental Protection Agency (hereinafter “OEPA”) toured the tunnel route on May 20<sup>th</sup>. The District has been communicating with the OEPA in an effort to ensure that the permits are issued on time so that we can bid and award this project in 2010. This project will significantly impact our 2010 CIP and cash flow.

The District will be attending the North American tunneling conference at the end of the month to promote national competition for the upcoming tunneling projects. Ms. Rotunno advised that the national firms have been in town and are meeting with local contractors regarding potential teaming opportunities.

Ms. Rotunno advised that the ECT project will bring many national firms to the Cleveland area. The ECT project is the first tunneling project to be bid and we want it to be a positive experience. The District intends to promote the recent changes made to the General Conditions, incorporate the Dispute Resolution Board Process into the District’s contracts, and include escrow bid documents as part of the bidding conditions. We anticipate that this will bring good competition without additional risk exposure to the District.

Ms. Rotunno moved discussion to the closeout on the subcontracting goals. Since the last CIP update, the District has not closed out any projects having Minority Business Enterprise (hereinafter “MBE”) or Women Business Enterprise (hereinafter “WBE”) goals. The District did, however, close out two projects having SBE goals. Ms. Rotunno referred to a graphic and stated that the red bar represented the contractor’s SBE commitment at the time of the bid. The blue bar represented the District’s goal at the time the bid was advertised. The green bar showed the final goals at project completion. In all three instances, the contractor exceeded the SBE goals. The contractor for the middle project had proposed a “very aggressive 55% SBE goal.” However, the

contractor completed the project with less than its own 55% target, but over 50%, which exceeded the District's goal.

Ms. Rotunno concluded her presentation by stating that "we're happy with the contractors' performances on our SBE program."

Mr. Brown referred to comments made by Ms. Rotunno during her tunneling project discussion namely that national companies will take the lead on the tunneling project initiatives. Mr. Brown wanted to ensure that the staff and consultants are working collaboratively to identify subcontracting opportunities when preparing these projects. We will be spending "hundreds of millions of dollars," and Mr. Brown wanted to ensure that the subcontracting opportunities are identified at the front end of these projects so we are comfortable that "a good faith effort has been made to partner with local firms." Mr. Brown questioned whether we are using this approach with respect to these projects.

Ms. Rotunno stated that we were, and explained that the requirement to use national firms on the ECT project is due to the state-of-the-art tunneling construction methodology that will be used. Local contractors do not have capabilities or the experience in this specific tunneling construction area.

Ms. Rotunno estimated that the SBE goal for this project will be an "aggressive" 20%. This goal is achievable given the subcontracting community in Cleveland.

As an example, Ms. Rotunno referred to the REF – Contract 28. The District set a SBE goal of 20%, and the contractor came in at 26%. The contractor was a national firm, moreover, who has not worked as a prime contractor on District projects in the past.

Ms. Rotunno advised that the national firms "take our program very seriously" and "take our goals seriously." Ms. Rotunno indicated that we engage in these outreach activities prior to the bid advertisement in order to ensure that the contractors will network with the SBEs and have an opportunity to team up prior to the bid being advertised.

Executive Director Ciaccia added that the City of Columbus recently advertised for bids and received three responses, which was significant given type of work involved. Those national firms teamed up with local firms. The District's ECT project is estimated to cost \$200 million and therefore there will be considerable teaming. Executive Director Ciaccia stated that he was aware of one local company that has already engaged in discussions with one national company.

Mr. Brown indicated that he is aware that certain project components will require specific technology, equipment, wherewithal and capacity that may not be available locally, but there may be "electives" that a vendor could choose to do themselves or they could

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choose to subcontract that component to a local business. Mr. Brown wanted to ensure that we are aware of those opportunities and that we have a good understanding as to the “totality of opportunities for subcontracting in these contracts.”

Ms. Rotunno replied that prior to bringing the resolution requesting authorization to advertise for the ECT to the Board for consideration, she will provide the Board, perhaps during the monthly CIP reports, with a “deeper guide to the information on that project,” including the SBE numbers and how those are established. Mr. Brown indicated that this information would be “very helpful.”

VIII. Open Session

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** – Mr. Sulik moved and Mayor DePiero seconded to enter into Executive Session to discuss litigation matters concerning KM&M Joint Venture on the MCT-3 project and the 3320 Woodland Avenue mediation and to specifically designate all matters discussed in Executive Session to be protected from public disclosure in accordance with Ohio Revised Code §121.22(g)(3) and attorney-client privilege. A roll call vote was taken and without objection, the motion carried unanimously.

The Board met in Executive Session from 1:24 p.m. to 2:12 p.m.



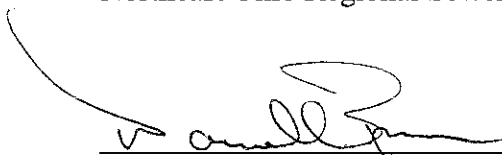
XI. Adjournment

**MOTION** – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mr. O'Malley moved and Mayor DePiero seconded the motion to adjourn at 2:13 p.m. Without objection, the motion carried unanimously.



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Dean E. DePiero, Secretary  
Board of Trustees  
Northeast Ohio Regional Sewer District



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