

MINUTES  
NORTHEAST OHIO REGIONAL SEWER DISTRICT  
BOARD OF TRUSTEES MEETING  
JUNE 19, 2008

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

I. Roll Call

PRESENT: D. Brown  
T. Longo  
R. Sulik  
S. Kelly  
D. DePiero  
A. Liberatore

*Mayor Starr was absent.*

The Secretary informed the President a quorum was in attendance.

II. Approval of Minutes

**MOTION** – Mr. Liberatore moved and Mr. Sulik seconded that the minutes of the June 5, 2008 Board meeting, be approved.

III. Public Session (no one registered to speak at the public session)

IV. Executive Director's Report

Executive Director Ciaccia began his report by referring to the *Inland Waters vs. Marra Construction* lawsuit. This item was not listed on the Executive Director's written report; however, it is an important issue of which the Board needed to be informed. He explained that the District was named as a party to this lawsuit, which was originally between Inland Waters and Marra Construction alone, but subsequently the District was brought into the suit by Marra. The Board previously authorized the District to retain Calfee, Halter & Griswold for representation on this matter. The contractor alleged that certain dimensions of manholes were incorrect, resulting in significant differing site conditions and incurring additional costs. The District filed a Motion to Dismiss the District from the lawsuit. This matter was assigned to a magistrate by the judge wherein

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a recommendation was made in the District's favor. Executive Director Ciaccia turned discussion over to Director of Law, Marlene Sundheimer, to expand on this issue.

Ms. Sundheimer explained that the District was successful in obtaining a dismissal on several claims alleged by Marra Construction in this matter. One (1) claim was not dismissed; however, obtaining dismissal on all but one claim will limit the scope of discovery significantly. Ms. Sundheimer explained that, from the District's perspective, this ruling is considered a successful endeavor.

The Executive Director moved to the next report item involving the meeting between the District, Environmental Protection Agency (hereinafter "EPA"), and the Department of Justice (hereinafter "DOJ") regarding the CSO Long-Term Control Plan (hereinafter "CSO LTCP"). The government asked to meet with the District to present a new innovative approach which turned out to be giving consideration to granting a permit to install for the Euclid Creek Storage Tunnel (hereinafter "ECT") project. The design for this project had been suspended, pending Ohio EPA's approval. EPA and DOJ will now consider issuing the permit for installation for the Euclid Creek Storage Tunnel project. The DOJ and EPA requested that the District review the sizing of the planned dewatering pump station as part of the proposal. Executive Director Ciaccia explained that this request is a positive indicator that negotiations are moving forward and that the new Ohio EPA Director may be weighing in on the negotiation process. A meeting was held on June 19, 2008 with the District's Engineering, Watershed and Legal Departments and consulting engineers to analyze what this movement means to the District, specifically, looking at costs and commitments required for implementation of ECT. Executive Director Ciaccia explained that ECT project has been dormant for the last several months, and if the District decides to move forward with the proposed projects, the District will need to look at the impacts to the Capital Improvement Program.

The rate increase, passed by the Board, effective through 2011 does not factor in the implementation of these projects, and the District may need to readjust its Capital Improvement Program (hereinafter "CIP") if these projects go forward. The tunnel will cost approximately \$100 million and the dewatering pump station is approximately \$100 million, plus. Executive Director Ciaccia explained that it is not the intent of the District to request consideration from the Board for additional rate authority. The District will continue operating under the current rate authority established through 2011 and adjust the CIP as necessary.

Executive Director Ciaccia explained that the District intends to recommend an equally innovative proposal to the DOJ and EPA as it relates to the CSO LTCP rather than speculating about what the government might want the District to do. The District intends to go back to the government with a proposal that is best for the District and a

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plan outlining what the District is going to do in terms of the size of the tunnel and pump station capacity.

Mr. Brown questioned if new technology was introduced. Director of Watershed Programs, Frank Greenland, explained that the District was asked to identify the relative costs of going from four overflows per year to three, two, one and zero overflows at twenty-two (22) service area locations. The District complied with this request in March 2008. Mr. Greenland speculated that as a result of the ECT project design being suspended, the Director of Ohio EPA may be influencing his staff to recommend a proposal to the District as it relates to the implementation of the ECT program to provide overflow control near Euclid Beach. Mr. Greenland stated that the District is reviewing all pertinent issues as it relates to overall ECT design and impacts at treatment plants and the overall system, and the District plans to recommend an equally innovative proposal to the DOJ and EPA.

Mr. Brown suggested the District identify potential benefits that may result from the reduction in the number of overflows and the incremental costs incurred for various levels of control on CSOs. He stated that the Board anticipates the outcome of these discussions. Executive Director Ciaccia stated that the District will continue to update the Board as the District continues to debate issues with the government on issues such as funding, affordability or the ability to pay.

Mr. Brown stated that Consent Decree negotiations are underway between the DOJ and EPA, and Cities of Cincinnati, Dayton, Columbus and Toledo. Mr. Brown questioned the rationale for entering into Consent Decrees with the DOJ and EPA setting forth such tight timelines for project implementation and completion if the capacity and authorization to construct facilities to be in compliance are contingent upon the same group of tunnel contractors.

Mr. Greenland explained that the District discussed the twenty (20) versus thirty (30) year implementation plan and if a set schedule will impact costs. He stated that one of the factors was market saturation. These discussions were held quite sometime ago, and current discussions focus on the program, level of controls and schedule of implementation, which is contingent upon affordability issues.

Mayor Longo questioned if the DOJ and EPA will manage the projects and require additional work be completed that may not have been within the original project scope. Mr. Greenland stated that a well-written Consent Decree could benefit the District by preventing project modifications. The Consent Decree is an agreement between all involved parties setting forth program elements and a schedule of implementation. Mayor Longo expressed concern that even if a Consent Decree is established, this will not prevent the other parties from revising or amending it.

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Executive Director Ciaccia stated that it is important for the District to move forward with the CSO LTCP and delays will result in increased costs, and that the District originally planned to implement these projects.

Executive Director Ciaccia moved to the next report item regarding the Southerly Wastewater Treatment Facility's Biosolids Handling & Incinerator. This project began prior to his arrival and the District has studied it significantly. A design consultant was retained for the development of the fluidized-bed incinerator. Executive Director Ciaccia explained that this project is estimated to exceed \$100 million. The District will need to look into its ability to simultaneously manage both the Southerly Biosolids Handling & Incinerator and ECT projects. Executive Director Ciaccia explained that both he and Director of Engineering and Construction, Kellie Rotunno, are reviewing additional technological options as it relates to the handling of biosolids. He is uncertain if the proposed fluidized-bed incinerator technology will be conducive to future developments in this field. Executive Director Ciaccia suggested that the District undergo further due diligence in relation to this project. He advised Board members that the District will host a technology validation workshop and carbon footprint analysis to engage staff and consultants and encourage further review of this issue.

Ms. Rotunno added that the District committed to the implementation of this project and has a five (5) year timeline from project commencement before technology will be incorporated into the system. Thus, the District will be working with technology that is five (5) years old when it goes online. Ms. Rotunno stated that due to current developments in sustainability such as green energy and energy recovery, it is difficult to estimate technological advancements for the future. It is likely that in five (5) years these technological advancements will move away from the fluidized-bed incinerator. Ms. Rotunno advised that the last residual study conducted with regards to this technology was completed in 2005. Both Ms. Rotunno and Executive Director Ciaccia agreed that the District would research the benefits of energy recovery for biosolids as opposed to fluidized-bed incineration which releases the energy into the atmosphere. The District could benefit from energy recovery to heat the building, for example. Ms. Rotunno agreed that the District would undergo further due diligence as to the best use prior to investing \$100 million on this project.

Executive Director Ciaccia explained that it is not the District's intent to forego this project, but it is more prudent to take another look at the project in light of the technology issues and in light of the fact that the CSO LTCP projects may be moving forward at the same time, both with \$100 million price tags.

Executive Director Ciaccia moved to the next report item regarding Program Management and stated that the District received two (2) proposals for Program

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Manager. A review committee was established to review Program Manager proposals and has recommended that the District retain CH2M Hill. Fee negotiations will begin for Phase 1, which is the study of integration issues as it relates to District staff, the validation of the Capital Improvement Program, and a determination of the District's program elements. Executive Director Ciaccia explained that, if the Board desires, staff can include an information item at the July 3<sup>rd</sup> meeting identifying the evaluation procedure used by the review committee which resulted in its recommendation.

Mr. Brown stated that program management will be a monumental program for the District. The decision to appoint a Project Manger should be well-informed. Mr. Brown showed concern as to the low number of proposals received, but stated that he understood some organizations were reluctant in submitting a proposal due to the preclusion from completing any design work associated with certain projects. The Board's decision as it relates to program management will affect the District for many years; therefore, he supported the idea of a staff presentation on how the recommendation of Program Manager was derived. Executive Director Ciaccia affirmed that the staff will present this information to the Board at the July 3<sup>rd</sup> meeting.

Executive Director Ciaccia moved to the next report item regarding the Nowcast system, which predicts water quality and bacteria levels at area beaches. He requested Mr. Greenland discuss this issue further.

Mr. Greenland stated that in an effort to protect public health, the Nowcast system has been developed. The Nowcast system allows bacteria information to be predicted based on several factors including rainfall, wind and waves as opposed to the previous method, which resulted in a 24-hour waiting period. The District is now the leading agency as it relates to predictive modeling capabilities and is now responsible for posting beach advisories at Edgewater Beach. The District does not have the predictive modeling capability at Euclid Beach thus far, but the District continues research efforts with the United States Geological Society and various Health Departments. Furthermore, the District is engaged in research to identify rapid testing methods. Mr. Greenland explained that the District underwent sampling activities years ago and has advanced to predictive modeling capabilities with a goal of reaching a quick testing method to advise the public of beach safety issues in the future.

Mr. Brown stated that the District has taken on the responsibility of alerting the public of beach health and safety, and he questioned as to what extent the Ohio Departments of Health and Resources have been involved with this process. Mr. Greenland advised that the District has met with the Ohio Department of Health, Cuyahoga County Board of Health, Cleveland Board of Health, United States Geological Society and others and an agreement was established setting forth what agency would be responsible for area beaches including reporting to the beach to check the parameters, input the information

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into the predictive model and make the prediction. It was agreed that the District would be responsible for Edgewater beach; however, the Health Department does remain active in the process and results. If public health and safety issues arise, it is agreed that public health agencies become involved in addressing these matters.

Mr. Liberatore asked Mr. Greenland to update the Board as to the status of the outfall monitoring processes. Mr. Greenland explained that flow monitors have been installed at approximately 22 to 26 CSO outfalls. These flow monitors inform the District when an overflow has occurred. As part of the public notification process, the District developed a webpage to provide the public with general information as it relates to the CSO issue including the location of overflows, dangers associated with the overflow, and warning the public to be cautious up to 72 hours after an overflow has occurred.

Executive Director Ciaccia moved to the next report item regarding the District receiving an honor recognition. He informed Board members that the District will be presented a Special Achievement in GIS Award during the ESRI International User Conference. The District is one of 170 award recipients out of 100,000. He commended Jeff Duke and his staff on their performance.

Executive Director Ciaccia moved to the next report item and stated that the District reached the 42% of budget benchmark and total operations and maintenance expenses are at 36.78%. The District continues to stay within its budget metric.

Executive Director Ciaccia moved to the next report item regarding government relations. He advised Board members that the Suburban Council of Governments (hereinafter "COG") will meet on June 26, 2008 at 10:00 a.m. at EMSC. He explained that the COG is composed of suburban mayors and city managers from member communities. The COG is responsible for appointing suburban Board of Trustees' seats. In accordance with its Bylaws, COG members will be electing officers at the June 26<sup>th</sup> annual meeting. Mayor Longo is the Chairman, Mayor Starr is Vice Chairman and Mayor Rothschild is the Secretary of the COG. Government Affairs Specialist, Darnella Robertson, has been assigned to assist the COG with administration of its operations. He stressed that in accordance with state law, voting by proxy is no longer permissible in the COG forum. Although the COG's Bylaws reference proxies, state law has changed since its enactment. The Law Department has issued a memorandum with regards to this issue. Furthermore, the COG's Bylaws require representatives from at least twenty (20) member communities to be present for a quorum. Mayors and city managers may designate a representative from the community to appear on his/her behalf. This designee will have voting privileges. Mayors appointing a designee will need to submit this request in writing and the District has provided each member community with a template. Executive Director Ciaccia will give a presentation at the June 26<sup>th</sup> COG meeting.

V. Consent Agenda

Mr. Brown advised the Board that there are no Consent Agenda items.

VI. Action Items

Authorization to Enter Into Agreement

No discussion ensued on Resolution Nos. 145-08 and 146-08.

**Resolution No. 145-08**

**Execution of the Water Pollution Control Loan Fund (“WPCLF”) Loan Agreement with the Ohio Environmental Protection Agency and the Ohio Water Development Authority for the WPCLF Financing of the Westerly Interceptor Box Culvert Replacement Project.**

**Resolution No. 146-08**

**Renewal of Novell Software License Maintenance Contract for July 1, 2008 to June 30, 2009, and to Purchase Additional Licenses and Maintenance. Cost not to exceed \$44,995.11.**

**MOTION** – Mayor Longo moved and Mr. Liberatore seconded to adopt Resolution Nos. 145-08 and 146-08. Without objection, the motion carried unanimously.

Authorization to Award

No discussion ensued on Resolution No. 147-08

**Resolution No. 147-08**

**One-Year Requirement Contract with Polydyne, Inc. for Gravity Belt Thickener Polymer at the Southerly Wastewater Treatment Plant. Cost: \$323,840.00.**

**MOTION** – Ms. Kelly moved and Mr. Sulik seconded to adopt Resolution No. 147-08. Without objection, the motion carried unanimously.

Authorization of Contract Modification.

No discussion ensued on Resolution No. 148-08

**Resolution No. 148-08**

**Southerly Standby Power Improvements (SPI-6), Contract No. 3375, Contractor: Kenmore Construction Company. Cost Decrease of \$101,762.95 – Closeout Deduct.**

**MOTION** – Mr. Sulik moved and Mr. Liberatore seconded to adopt Resolution No. 148-08. Without objection, the motion carried unanimously.

Authorization of Full and Final Payment

No discussion ensued on Resolution No. 149-08

**Resolution No. 149-08**

**Payment to Kenmore Construction for Emergency Repair of Collapsed Sewer on East Cleveland's Coit Avenue. Cost: Full and Final Payment of \$145,159.65.**

**MOTION** – Ms. Kelly moved and Mr. Liberatore seconded to adopt Resolution No. 149-08. Without objection, the motion carried unanimously.

Add-On Resolutions

No discussion ensued on Resolution Nos. 150-08 and 151-08.

**Resolution No. 150-08**

**Amending Resolution No. 270-06, adopted by the Board of Trustees on September 7, 2006, which authorized an agreement with Ciuni & Panichi, Inc., to perform an annual audit of the District's financial condition for a five (5) year period for fiscal years 2006 through 2010, by increasing the appropriation therefore. Additional cost is \$4,725.00.**



**Resolution No. 151-08**

**Authorizing the Executive Director to enter into agreement with Adrian Maldonado and Associates, to proceed in developing an interim Small Business Enterprise Program or similar program, to issue Request for Proposals or Request for Qualifications related to performing a disparity study, and to enter into agreement with community partners to provide outreach and related services relative to implementation of a new Small Business Enterprise Program.**

**Resolution No. 152-08**

**Resolution of acknowledgement and appreciation to Robert D. Gow in recognition of his more than thirty-four (34) years of outstanding service and noteworthy contributions to the Northeast Ohio Regional Sewer District.**

Mr. Brown presented the Resolution of acknowledgement to Mr. Gow and his thirty-four (34) years of outstanding service and contributions to the District. He read the resolution aloud to meeting attendees. He acknowledged Mr. Gow's involvement with the subcommittee that established the Sewer Pipe Users Group in 1996 wherein he served as Chairman from 2002 through 2008. On behalf of the Board, District, and member communities, he expressed best wishes to Mr. Gow and his family. Mr. Gow expressed his appreciation to the District and stated that he feels fortunate to have been involved with this organization for so many years. Mr. Gow stated that the District has made a lot of progress over the last 30 plus years, and he is confident it will continue doing so.

**Resolution No. 153-08**

**Resolution of acknowledgement and appreciation to Ana I. Maldonado in recognition of her more than fourteen (14) years of outstanding service and noteworthy contributions to the Northeast Ohio Regional Sewer District.**

Mr. Brown presented the Resolution of acknowledgement to Ms. Maldonado and her fourteen (14) years of outstanding service and contributions to the District. He read the resolution aloud to meeting attendees. On behalf of the Board, District and member communities, he expressed best wishes to Ms. Maldonado and her family. Ms. Maldonado stated that the District was a fine organization to have worked for. She

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showed appreciation for being given the opportunity to contribute to the organization and the public.

**MOTION** – Mayor Longo moved and Mr. Sulik seconded to adopt Resolution Nos. 150-08 through 153-08. Without objection, the motion carried unanimously.

VII. Information Items

1. Approval of 2007 Budget Transfers over \$100,000.00.

Executive Director Ciaccia turned discussion over to Finance Director, Jennifer Demmerle, to discuss 2007 budget transfers over \$100,000. She stated that based on a resolution passed in 2007, the District is required to present to the Board any budget transfers exceeding \$100,000 per operating expense line item, wherein there were seven (7). Ms. Demmerle stated that Mr. Brown, Executive Director Ciaccia and she are required to approve 2007 budget transfers. The District is operating on an accrual basis of accounting, and 2007 expenses were recorded in March and April of 2008 due to invoicing intervals and completion of the audit. Ms. Demmerle explained that the District did not exceed its total operating and expense budget in 2007. Ms. Demmerle advised Board members that the District is considering modifying the accrual basis of accounting method and is currently researching its system capabilities. Mr. Brown inquired as to the exact budget year. Ms. Demmerle stated that the budget year is January 1<sup>st</sup> through December 31<sup>st</sup>, but the District is on an accrual basis. Therefore, a number of invoices from 2007 were received in January, February and March 2008 and had to be recorded in the 2007 budget year. Mr. Brown stated that the expense was actually from 2007 and Ms. Demmerle affirmed.

2. Request for Proposals (hereinafter “RFP”) for Internal Audit Professional Services.

Executive Director Ciaccia stated that Manager of Internal Audit John Wasko previously presented the Board with a 2008 audit plan. At that time, the Board was advised of the District’s intent to retain consultants responsible for carrying out certain internal audit functions. The District will be issuing an RFP to various agencies as well as publicly advertising for services requested by the Internal Audit Department. Mr. Wasko explained that the District requests internal audit services through the second quarter of 2009. He will update the Board in July or August with the second quarter update which will reflect a rolling calendar of audits.

Mr. Brown questioned if the listing of RFP recipients include minority business enterprises (hereinafter “MBE”) or women’s business enterprises (hereinafter “WBE”). If not, could MBE/WBE firms be included in this notification process. Mr. Wasko stated

that he worked with one MBE firm on the referenced list, and, in an effort to obtain additional MBE/WBE firms, the RFP will be also be publicly advertised. He was scheduled to meet with the Purchasing Department to discuss the protocol for public advertisement of an RFP.

VIII. Open Session (no items on agenda)

IX. Public Session (no requests from the public)

X. Executive Session

Mr. Brown indicated there were no items for discussion at Executive Session.

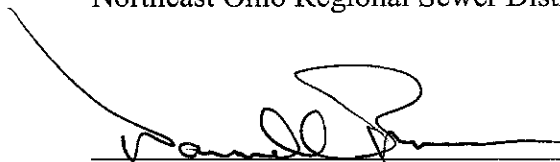
XI. Adjournment

**MOTION** – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mayor DePiero moved and Mr. Sulik seconded the motion to adjourn at 1:23 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