

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
JUNE 4, 2009

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
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 May 21, 2009 Board meeting be approved. Without objection, the motion carried unanimously.

III. Election of Officers

The Nominating Committee comprised of Mr. Sulik and Ms. Kelly made its recommendation to nominate Mr. Brown as President, Mayor Starr as Vice President and Mayor DePiero as Secretary of the Board

MOTION – Ms. Kelly moved and Mayor Longo seconded the appointment of the Board officers. Without objection, the motion carried unanimously.

Mayor Starr commented that he was honored and humbled to be recommended by the Nominating Committee as Vice President of the Board. He commented that the “we are on the right track,” and that the District has undertaken a lot of positive endeavors. Mayor Starr stated that he is proud to serve on the Board and work with the District staff.

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Mr. Brown stated that the Board and District navigated difficult streams in the past three years, and that he appreciated the hard work and support from the Board and their decision to allow him to continue serving as President of the Board. A lot of progress has been made, but there is still much more work to be completed. Mr. Brown corroborated Mayor Starr's comments and indicated that the District made some difficult decisions and is prepared to move forward. Mr. Brown acknowledged Mayor Longo for his time served as a Board member and officer. Executive Director Ciaccia advised that the Board officers will be sworn in at the June 18th Board meeting.

IV. Public Session

Executive Director Ciaccia informed the Board that Mr. Joseph Saponaro, Esq. registered to speak at public session regarding Resolution No. 121-09. Ms. Sherry Fox registered to speak at public session regarding Resolution No. 126-09. Mr. Norman Edwards registered to speak at public session regarding Resolution No. 124-09. The aforementioned public speakers all registered to speak at public session regarding resolutions that were on the agenda for Board consideration. Mr. Edward Ledyard registered to speak at public session regarding diversity and Minority Business Enterprises (hereinafter "MBE"), which did not pertain to any agenda action items. Mr. Brown requested Mr. Edwards, Ms. Fox, and Mr. Saponaro come forward and address their comments to the Board on the agenda items. All other comments will be held for the appropriate public session.

Mr. Norman Edwards referred to Resolution No. 124-09 and he indicated that said resolution "states special salary increases of non-union employees not to exceed \$150,000." As a taxpayer and resident of Cuyahoga County and during the current economic crisis, Mr. Edwards could not justify why anyone should receive a salary increase during an economic downturn especially during a time when companies are seeking cost-cutting measures and salary decreases. There is not an overabundance of money at the District, and a lot of the money is being spent on legal issues. Mr. Edwards found it insulting for the District to have an agenda item requesting salary increases for 2009 given the current economic condition. Mr. Edwards felt that salary freezes were a prudent approach rather than salary increases in Cuyahoga County, at this time.

Mr. Brown inquired if Resolution No. 124-09 resulted from previous 2% salary increases negotiated with the collective bargaining unit employees. Executive Director Ciaccia advised that the District is currently negotiating with its collective bargaining unit, and that a 2% salary increase for the collective bargaining unit employees was previously put on the table for this year for bargaining unit employees, but has not yet been finalized or negotiated. Resolution No. 124-09 is to compensate non-union, non-exempt employees; however, the wages of non-union, exempt employees such as Executive Director Ciaccia

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and other directors have been frozen with a few exceptions where there may be some equity issues.

Ms. Sherry Fox reported to the podium to discuss her property located near the Ardoyne and Valley Road sewer project. Ms. Fox stated that said sewer project commenced in spring 2005, and the District obtained a sewer easement on her property. Ms. Fox indicated that she has worked the night shift for 20 years, and goes to sleep at 5:00 a.m., while the workers commence at 7:00 a.m. for the past two and half years. Ms. Fox stated that since the project began, she has dealt with the dirt, her tree dying, her garage door fell off its hinge due to the vibration which cost \$65, the sewer gas smell, rat infestation and people cutting through her property.

Ms. Fox advised that one year after the project began she had no gas, and the gas company informed her that she needed to replace her gas line. Ms. Fox spent \$4,000 and had her yard dug up, only to discover that nothing was wrong with her gas line. Ms. Fox was advised that her gas line was not properly connected because the hookup was located within the District's project site. Ms. Fox indicated that she hired an attorney who sent a letter to the gas company and eight months later she received a reimbursement for the costs incurred. Ms. Fox understood that these were gas company issues, but she wanted to tell her story to someone. Ms. Fox stated that she requested the gas company to fix her basement, and it cost her \$2,000 to remediate the problem. Ms. Fox's yard was torn up; she missed work and did not have gas for 10 days.

Ms. Fox stated that five days before Christmas in December of 2008 a power surge went through her home twice resulting in the loss of two televisions, one furnace, three cordless telephones, one alarm clock, and one electric blanket, which was on her bed. Ms. Fox indicated that she was on her couch at the time of the power surge. Ms. Fox owns dogs and had to leave her home for one month and took two weeks off from work. She had to pay her deductible and lost \$800 for the damaged televisions. Ms. Fox stated that she was not mad at the District, but was unsure where else to turn.

Mr. Brown inquired as to the status of the Ardoyne and Valley Road sewer project. Executive Director Ciaccia advised that KM&M was the initial contractor on the BCI-3D project, and said project had to be rebid due to the ongoing litigation resulting from the failed polyurea coating. Marous Brothers was determined to be the lowest and best bidder on the project rebid, which is currently under construction. The project is expected to be completed in Spring 2010. Executive Director Ciaccia advised that Resolution No. 126-09 which was on the agenda for Board consideration is to provide Ms. Fox with compensation for the easement she provided to the District to complete the BCI-3D project.

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Executive Director Ciaccia advised that as indicated by Ms. Fox, her issues lie with the gas company and electric company. He personally spoke with Ms. Fox which resulted in the remediation of Ms. Fox's issues with the District. Executive Director Ciaccia indicated that the District would be happy to give Ms. Fox further guidance with the gas company and electric company, but was unsure how much leverage they would have in this regard.

Mr. Brown inquired whether the gas and electric utility work was completed and if Ms. Fox's service was restored. Ms. Fox replied that "both have been completed." Mr. Brown questioned as to what further remediation Ms. Fox sought from the gas company and electric company wherein she indicated that the issue with the electric company was a big deal and that twelve residences were affected by the power surge. The electric company did not respond to any of those residents. Ms. Fox claimed that some of her neighbors lost thousands of dollars worth of property. It has been six months since the power surge, and Ms. Fox wanted the electric company to pay her insurance deductible. Ms. Fox commented that her homeowner's insurance premiums have increased due to the damage resulting from the power surge, and that she and her neighbors were unsure as to who they should address their concerns.

Mayor Longo stated that he went through a power surge years ago and lost a refrigerator and everything in it, and that "they did nothing because there are things in their tariff that protects them from these kinds of things." Mayor Longo suggested that Ms. Fox contact the Public Utilities Commission wherein Ms. Fox indicated that she had already contacted this agency. Mayor Longo suggested that Ms. Fox and her neighbors "take them to small claims court." Mayor Longo indicated that these types of situations are difficult to endure "because there is no empathy from the utility companies on making whole what you lost."

Mayor DePiero stated they had a similar situation in Parma, and he inquired as to which city Ms. Fox resided in wherein she replied "Cleveland." Mayor DePiero presumed that the City of Cleveland has a government liaison that deals with the council and mayor. He indicated that Parma's government liaison is very good and visits residences in an effort to assist residents in obtaining reimbursements. Mayor DePiero stated that he was "certain that there is a government liaison that works with Cleveland City Hall and that they are usually pretty good especially when dealing with First Energy and the gas company. Mayor DePiero suggested that this information be provided to Ms. Fox to help her cut through the tape.

Mr. Brown requested that Ms. Fox provide him with her name, address and telephone number and he will forward her information to the City of Cleveland's Chief of Government Affairs. Mr. Brown assured that between himself and City's Chief of

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Government Affairs, the electric and gas companies will be contacted regarding her issues.

Mr. Joseph Saponaro, Esq. reported to the podium and advised the Board that he is a resident of Cuyahoga County and a Councilman for the Village of Mayfield, but his primary role at the meeting was to represent Ohio Bulk Transfer (hereinafter "OBT"). Mr. Saponaro thanked the Board for allowing OBT to provide its services to the District over the past 20 years. Mr. Saponaro advised that in recent communication, the District indicated that the services provided by OBT were excellent, efficient and timely. Mr. Saponaro advised that OBT provides hauling services at the District, and when the incinerators go down at the Southerly plant; OBT's trucks haul the sludge.

Mr. Saponaro stated that over the past 20 years, OBT has had a bird's eye view and has identified the most efficient and effective method of hauling sludge for the benefit of the citizens of Cuyahoga County. According to Mr. Saponaro, the bid file B-2130 bid specifications "does not adequately reflect the scope of work that is actually to be performed under the contract that benefits the District." Mr. Saponaro advised that he prepared and delivered a taxpayer demand to Executive Director Ciaccia.

As a councilman, taxpayer and representative of OBT, Mr. Saponaro implored the Board to investigate and research the bid issues prior to making decisions with regards to this contract. Mr. Saponaro stated that as a Councilman, when an issue is raised, council is required to conduct their due diligence to ensure that they have looked at all angles prior to voting on that particular issue, and he requested that the Board do the same on Resolution No. 121-09.

Mr. Brown inquired what type of action was filed. Marlene Sundheimer, Director of Law, informed the Board that the District just received a Taxpayer's Demand regarding this matter which has not yet been filed. Mr. Saponaro advised that the Taxpayer Demand has not been filed because they are honoring the 10 day response period allotted to Executive Director Ciaccia and the District. Ms. Sundheimer recommended that in light of being served with this Taxpayer's Demand, the Board should convene into executive session to discuss impending litigation further. Mr. Brown advised that the Board will hold Resolution No. 121-09 in abeyance, and the recommended cause of action, if any, will be taken after reconvening from executive session.

V. Executive Director's Report

Executive Director Ciaccia advised that there are no new developments as it pertains to the Combined Sewer Overflow Long Term Control Plan (hereinafter "CSO LTCP"); however, a significant meeting is scheduled for June 23rd wherein the government will present its proposed version of the District's CSO LTCP.

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Executive Director Ciaccia moved to the next report item and advised that it was the staff's intent to present its external audit findings which is being performed by Ciuni Panichi to the Audit Committee at its June 4th meeting; however, finalizing the external audit report was put on hold. State Auditor Mary Taylor and Chief Auditor Robert Wilhelm notified the District that they want Boards and Councils to sign a letter concerning any payments to the following companies: Vincore LLC, DAS Construction Company, RP Carbone Company, Johnson Controls Incorporated, Doan Pyramid Electric LLC, Blaze Building Corporation, RJ Martin Electrical, Inc., Marous Brothers Construction, Lopat Development Company, Green Source Products LLC, Reliance Mechanical LLC and Municipal Solutions, LLC. Executive Director Ciaccia advised that of the aforementioned companies, the District only made payments to Doan Pyramid Electric LLC on contracts that were entered into subsequent to 2008. The District will draft a letter for the Board's signature to be submitted to the State Auditor.

Executive Director Ciaccia moved to the next report item and advised that the 40th anniversary of the river burning event will be held on June 22nd at Settlers Landing in the Flats from 11:30 a.m. to 1:30 p.m. A press conference is scheduled between 12:05 p.m. and 12:35 p.m. Executive Director Ciaccia encouraged the Board members and public to attend the event.

Executive Director Ciaccia moved to the next report item and advised that on June 25th the Suburban Council of Governments (hereinafter "SCOG") will convene after the Mayor and City Managers Meeting at the Environmental Maintenance and Services Center (hereinafter "EMSC"). The annual election of SCOG officers will take place and SCOG will vote on potential revisions to the bylaws. Executive Director Ciaccia will also present the SCOG with the Executive Director's report, which is required under the SCOG Bylaws to be provided on an annual basis.

Executive Director Ciaccia moved to the next report item and advised that included in the Board packets is Ms. Sundheimer's legal opinion regarding the District's legal standing as it pertains to the implementation of the proposed Stormwater Management Program (hereinafter "SMP"). Executive Director Ciaccia advised that the District intends to provide its legal opinion to all of the law directors within the District and he turned discussion over to Ms. Sundheimer.

Ms. Sundheimer stated that this is the legal authority for the implementation of the proposed SMP and that she wanted to provide the Board with an overview of the highlights of various sections within her memorandum.

Ms. Sundheimer advised that according to Judge McMonagle, the purpose for the creation of the District was to develop a detailed Capital Improvement Plan (hereinafter

“CIP”) for regional wastewater collection management and stormwater drainage and to identify a CIP to address all inter-community storm and sanitary drainage problems within the District.

The District is organized under Ohio Revised Code (hereinafter “ORC”) Chapter 6119 as a regional wastewater agency to manage regional sanitary wastewater and stormwater systems on a watershed basis in the Greater Cleveland area. A provision included in the order was to provide the District the ability for future expansion of its territory to adjoining counties, and this is evidenced by the Cuyahoga County Commissioner’s appointment, Mayor DePiero’s seat, which appointment shall be a representative of all municipalities within the Three Rivers Watershed District.

Ms. Sundheimer advised that the section pertaining to the creation of the District provides a chronology of the multiple legal actions and Judge McMonagle’s corresponding findings, memoranda, opinions and court orders culminating in the organization of the District in April 1972.

The purpose of the District was to establish a total wastewater control system serving the Metropolitan Cleveland area with uniform rates, administered by a Board of Trustees, capable of being expanded in the future to include additional territory and areas, with overall control of all wastewater collection systems in the area through a uniform code of regulations.

The section pertaining to the general description of the territories described that the initial territory was comprised of two subdistricts, with additional subdistricts to be created at the Board’s discretion. Currently, there are 61 member communities throughout Cuyahoga, Summit, Lake and Lorain counties.

Ms. Sundheimer advised that the next section focused on the Parma case, and although no appeals were taken from the initial order establishing the District, the Court Order has generated subsequent litigation. The Parma case is significant on the issue of the area to be included within the District’s territory. Judge McMonagle explained that the original territory was to include all of Cuyahoga County except those areas being served by a municipality with its own wastewater facility. The areas of Northfield, Macedonia, Sagamore Hills Township, which are all situated in Summit County, were subsequently included.

Judge McMonagle further explained that the District’s rights and powers were granted by ORC Chapter 6119, and that the judgment entries included the rights of eminent domain as well as the rights, powers and duties bestowed by said chapter.

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Ms. Sundheimer advised that there are key provisions set forth in ORC Chapter 6119 that provided the District the authority to implement a SMP, operate any wastewater facility included in a storm and sanitary sewer system, stream flow improvement and stream bank stabilization projects, as well as, the authority to charge fees for such services. Furthermore, the definition of wastewater included both sanitary and storm water.

Ms. Sundheimer stated that the exercise of overall control of the storm collection system section sets out the authority to control all of the wastewater collection systems through rules and regulations.

The stormwater regulations section discussed stormwater management from a regulatory perspective and gave a historical account of the development of stormwater regulations at a national level which focused on a report by the National Research Council (hereinafter "NRC") commissioned by the United States Environmental Protection Agency (hereinafter "US EPA"). This report recommended that the US EPA focus its stormwater program on a new watershed-based permitting structure which considers the entire watershed by combining requirements for sanitary wastewater, stormwater and other non-point source contributions into one analysis leading to water quality use and attainment in the watershed. The District further demonstrated its proposed SMP to be consistent with the recommendations of said NRC report and that it provided the framework for member communities to transcend the legal and political limits of their local authority to accomplish solutions on a watershed basis and coordinate efforts with other communities within the watershed.

Ms. Sundheimer advised that the next section identified various studies the District has undertaken for the development of the proposed SMP. Beginning in 1978 to the present, the Board has authorized over \$12 million for a series of stormwater related studies, which were listed in Table 1.

Ms. Sundheimer indicated that in the section titled Regional versus Local Community Stormwater Systems, she set forth the District's proposed SMP as it relates to stream bank and stormwater infrastructure projects. The District proposes to manage regional stormwater drainage and collection system projects and provide stream system management and watershed integration services to member communities. The District will not assume management and control of local stormwater collection systems including the planning, financing, construction, operation, maintenance or repair of any local stormwater collection facility unless specifically provided for in a written agreement between the District and the respective member community. The District intends working with communities, governmental agencies and watershed organizations in an effort to integrate the local and District efforts.

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Ms. Sundheimer explained that the section, pertaining to the District's stormwater activities, identified specific stormwater project initiatives undertaken by the District throughout the years. The District participated, funded and constructed various stormwater projects including the Lakeview Cemetery Dam project, which was authorized by the Board in September 1972, and other stream restoration projects from 1998 to 2009. This information was listed in Table 2.

Ms. Sundheimer advised that the section pertaining to stormwater user fees sets forth the District's legal authority to charge a District-wide stormwater user fee. It cites the key decisions that established the proposed SMP as a regional program as opposed to a local program thus authorizing the District to spread the cost of the program over the District's entire customer base. Ms. Sundheimer stated that like the Intercommunity Relief Sewer Program, the regional SMP will be beneficial to member communities of all subdistricts.

Ms. Sundheimer advised that the memorandum cites the legal authority for the use of an equivalent residential unit (hereinafter "ERU") and the basis for the fee as well as other citations supporting that the stormwater fee be a fee for services and not a tax.

Ms. Sundheimer stated that she wanted to provide the Board with an overview as to the major areas of the District's legal authority in an effort to assure the Board that it can confidently adopt the proposed SMP for the reason that the legal authority always existed and that the District demonstrated that it has been in the stormwater business since its inception.

Mr. Brown appreciated Ms. Sundheimer's presentation regarding the District's authority and he inquired if the legal opinion was being submitted to all the law directors in response to the inquiries raised as to the District's authority to implement a SMP and establish SMP fees. Ms. Sundheimer replied that while visiting member communities to promote the proposed SMP, the District encountered many questions from the law directors and legal advisors as to the basis of the District's legal authority for such program. The District provided copies of the court orders and other requested public records to the respective law directors. Furthermore, the memorandum combines the authority under ORC Chapter 6119, court orders and other case citations that demonstrate fully the District's legal authority to implement the SMP.

Mayor Longo inquired as to why the District is still under a Court Order, and if it can move away from the Court Order and establish itself as an agency that functions through state and federal codes. Ms. Sundheimer replied that this is not how these ORC regional water and sewer districts are structured. Under ORC Chapter 6119, the District must go back to the court in order to amend or modify its plan of operation.

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Mayor Longo questioned if Cincinnati, Columbus or Toledo wastewater agencies are established by court order. Ms. Sundheimer replied that there are other sewer and water districts in Ohio that are established by ORC Chapter 6119, and those agencies follow the same protocol which includes petitioning the court for its establishment and any desired changes to the structure requires going back to the court. Mayor Longo suggested that the state legislature “make that whole section stand on its own rather than always running back to the courts.”

Mr. Brown stated that a Court Order is intended for a particular purpose or outcome, and he questioned at what point the District has satisfied all of the requirements of the original Court Order. Mr. Brown questioned the necessity of the Court Order if there are no further outcomes expected, provided the District has complied with the Court Order and actions brought forth by the communities when it was a Cleveland wastewater facility. Mr. Brown indicated that this is an important issue and although we should honor the past and impetus for the development of the District, at some point, we have to move forward and sever that piece of the past.

Ms. Sundheimer clarified that ORC Chapter 6119 established the process for creating the District which included filing a petition with the Court of Common Pleas. Subsequent to its creation, the District was provided authority under state law to manage its daily operations while the court retains jurisdiction for the purpose of amending the petition at some point in the future, more specifically, if the District wanted to amend its plan of operation, its purpose or any other provision set forth in the original decree, it is required to go back to the court that retains jurisdiction over this matter.

Executive Director Ciaccia added that some entity would have to retain jurisdiction over the District whether it be the state legislature, governor’s office or the court. The District would not be given unilateral authority to change its own operation.

Mayor Longo questioned why the District needed the court to function. Ms. Sundheimer advised that the District does not need the court behind it in order to function. Mayor Longo commented that “we are always talking about going back to the court to amend the original Court Order or to change some kind of code as to how appointments are made, isn’t it time we stand on our own?” If the District is governed by state law, why is the court always in the background? The District cannot arbitrarily change its motive or mission. Mayor Longo inquired if the District is required to be under the auspices of the court and whether it can mitigate having to always go back to the court and just be a creation of the State of Ohio.

Mr. Brown suggested that the Governance Committee be charged with conducting its due diligence on this issue and bring its findings back to the Board.

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Mayor Starr inquired whether it is a legal mandate to create a stormwater district, or if this is a voluntary action taken by the District. Ms. Sundheimer replied that it is within the District's legal authority to create a SMP; however, it is not mandated specifically that once a sewer district is created, it must carry out every aspect of that authority.

Mayor Starr commented that the District was created 35 years prior and never established a SMP. The District recognized that stormwater management is an important environmental issue and government policy to embark upon, but it is voluntary decision and that there is no legal mandate ordering the District to create a SMP. Ms. Sundheimer stated that this is technically correct, but she believed that Judge McMonagle intended in his mandate for the District to be responsible and take on the stewardship of this region by abating the environmental problems, particularly the pollution of the region's waterways and streams. The District is required to be a good public steward and implement and carry out this mandate which includes the responsibility of taking on regional stormwater programs, on a watershed basis, because of the public necessity of such programs.

Mr. Brown commented that these are good questions and responses. And to Mayor Starr's question regarding whether the SMP was mandatory or voluntary, Mr. Brown explained that it was determined to move forward with facility improvements in the suburban communities including the interceptors and plant upgrades. After these other debts got resolved, at some point the rates should stabilize. A rate stabilization process was implemented several years ago, with the anticipation that Subdistricts 1 and 2 rates will be consistent. Mr. Brown indicated that the issue was raised as to the District's role when these other issues were resolved and whether managing a regional stormwater system would become the District's responsibility.

Mayor Longo commented that there are additional contributing factors affecting the District since its inception including the federal government, US EPA, State of Ohio EPA and the US Army Corps of Engineers. These issues are no longer at the discretion of the District, but have become mandates from Congress or the State of Ohio, and the District is required to take on these projects under a consent decree. Mayor Longo indicated that the US EPA has changed since the District's inception. There were no Phase 2 stormwater regulations and that the District has now become responsible for managing those issues. Mayor Longo referred back to his previous question regarding the need for the District to continue relying upon the court for its ongoing mission because "there are many agencies dictating to us to sign a consent decree."

VI. Consent Agenda

There were no Consent Agenda items.

VII. Action Items

Stormwater Management Program

Resolution No. 110-09

Authorization to enter into contract with IBM Corp. for the Stormwater Billing Phase I Assessment. Cost not to exceed \$363,288.00.

Resolution No. 111-10

Authorization to modify Contract No. 3401 with AMEC Earth & Environmental, Inc., for the Stormwater Management Program Implementation Project. Cost increase of \$351,400.00 bringing the total contract price to \$3,350,154.00.

Resolution No. 112-09

Authorization to enter into contract with Brainville, Inc. for Stormwater Alternate Billing Assessment. Cost not to exceed \$51,710.00.

Mr. Brown requested that Executive Director Ciaccia provide the Board with an explanation as to the necessity for Board consideration on Resolution Nos. 110-09 through 112-09.

Executive Director Ciaccia advised that Resolution Nos. 110-09 through 112-09 pertain to the stormwater billing system. Initially, the District intended working with its main billing agent, the City of Cleveland Water Division (hereinafter "CWD"), and to modify contracts in order to accommodate stormwater billing. It was determined that this may not be the best approach for the reason that CWD needed to remain solely focused on the mission of implementing its new billing system, and it was within the best interest of the District to pursue its own contractual needs instead.

The District requested proposals for the Phase 1 billing assessment from IBM, TMG and Bearing Point wherein IBM submitted the best proposal and is one of the contractors working on CWD's billing system. The District is requesting a supplemental contract with AMEC Earth & Environmental, Inc. to assist with parcel mapping in order to obtain accurate information for the determination of property ERUs especially for large lot customers. In the event the District's other billing agents do not reach an agreement with the District or cannot accommodate stormwater billing into their billing system, the

MOTION – Mayor Starr moved and Ms. Kelly seconded to adopt Resolution No. 115-09. Without objection, the motion carried unanimously.

Authorization to Purchase

No discussion ensued on Resolution No. 116-09.

Resolution No. 116-09

Purchase from Dell, Inc., through the State of Ohio Cooperative Purchasing Program, PC desktops, laptops and other equipment as part of the annual hardware purchase. Cost is \$165,959.58.

MOTION – Mayor DePiero moved and Mayor Starr seconded to adopt Resolution No. 116-09. Without objection, the motion carried unanimously.

Authorization to Enter Into Agreement

No discussion ensued on Resolution No. 117-09.

Resolution No. 117-09

Acceptance of Ohio Department of Health Award and Contracting with U.S. Geological Survey for research efforts.

MOTION – Ms. Kelly moved and Mayor Longo seconded to adopt Resolution No. 117-09. Without objection, the motion carried unanimously.

Authorization to Enter Into Contract

No discussion ensued on Resolution Nos. 118-09 through 120-09.

Resolution No. 118-09

Contract with TestAmerica St. Louis for radiochemical (Cobalt-60) analyses. Cost is \$48,982.50.

Resolution No. 119-09

Contract with Cleveland Plastics for the purchase of sodium hypochlorite tanks for use at the Westerly Wastewater Treatment Plant. Cost not to exceed \$25,788.90.

Resolution No. 120-09

One (1) year requirement contract with Inland Waters of Ohio for interceptor cleaning at East 91st Street and East 17th Street. Cost is \$36,309.00.

MOTION – Mayor Longo moved and Mr. Sulik seconded to adopt Resolution Nos. 118-09 through 120-09. Without objection, the motion carried unanimously.

Authorization of Contract Modification

No discussion ensued on Resolution No. 122-09.

Resolution No. 122-09

Final adjusting deduct order and close-out of Contract No. 3508, Westerly Generator Closure Plan (SPI-7), Northeast Ohio Trenching Services, Inc. Cost decrease in the amount of \$38,999.00 bringing the total contract price to \$384,501.00.

MOTION – Mr. Sulik moved and Mr. O'Malley seconded to adopt Resolution No. 126-09. Without objection, the motion carried unanimously.

Expansion of District

No discussion ensued on Resolution No. 123-09.

Resolution No. 123-09

Ratifying inclusion in the District of a portion of Willoughby Hills, currently served by the District, and rescinding Resolution No. 265-08, accepting the application of Willoughby Hills to expand its service area.

MOTION – Mayor Longo moved and Ms. Kelly seconded to adopt Resolution No. 123-09. Without objection, the motion carried unanimously.

2009 Salary Resolution

No discussion ensued on Resolution No. 124-09.

Resolution No. 124-09

Authorizing the Executive Director to grant general and special salary increases for non-union employees. Cost not to exceed \$150,000.00.

MOTION – Mayor Longo moved and Mr. O'Malley seconded to adopt Resolution No. 124-09. Without objection, the motion carried unanimously.

2009 Employee Classifications and Levels of Compensation

No discussion ensued on Resolution No. 125-09.

Resolution No. 125-09

Rescinding Resolution Nos. 315-07, 31-08, 31-08a, 31-08b, 31-08c and 31-08d and establishing new classifications and levels of compensation for non-collective bargaining unit employees, effective on June 5, 2009.

MOTION – Mr. Sulik moved and Mayor Longo seconded to adopt Resolution No. 125-09. Without objection, the motion carried unanimously.

Authorization of Easement

No discussion ensued on Resolution No. 126-09.

Resolution No. 126-09

Holdover temporary easement (parcel 6T) acquisition from Sheresa M. Fox for construction of the Big Creek Interceptor Rehabilitation Project BCI-3D. Consideration: \$10,500.00.

MOTION – Ms. Kelly moved and Mayor Longo seconded to adopt Resolution No. 126-09. Without objection, the motion carried unanimously.

Add-On

No discussion ensued on Resolution No. 35-09a.

Resolution No. 35-09a

Amending Resolution No. 35-09, adopted by the Board of Trustees on February 19, 2009, awarding a one (1) year requirement contract to JCI Jones Chemicals, Inc., for the purchase of liquid sodium hydroxide solution for use at the Easterly, Southerly and Westerly Wastewater Treatment Plants. A cost increase of \$255,000.00, bringing the total not to exceed amount to \$377,922.56.

MOTION – Mayor Longo moved and Mr. Sulik seconded to add and adopt Resolution No. 35-09a. Without objection, the motion carried unanimously.

VIII. Information Items

1. Capital Improvement Program – Five (5) Year Plan.

Ms. Rotunno advised that included in the Board packets is the District's 5-year CIP. The CIP report was revised to be more user-friendly for the contracting and vendor communities in an effort to lead them to target specific District projects in which they can position themselves for in the upcoming 5-year window.

IX. Open Session

There were no items for discussion.

X. Public Session (any subject matter)

Mr. Brown requested that Mr. Edward Ledyard come forward and address his concerns to the Board.

Mr. Ledyard advised that he is the owner of Ledyard Mechanical Corporation, and that he found it necessary to represent his community within the construction industry, which he believed has been unrepresented for quite some time.

Mr. Ledyard stated that he is unhappy with the disparity study to date, and that there are not updates on the disparity study. Mr. Ledyard alleged that MBEs are underrepresented as contractors, subcontractors and within the workforce of the District. Mr. Ledyard requested that both Mr. Edwards and he be apprised as to the progress of the disparity study.

Mr. Ledyard referred to a previous Board meeting wherein a disparity study representative from Chicago, Illinois [Colette Holt, Esq.] was present and she indicated that the disparity study will take one year to complete. Mr. Ledyard believed this to be unacceptable because they are completing disparity studies throughout the country and this information should be pulled together easily.

Mr. Ledyard stated that there is whole taxpaying community waiting to get their share of the dollars. Mr. Ledyard claimed that Ms. Holt did not provide a timeline for completion, and if Ms. Holt is encountering difficulties in obtaining certain information, he offered his assistance to Ms. Holt in this matter in order to establish a definite timeframe for completion.

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Mr. Ledyard inquired as to which local representative or committee oversees the SBE process because the City of Cleveland has an affirmative action committee that works well and he suggested the District follow the same protocol.

Mr. Brown inquired as to when Ms. Holt is scheduled to provide a disparity study update. Executive Director Ciaccia anticipated that the next disparity study update will take place in August and that the presentation will provide greater detail. Mr. Brown agreed that the content of the last SBE update was brief and he supported establishing a format that allows the Board to better understand the progress made on any early findings as well as the timeline for completion. Mr. Brown suggested that obtaining progress updates at different intervals such as 50% and 75% will assist in the establishment of benchmarks.

Mr. Brown indicated that Executive Director Ciaccia has engaged the City of Cleveland and other entities about facilitating similar studies, but this "work has to be done in such a way that is race and gender neutral moving away from MBE, WBE programs to SBE and DBE (Disadvantaged Business Enterprise) programs." Mr. Brown stated that working with other entities to provide opportunities for communities to have a good baseline of information is important because we all have similar challenges when reinventing ourselves and complying with the government's procurement processes.

Executive Director Ciaccia stated that the District has been reaching out to MBE, WBE and SBE firms, and has held three sessions with the contracting community regarding the SBE program wherein many MBEs and WBEs attended those meeting, and that the District continues reaching out to MBEs and WBEs that were certified with the District on the previous MBE/WBE program.

At the May 21st Board meeting, Executive Director Ciaccia reported that 29 previously certified MBE and WBE firms obtained SBE certification with the District, and that number has increased to 53, which Executive Director Ciaccia explained is still not adequate. There were 200 MBE/WBE firms certified with the District under its MBE/WBE program, and Tiffany Jordan, Contract Compliance Manager, has contacted MBE and WBE firms in an effort to encourage them to seek SBE certification with the District.

Mr. Brown recalled that both Executive Director Ciaccia and Constance Haqq, Director of Administration and External Affairs, have worked on outreach methods, the establishment of a work plan and held meetings to address the substantive issues in order to develop a SBE program that ensures subcontractors possess the qualifications, bonding requirements, business plans and access to capital necessary in order to increase participation.

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Mr. Brown recommended that staff inform both Mr. Edwards and Mr. Ledyard as to schedule of said outreach meetings so they can participate. Executive Director Ciaccia advised that both gentlemen were informed of the prior meetings.

Ms. Kelly reminded the Board that when Ms. Holt made her last presentation, she informed the Board that the disparity study was ahead of schedule due to the District expeditiously providing her with the requested information.

Mr. Brown understood the concerns about obtaining the disparity results quickly; however, the quality of work should not be sacrificed in an effort to reach a quicker outcome. The goal is to ensure that the quality of work and product will provide the District with the desired outcome however long it takes, but he requested that Ms. Holt work as expeditiously as possible.

Mr. Brown inquired who is overseeing the disparity study. Ms. Sundheimer advised that the disparity study is being conducted under her direction as the Director of Law for the reason that it is study that needs to be supported by a court of law. Executive Director Ciaccia added that staff reports to the Board as an oversight body, and Mr. Brown indicated that further discussion will be held regarding this issue.

XI. Executive Session

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

MOTION – Mr. O'Malley moved and Ms. Kelly seconded the motion to enter into Executive Session to discuss bid disputes on a one (1) year requirement contract and Taxpayer Demand regarding Bid File #B2130 which is the transportation and disposal of sludge at the Southerly and Westerly Wastewater Treatment Plants. A roll call vote was taken and without objection, the motion carried unanimously.

The Board met in Executive Session from 1:44 p.m. to 2:13 p.m.

XII. Approval of Items from Executive Session

No discussion ensued on Resolution No. 121-09.


Resolution No. 121-09

One (1) year requirement contract with Kurtz Brothers, Inc. for the removal, transportation and disposal of biosolids at the Southerly and Westerly Wastewater Treatment Plants. Cost not to exceed \$917,390.00.

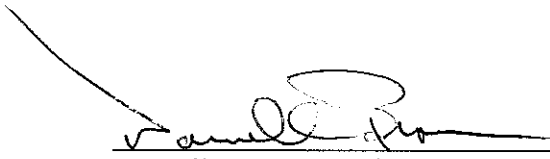
MOTION – Mr. Sulik moved and Mr. O’Malley seconded to adopt Resolution No. 126-09. Without objection, the motion carried unanimously.

XIII. Adjournment

MOTION – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mr. Sulik moved and Mr. O’Malley seconded the motion to adjourn at 2:15 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