

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
JULY 7, 2011

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

I. Roll Call

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

ABSENT: G. Starr

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

II. Approval of Minutes

MOTION – Ms. Kelly moved and Mayor Bacci seconded that the minutes of the June 16, 2011 Board meeting be approved. Without objection, the motion carried unanimously.

III. Election of Officers

Mr. Brown asked Mr. Sulik, the head of the committee for the election of officers, to give his report. Mr. Sulik advised that a meeting was held with the committee members and Mayor Bacci would present the recommendation.

MOTION – Mayor Bacci moved and Ms. Kelly seconded to appoint Darnell Brown as President of the Board of Trustees; Ronald Sulik as the Vice President of the Board of Trustees; and Mayor DePiero as the Secretary of the Board of Trustees.

Mr. Sulik asked the nominees to affirm their willingness to serve. Each nominee consented.

Without objection, the motion passed unanimously.

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Mr. Brown questioned if the official swearing in of the officers would take place during the next Board meeting. Deputy Executive Director F. Michael Bucci advised that the swearing in should take place during the current meeting.

Executive Director Ciaccia informed the Board that Marlene Sundheimer, Director of Law, had stepped out of the room at the moment and the Board should be sworn in before taking any official action. He indicated he could present his report. Mr. Brown agreed.

IV. Public Session

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

V. Executive Director's Report

Executive Director Ciaccia advised that last Thursday a hearing took place before Judge Nugent in federal court for the purpose of his action on the consent order. David Burchmore, of Squire, Sanders and Dempsey gave a presentation on the District's behalf and Steven Ellis, of the U.S. Department of Justice, spoke on behalf of the federal government. Summer Plantz, of the Ohio Attorney General's Office also spoke. Others were in attendance but no one else made a presentation to the court.

Today Judge Nugent signed and entered the decree on the docket, making July 7 the "trigger date" for future deadlines. The District and federal government are officially under the consent order for the Combined Sewer Overflow Long-Term Control Plan (hereinafter "CSO LTCP").

Executive Director Ciaccia stated that staff has put many internal controls in place to monitor performance. Engineering is on the forefront of these efforts over the next 25 years. He explained that Operations and Watershed Programs also will play a role in ensuring all deadlines are met.

Staff continues with mediation regarding the Stormwater Management Program (hereinafter "SMP") litigation. Executive Director Ciaccia indicated another meeting was held last Friday with the mediator, Cleveland State University Provost Geoffrey Mearns. District staff had discussion and exchanged ideas with the suburban communities that attended. Issues discussed included items presented to the Board during its previous Executive Session.

Another meeting is scheduled for July 8. Nora Hurley, Cuyahoga County Executive FitzGerald's assistant law director, will be conducting the meeting as Provost Mearns will not be in attendance. She wants to include the interveners in this meeting and Executive Director Ciaccia did not object.

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Executive Director Ciaccia stated that an Executive Session is necessary at the end of the current meeting to discuss points he wants to present during tomorrow's mediation session. He advised that County Executive FitzGerald has arranged a call with suburban communities but he is unsure of its context.

Executive Director Ciaccia moved discussion to finances, which he advised are running well with cash from remittances up 13.4% over last year. The Cleveland Water Department's (hereinafter "CWD") new billing system is moving in a positive direction and money is coming in a little higher than expected.

Accounts receivable numbers were not available but Executive Director Ciaccia stated that they need to be looked at differently. What the historical number represents compared to today's number is unclear. The cash end is the same but how items are classified under the new system might be different. He stated that things are looking much better in that regard.

Executive Director Ciaccia advised that last week he, Director of Finance, Jennifer Demmerle, and Director of Information Technology, Humberto Sanchez, met with Barry Withers, CWD's director of utilities, and his staff to lay the groundwork for the changes needed to implement the new rate structure prior to January 1, 2012. The meeting went well.

CWD is focused on programming their rate increase, which they intend to complete in July. District staff intends to begin discussing the District's changes with them starting in August, which allows plenty of time for testing to assure that everything is in order before January 2012.

Executive Director Ciaccia advised that after the meeting adjourns another meeting will be held with the Ohio Auditor of State for their presentation of the draft performance audit.

Executive Director Ciaccia stated that he has been with the District for over three and a half years. Shortly after he joined the organization changes were made to the Board meeting process and the agenda. He advocated taking another look at how the meetings are conducted.

The District has "come a long way in three and a half years," stated Executive Director Ciaccia. He explained that many reforms have been enacted relating to governance and engineering and construction practices. Major policy issues such as the SMP, CSO LTCP and the rate structure for 2012 through 2016 have been addressed. He thinks the

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organization did a good job getting through these issues while being very transparent. He added that the level of Board oversight was great and helped the staff a great deal.

The District is moving into a different stage with operational management issues that may require a different way of doing business from an oversight standpoint. Executive Director Ciaccia and staff want to explore those opportunities with the Board.

Executive Director Ciaccia stated that the District needs to monitor and manage its finances. There is still litigation to get through and significant construction project management to facilitate.

Executive Director Ciaccia advised that he would like Director of Administration & External Affairs, Constance Haqq, and Organization & Employee Development Consultant, Mary Ann Hogan, to coordinate with the Board on an individual basis to obtain ideas on how Board meetings could be made as meaningful and informative as possible given the type of issues the District will be facing over the next few years.

Executive Director Ciaccia stated that "it was easy to stay focused on big policy issues" and have a good debate. With the transition to operational performance issues he wanted to make sure meetings do not become "stagnant." He informed the Board that any thoughts they have on the topic would be appreciated. The process could be done as a group or individually.

Mr. Sulik suggested the Governance Committee consider the issue. He explained that the committee is transparent and discussion could take place during a public session where it may be reviewed and recommendations could be made. Mr. Brown concurred with Mr. Sulik's suggestion.

Executive Director Ciaccia stated that the matter is at the Board's purview and staff will refer it to the Governance Committee. Mr. Brown stated that all Board members could attend a Governance Committee meeting.

Executive Director Ciaccia noted that Ms. Sundheimer had returned.

Mr. Brown advised Ms. Sundheimer that while she was out of the room the Election Committee made its recommendation for officers, which was unanimously adopted without objection.

Ms. Sundheimer administered the Oaths of Office to Mr. Brown, Mr. Sulik, and Mayor DePiero.

Board of Trustees Elected Officers
2011 – 2012

Mr. Darnell Brown, President
Mr. Ronald Sulik, Vice President
Mayor Dean DePiero, Secretary

Mr. Brown agreed with Executive Director Ciaccia's previous comments and opined that during the last couple of years significant issues have been addressed that created the District's path forward in dealing with major quality of life and public health issues through the proper treatment and disposal of sewage.

The issues related to stormwater have yet to be finalized, but the District has presented the argument and business case as to why it should be under the auspices of a regional authority. Mr. Brown stated that the rate structure required to finance these initiatives and the operations and maintenance required to take care of existing infrastructure has been established. Much time and energy was spent during meetings, special meetings and sessions that facilitated meaningful discussion and decisions on where the District is headed as an organization.

Mr. Brown thanked the staff and his colleagues for the opportunity to continue to serve as President of the Board of Trustees. He stated that it is a very critical time for the organization and region and he does not take his responsibilities lightly. It is changing the face of the region. He applauded the work that has been done and thanked all for their support in his leadership.

VI. Action Items

Authorization to Issue Request for Proposals (RFPs)

Resolution No. 144-11 RFPs for Design and Construction Administration/Resident Engineering (CA/RE) and General Services for the General Engineering Services Contract.

Resolution No. 145-11 RFPs for Interceptor Surveying and Mapping (ISM).

MOTION – Mayor DePiero moved and Mr. Sulik seconded to adopt Resolution Nos. 144-11 and 145-11. Without objection, the motion carried.

Authorization to Purchase

Resolution No. 146-11 Purchase from Cambridge Computer Services, Under the State of Ohio Contract STS #534098, Two Quantum Tape Backup Libraries and Associated Maintenance Contract. Cost: Not to Exceed \$44,800.62.

MOTION – Mr. O’Malley moved and Mayor Bacci seconded to adopt Resolution No. 146-11. Without objection, the motion carried.

Authorization to Enter Into Agreement(s)

Resolution No. 147-11 Agreements for the City of Cleveland’s Youth Opportunity Unlimited Summer Jobs Program. Cost: Not-to-Exceed \$24,918.72.

Resolution No. 148-11 Agreements for Small-Scale Stormwater Demonstration Projects. Cost: \$104,322.18.

Resolution No. 149-11 Agreement with Saint Martin de Porres High School Corporate Work Study Program. Cost: Not-to-Exceed \$26,500.00.

Resolution No. 150-11 Five-Year Agreement with U.S. Environmental Protection Agency (USEPA) Office of Research and Development (ORD) National Risk Management Research Laboratory (NRMRL). Cost: \$0.00.

Resolution No. 151-11 Settlement Agreement with David and Lynette Nycz. Amount: \$5,005.66.

Resolution No. 152-11 Settlement Agreement with Edward Bojdys. Cost: \$7,500.00.

MOTION – Mr. Sulik moved and Ms. Kelly seconded to adopt Resolution No. 147-11 and Resolution Nos. 149-11 through 152-11. Without objection, the motion carried.

MOTION – Mr. Sulik moved and Ms. Kelly seconded to adopt Resolution No. 148-11. The motion carried with one abstention by Mr. Brown.

Ms. Kelly stated that it appears the City of Cleveland’s Youth Opportunity program and the Saint Martin de Porres program are working very well and is a very effective way for

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the District to display its corporate social responsibility. She asked Ms. Haqq to elaborate in terms of how long the District has had the program and how effective she believes it is.

Ms. Haqq thanked the Board and Ms. Kelly in particular. She explained that the Youth Opportunity Program is administered in conjunction with the Watersheds Program and has been ongoing for about four years. A number of projects have been done with students and they have visited the District's facilities and planted rain gardens. Staff helped develop an environmental attitude with the students who are participating in the program. She stated that it is done in conjunction with Youth Opportunities Unlimited and the City of Cleveland.

This year is the first for the Saint Martin de Porres program. Ms. Haqq stated that during the school year four students come in for one day on a rotating basis. All of the money contributed to Saint Martin de Porres goes towards their tuition.

Ms. Haqq indicated that two of the four students were in the audience. Marshall Freeman is a communications and community relations student and was Sophomore of the Year at Saint Martin de Porres. The other student is Jordan Tucker, who graduated and will enter Youngstown State University in the fall. She worked in the Human Resources Department.

Four additional students will be with the District in the fall and will stay with the organization for nine months. Ms. Haqq stated that the students provide an opportunity for the District to give back to the community and accomplish work while helping them develop job skills.

Ms. Kelly stated that the program is wonderful and it would be informative to quantify if their exposure to the District results in a shift in their future interests.

Ms. Haqq advised that during the August 2 Board meeting four students from the summer program will speak about their experiences and what they learned. She stated that the students "add a great deal" and there is a different tenor in the organization when they are present in the summer.

Changing subjects, Mr. Sulik noticed there are only three projects during the first couple of years of the small-scale stormwater demonstration that applied and there are twenty-nine this year. He stated that indicates communities are becoming cognizant of the need for stormwater projects and controls. Mr. Sulik congratulated Mr. Greenland on getting the message out regarding these projects.

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Regarding Resolution No. 150-11, Mr. Brown questioned the scope and what is trying to be accomplished. Ms. Rotunno stated that the Memorandum of Understanding is with the national research arm of the U.S. Environmental Protection Agency, which is looking for green infrastructure opportunities in Northeast Ohio. They are working with Slavic Village specifically on a demonstration project. The resolution will allow them to share their data and findings from that project with the District and staff to share its data from green infrastructure study with them.

Mr. Brown clarified that it has to do with green infrastructure, which Ms Rotunno affirmed. Mr. Brown inquired if details were available. Ms. Rotunno explained that the research will include stormwater control measures in terms of efficiency and eliminating runoff from the CSO system; efficiency with transmitting rain water subsurface; water quality components of these stormwater control measures; and how well it gets solids out of the water before it is discharged to a stream.

Executive Director Ciaccia advised that it is important to note that the District is USEPA Region V's partner in green infrastructure. They noticed the District's efforts through the consent decree negotiations and the opportunity that exists in this region for such an approach because of foreclosures and other factors. Some of the individuals involved were also a part of the consent decree negotiations.

Mr. Brown asked for a roll call vote Resolution No. 148-11 due to a potential conflict of interest. He is on the board of one of the receiving agencies.

Authorization to Enter Into Contract

Resolution No. 153-11 One-Year Requirement Contract with Rumpke of Northern Ohio for Sludge Cake Removal at the Southerly and Westerly Wastewater Treatment Plants. Cost: Not-to-Exceed \$560,840.00.

Resolution No. 154-11 Contract with Nerone & Sons, Inc. for the Rehabilitation of Automated Regulators (RAR-5) Project. Contract Amount: \$1,654,000.00.

MOTION – Ms. Kelly moved and Mr. Sulik seconded to adopt Resolution Nos. 153-11 and 154-11. Without objection, the motion carried.

Authorization of Contract Modification

Resolution No. 155-11 Modify Contract No. 10000033 with Nerone & Sons, Inc. for the Mill Creek Tunnel Phase 3 Completion (MCT-3C). Cost: No Cost Time Extension of 328 Days.

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Resolution No. 156-11 Modify Contract No. 10000046 with Nerone & Sons, Inc. for the Southerly and Westerly District Interceptors Service Agreement Contract. Cost: No Cost Time Extension of 69 Days.

Resolution No. 157-11 Final Adjustment Deduct Order for Contract No. 10002260 for the Westerly 700 Building Improvements (W700) Project. Cost: A Decrease in the Amount of \$622.39 Bringing the Total Contract Price to \$628,995.01.

MOTION – Mayor DePiero moved and Mr. O’Malley seconded to adopt Resolution Nos. 155-11 through 157-11. Without objection, the motion carried.

Authorization to Adopt Budget

Resolution No. 158-11 Adopt 2012 Operating Budget.

MOTION – Mayor Bacci moved and Mr. Sulik seconded to adopt Resolution No. 158-11. Without objection, the motion carried.

Authorization to Implement Grant

Resolution No. 159-11 Implement 2011 Watershed Grants Program – Operating Support Grant. Cost: Not-to-Exceed \$240,000.00.

MOTION – Ms. Kelly moved and Mayor Bacci seconded to adopt Resolution No. 159-11. Without objection, the motion carried.

Mr. Brown inquired how this program differs from the other. Mr. Greeland explained that these are operating support grants to watershed organizations to provide grant assistance for the operation of those groups. Doing so enables them to focus on their work rather than pursuing grants. They have gotten good support and good work out of the watershed organizations. He thinks it is a great program.

Mayor DePiero asked if this is the first year the District has participated in the program. Mr. Greenland advised that it is the fourth year.

Mayor DePiero stated that Big Creek and West Creek are in Parma and West Creek is always pursuing grants. This program helps and West Creek has done good work over the last ten years.

Mr. Brown asked for a roll call because he is a Board member of the same agency noted previously. Executive Director Ciaccia clarified that this resolution is merely to solicit

proposals and the agencies listed were examples. Mr. Greenland affirmed those statements.

Mr. Sulik explained that no agency has been granted money yet and the agencies listed were those from 2010.

Executive Director Ciaccia advised that the Board would be presented with another resolution when the applications are returned and ranked.

Authorization of Official Representative

Resolution No. 160-11 Designate Executive Director Julius Ciaccia as the Northeast Ohio Regional Sewer District Authorized Representative for Ohio Department of Natural Resources Submerged Land Leases.

MOTION – Mr. O’Malley moved and Mayor Bacci seconded to adopt Resolution No. 160-11. Without objection, the motion carried.

Authorization of Revisions

Resolution No. 132-11 Adopt Revisions to *Northeast Ohio Regional Sewer District Code of Ethics*.

MOTION – Ms. Kelly moved to adopt Resolution No. 132-11.

Mr. Sulik asked this resolution be held until the full Board may vote on it. He stated that every Board member should be able to vote on it since it is a matter of ethics.

Mr. Brown inquired if Ms. Kelly had a strong objection to holding the resolution.

Ms. Kelly stated that she did not have a strong objection but noted this is the second time the resolution has been held. She stated that the absent Board member has had an opportunity to review the information for one month. She agreed to hold the resolution but believed it is time to move forward during the next meeting.

VII. Information Items

Program Management Status Report and Update – June 2011

Kellie Rotunno, Director of Construction & Engineering, stated that as the CSO LTCP consent decree was finalized staff was working on the projects associated with it.

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Ms. Rotunno advised that staff is working with the City of Cleveland and Village of Bratenahl to resolve permitting issues regarding the Euclid Creek Tunnel project. The District is close to securing the final permits needed so the contractor can fully execute the project.

The tunnel dewatering pump station design phase is 90% complete and will come to the Board within the next few months for the authorization to advertise. That project will be the largest job awarded in 2011.

The professional design services contract has been awarded regarding the Dugway West interceptor relief sewer.

Ms. Rotunno stated that those are all CSO or Project Clean Lake projects and will likely be branded with a Project Clean Lake logo when they are presented to the Board as action items.

Executive Director Ciaccia interjected that the authorization to go out for bids for the tunnel dewatering pump station has already been presented to the Board. The next step will be to present the Board with the bids.

Ms. Rotunno thanked Executive Director Ciaccia for the clarification. She continued to advise that the region's very wet spring weather affected some construction work, including the Euclid Creek Tunnel. The contractor initially thought they lost about 30 days of their schedule but the last update indicates they are only 13 days behind.

Ms. Rotunno stated that she would keep the Board apprised of other weather impacts and if they result in any type of contract modification or schedule extension.

Moving conversation to the Renewable Energy Facility, Ms. Rotunno advised that staff has been coordinating the equipment procurement contract for the installation of the equipment. The department is working through "hiccups" that might result in coordination change orders and schedule issues. She did not think that was as large a risk as initially presented.

The District is delivering 95% of its Capital Improvement Program in terms of delivering key performance indicators (hereinafter "KPI").

Ms. Rotunno presented a graph that showed the District was six projects behind its plan because a couple of projects were combined or eliminated. Despite that the KPI is on target to meet the adjusted plan. She advised that she would provide an adjusted plan for the projects so it may be monitored more accurately.

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The engineer's estimates are returning very competitively with bids coming in on average 17% below the opinion of probable construction cost. She stated that "either the engineers are extremely conservative or the contractors are extremely hungry." She prefers be on the low end rather than the high end.

Moving discussion to management of construction contracts, Ms. Rotunno advised that staff is delivering them within 105% of the base contract. Although only two projects have closed to date the KPI was met on both. The KPI will continue to evolve as more projects close.

Ms. Rotunno advised that \$461 million has been spent year to date on total construction, of which the general allowance is about \$32 million, or less than 10%. Of the \$32 million only \$4.66 million has been authorized, leaving a "big chunk" of general allowance contingency.

Projects are being delivered significantly below at the time of bid, closing non-performed line items and remaining general allowance such that the District is \$8.5 million under the projects at the time of bid.

Ms. Rotunno indicated that there is no new data to report on MBE/WBE/SBE commitments as no additional projects have closed.

Mr. Brown stated that as CSO-related projects move forward he would be interested to know how community outreach will be conducted. In many instances the projects will begin to resolve long-term issues related to flooding and basement flooding as well as provide other environmental benefits.

Mr. Brown stated that part of the District's job, in addition to educating the public about its function, is to shift the paradigm in terms of how the agency is perceived and the impact it has on the region. The community receives direct and indirect benefits that should be articulated very clearly as projects commence in various communities.

Ms. Rotunno advised that staff has been working with Ms. Haqq and her staff on a Project Clean Lake Web site to communicate the overall program and performance with regards to fiscal management and construction scheduling. She has full confidence that Ms. Haqq's group will develop a great Web-based communication tool. The District has historically done most of the community outreach during the construction phase.

Mr. Brown stated that the focus has been on construction impact as opposed to construction project benefit.

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Ms. Rotunno explained that as part of the design phase District staff has asked its consultants to consider community impact. Community impact plans will be requested at the 30% stage because at that point they should be able to anticipate which roads will close and which residents will be affected. This represents a move to consider community outreach during the design stage rather than construction.

Additionally, she stated that the District needs to focus on the environmental benefit and make sure it is part of the communication. Communities affected by construction projects will find their neighborhood left in a much better condition, not only a detour to get home.

VIII. Open Session

There were no matters for Open Session.

IX. Public Session (any subject matter)

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

X. Executive Session

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

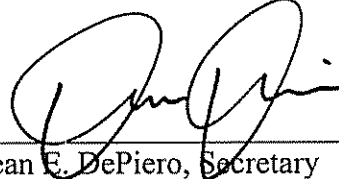
MOTION – Mayor Bacci moved and Mr. Sulik seconded to consult with legal counsel and District administration regarding mediation in the Stormwater Management Program litigation. Discussions of these matters in executive session are permitted as specific exemptions of the Public Meetings Act pursuant to Ohio Revised Code 121.22(G)(3). I specifically designate all matters discussed in executive session be protected from public disclosure in accordance with Ohio Revised Code section 121.22(G) and the attorney/client privilege. A roll call vote was taken and the motion carried unanimously to adjourn into Executive Session.

The Board met in Executive Session from 1:15 p.m. to 1:37 p.m.

XI. Adjournment

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

at 1:37 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