

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
OCTOBER 6, 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
G. Starr

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

II. Approval of Minutes

MOTION – Mayor Bacci moved and Mr. O'Malley seconded that the minutes of the September 15, 2011, Board Meeting be approved. Without objection, the motion carried unanimously.

III. Public Session

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

IV. Executive Director's Report

Executive Director Ciaccia stated that tomorrow a court-ordered mediation session is scheduled with Judge Pokorny regarding the Stormwater Management Program (hereinafter "SMP") litigation. Director of Law, Marlene Sundheimer, will attend as will Mark Wallach, of Calfee, Halter & Griswold LLP. He advised that staff is unsure what to anticipate but will keep the Board apprised of what transpires.

The exchange of witness lists are due October 10 and trial briefs, exhibit lists and motions are due October 12. The trial is set to begin on October 31.

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The case of 3320 Woodland was filed in December 2007 and a final pretrial is scheduled for November 21. Staff is hopeful a trial date will be set. Executive Director Ciaccia advised that negotiations relative to settlement continue but there has been little progress and a trial is anticipated.

The KMM&K case regarding the Mill Creek Tunnel was filed in October 2007. The pretrial scheduled for September 27 was canceled by the judge and was rescheduled for October 17. Staff also hopes a trial date will be set for this case.

During the last Board Meeting there was a presentation regarding green infrastructure and an article about the subject was published in *The Plain Dealer* this past Monday.

Executive Director Ciaccia advised that on September 19 he and District staff met with Cleveland City Council to discuss the CSO consent order because many areas under consideration for green infrastructure projects are located within Cleveland and the inner-ring suburbs.

On September 28 Executive Director Ciaccia and District staff met with Summit County Executive Russ Pry and members of his staff to discuss their grievance with the billing method between the two entities. Summit County officials believe the method the District utilizes to bill them -- a master meter account billed based on 80% of sewage flow -- is inequitable. They filed a formal complaint indicating it is an inequitable arrangement.

Executive Director Ciaccia explained that the District and Summit County came to an agreement in 1986 that defines the billing method. Executive Director Ciaccia stated that District staff feels it is appropriate to discuss the matter with Summit County and a subsequent meeting will convene in the next couple of weeks, after which the Board may be briefed. He stated that is a substantive issue as Summit County is a major customer.

Meetings have been held with the Cleveland Water Department (hereinafter "CWD") regarding programming the new rates for years 2012 through 2016. He advised that the transition is on schedule.

Executive Director Ciaccia wanted to address customer service issues with CWD in terms of ensuring both the District and CWD customer service staffs are up to speed. He asked Constance Haqq, Director of Administration & External Affairs, to briefly summarize the meetings.

Ms. Haqq advised that the first meeting took place this week with representatives from the CWD customer service department and was very successful. Meetings will be held every other week.

Ms. Haqq stated that there were three issues. The first issue is information sharing – ensuring CWD understands District services and can respond to customers and vice versa. The goal is to have customers' complaints or issues answered by one phone call.

The second issue is community outreach. Both CWD and District staff will identify opportunities to do that in tandem.

The third issue is in regards to staff training and ensuring a thorough orientation.

Ms. Haqq advised that meetings will be held every other week through the end of the year and may change to once a month subsequently. She was pleased with the progress.

Executive Director Ciaccia stated that another issue is access to the billing system which will facilitate dealing with customers directly on issues unique to the District. He wants to build controls into the billing system that would pass an audit test.

Mr. Sanchez stated that in order to define the level of access the roles and responsibilities must be clear in terms of certain portions of the system.

Executive Director Ciaccia explained that the District operates with CWD under a billing and collection agreement; that agreement is very old and both parties are desirous of “modernizing” via a new agreement. The District currently pays CWD up to \$5 million per year for services.

The new billing system contains many new features, and will include automated meter reading. CWD has committed to having a proposal regarding the basis of the fee calculation and the fee itself by the end of the month.

District staff intends to engage CWD on functional issues as it relates to the agreement, such as customer service and financial reporting issues. Executive Director Ciaccia stated that ultimately there will be a brand-new agreement presented to the Board for consideration.

Moving discussion to finances, Executive Director Ciaccia advised that cash remittances are much improved -- up 11% over last year -- which means bills are going out and money is being received.

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That figure still projects to be 4% behind what staff believes it should be, but represents an improvement from last month when it was 8% behind. Executive Director Ciaccia stated that last year he expected to recover the money that was not coming in and that is taking place now.

Accounts receivables remain somewhat high as expected because of rate increases, but are tracking well. The new billing system provides more reliable numbers. Executive Director Ciaccia explained it is difficult to compare the current figures to the old numbers because their reliability is questionable. Consistency will allow decisions to be made as it relates to accounts receivables.

Executive Director Ciaccia stated that the relationship with CWD is very positive as well as the finances coming from the billing system.

Changing subjects, Executive Director Ciaccia thanked all District employees for attaining 118% of the goal in the Charity of Choice Campaign. Charities include The United Way, Community Shares and the United Negro College Fund. The final tally of \$72,000 exceeded the goal of \$61,000. He thanked the employees for stepping up and recognizing the difficult times people are having.

V. Action Items

Authorization to Advertise

Resolution No. 219-11	Stand-By Generator Maintenance for All District Facilities. Anticipated Expenditure: \$280,000.00.
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Resolution No. 220-11	Ash Lagoon Cleaning at the Southerly Wastewater Treatment Plant. Anticipated Expenditure: \$2,400,000.00.
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MOTION – Mayor DePiero moved and Mayor Starr seconded to adopt Resolution Nos. 219-11 and 220-11. Without objection, the motion carried unanimously.

Authorization of Contract Modification

Resolution No. 221-11	Modify Contract No. 09002458 with Marous Brothers Construction for the Beneficial Reuse of Ash Pilot Project at the Southerly Wastewater Treatment Plant.
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Cost: A Time Extension of One (1) Year
with No Change in the Contract Price.

Resolution No. 222-11

Modify Contract No. 09000923 with
DiGioia-Suburban Excavating LLC for the
Dugway East Interceptor Relief Sewer
Project. Cost: A Time Extension of 47
Days with No Change in the Contract Price.

Resolution No. 223-11

Modify Contract No. 10000046 with
Nerone and Sons, Inc. for the Southerly and
Westerly District Interceptors Service
Agreement Contract. Cost: A Time
Extension of 150 Days with No Change in
the Contract Price.

MOTION – Mayor Starr moved and Mr. Sulik seconded to adopt Resolution Nos. 221-11 through 223-11. Without objection, the motion carried unanimously.

Mr. Brown stated that the District is paying for ash lagoon cleaning and considering alternative uses for the product. He advised that it would be helpful to the Board to understand if progress has been made or if there is a prospect on alternative, cost effective-means of either reusing or disposing of the product.

Executive Director Ciaccia advised that Mr. Brown's question was anticipated and he asked Dave McNeeley, Director of Operations & Maintenance, and Robin Halperin, Manager of Regulatory Compliance, to brief the Board on ash lagoons and the effort to obtain approval for reuse possibilities.

Mr. McNeeley explained that the Southerly incineration process creates ash which is pumped into a slurry to the ash lagoons where it is stored until cleaned. Historically the ash was stored in south and north landfill areas. The landfills have been closed because it has reached capacity. Since then the ash has been hauled to a landfill. The Beneficial Reuse Project will allow utilizing the ash for beneficial reuse instead of sending it to an ash lagoon.

District staff has worked with the Environmental Protection Agency (hereinafter "EPA") to grant approval for the beneficial reuse of the ash over the last two years. The staff believes the EPA is more amenable to beneficial reuse now and they have dealt with other internal issues.

Mr. McNeeley stated that the ash lagoons need capacity to maintain operations. Currently ash lagoon A is full and ash lagoon B is expected to reach capacity in January.

Ash is typically hauled during the winter to reduce dust. Ash lagoon A is located within close proximity to Canal Road and I-77. The ash is pumped in a slurry at 2,000 to 3,000 gallons per minute at a temperature of 120 degrees. During certain weather conditions water vapor emits from ash lagoon A. As a result, the lagoons can only be used on a seasonal basis.

Mr. McNeeley stated that cleaning ash lagoon A now is critical for the operations of the plant. Ash lagoon B will be left full in anticipation of approval of beneficial reuse. He indicated the Board would be asked to approve cleaning ash lagoon B next year in the event beneficial reuse of the ash is not approved.

At that time, he turned the meeting over to Ms. Halperin.

Ms. Halperin explained that when beneficial reuse went out for proposals it was done so to determine possible cost savings. The contract with Marous and Emerald is for \$21-per-ton for beneficial reuse versus \$38-per-ton for land-filling the material. She stated that there is definitely an economic benefit in addition to the environmental benefit.

Ms. Halperin advised that the Ohio EPA does not have a clearly defined process for evaluating the risks and benefits of reusing waste material. The ash is considered solid waste and the District must prove it would not harm the environment and has a benefit.

The proposal from Emerald is to alum residuals from water treatment processes, add topsoil and make commercially available topsoil.

Over the past two years a sampling plan was developed and ash lagoon B was sampled extensively. The data was analyzed and is being compiled with other historical data to present to the EPA in the near future.

Ms. Halperin advised that the EPA asked the District to conduct field test plots. A total of 12 test plots at the Southerly ash lagoons were recently constructed using four different blending materials -- plain topsoil; topsoil and ash; topsoil, and ash and alum residuals.

The growth of grass on the plots will be documented over the next 30 to 60 days. Runoff, surface water and groundwater will be captured to analyze the potential impact.

Last week the District's state advocates, Ted Boggs and Fred Mills of Vorys, Sater, Seymour & Pease LLP, met with Ohio EPA Director Scott Nally. She advised that Mr.

Resolution No. 228-11

Purchase from Sole Local Representative, Sullivan Environmental Technologies, Wemco Pump Parts for All Wastewater Treatment Plants. Anticipated Expenditure: \$100,000.00.

MOTION – Mayor Bacci moved and Mr. O’Malley seconded to adopt Resolution Nos. 227-11 and 228-11. Without objection, the motion carried unanimously.

Authorization to Enter Into Agreement

Resolution No. 229-11

Acceptance of Environmental Protection Agency Grant for the Predesign Task of the Easterly Aerated Grit Facilities Improvements. Cost: \$291,000.00

MOTION – Mr. O’Malley moved and Mayor Bacci seconded to adopt Resolution No. 229-11. Without objection, the motion carried unanimously.

Authorization to Enter Into Contract

Resolution No. 230-11

Contract with Watt Printers for Print and Mail Services. Cost: \$42,629.00.

Resolution No. 231-11

Requirement Contract with De-Ko Incorporated for Crane Replacement at the Southerly Wastewater Treatment Plant. Cost: \$124,240.68.

Resolution No. 232-11

Contract with North Bay Construction, Inc. for the Aeration Blowers Rehabilitation Project. Contract Amount: \$2,972,592.00.

Resolution No. 233-11 Contract with Netech Corporation, Under the Ohio State Term Schedule Contract No. 033-533110, for the Network Infrastructure Upgrade Phase 2 Project. Cost: Not-to-Exceed \$374,058.00.

Resolution No. 234-11 Requirement Contract for Snow Plowing Services with The J&S Group for Outlying Facilities, with Robin's Nest Landscape for the George J. McMonagle Building, and with Pirc Company Landscaping & Snowplowing LLC for the Environmental and Maintenance Services Center. Cost: \$9,090.00 to the J&S Group, \$13,890.40 to Robin's Nest Landscape, and \$20,364.40 to Pirc Company Landscaping & Snowplowing LLC.

MOTION – Mayor DePiero moved and Mayor Bacci seconded to adopt Resolution Nos. 230-11 through 234-11. Without objection, the motion carried unanimously.

Authorization to Ratify Expenditure

Resolution No. 235-11 Ratify Expenditure for the Emergency Repair of the Mary Street Pump Station. Cost: \$66,406.93.

MOTION – Mr. Sulik moved and Mr. O'Malley seconded to adopt Resolution No. 235-11. Without objection, the motion carried unanimously.

Authorization to Pay Dues

Resolution No. 236-11 2011-2012 Dues for National Association of Clean Water Agencies Membership. Cost: \$33,250.00.

Resolution No. 237-11 2011 Dues for Water Environment Research Foundation Subscription. Cost: \$84,307.42.

Authorization to Amend Title V

Resolution No. 241-11

Amend Chapters 5, 6, 7, 8, and 10 of Title V – Stormwater Management Code and the Stormwater Fee Credit Policy Manual.

MOTION – Mayor Bacci moved and Mr. O’Malley seconded to adopt Resolution No. 241-11. Without objection, the motion carried unanimously.

Mayor Starr asked if the administration had any brief remarks regarding the resolution.

Executive Director Ciaccia advised that a couple of resolutions were subject to community comment. The first resolution was the changes proposed to Title V to allow residents to realize a 100% credit and to delete the sections Judge Pokorny ruled the District did not have authority over.

The second resolution to go out for public comment was eliminating an exemption for municipal airports and allowing taxiways and runways as a part of the public transportation exemption.

Executive Director Ciaccia asked Frank Greenland, Director of Watershed Programs, to elaborate.

Mr. Greenland stated that a section was removed because of Judge Pokorny’s ruling which centered on the District’s ability to levy fines for issues related to Title V and the removal of lists of discharges and improper things in streams and the ability to charge back for those circumstances.

The 100% credit was added when a property owner demonstrates they have removed themselves from the stormwater grid. The previous maximum cap was 75% with the exception of schools, which could attain a 100% credit, with a 25% education credit.

Executive Director Ciaccia inquired if there were comments from the community. Mr. Greenland advised that there were not many comments and he did not think any dealt with the 100% credit or exemption issues. Most comments sought clarity on whether credits could be obtained for past stormwater management activities and clarity regarding stormwater best management practices. He indicated that District staff responded to the comments received.

Mayor Starr stated that the point is the District is listening and trying to make reasonable judgments and changes that will accommodate people opposed to this. Mr. Greenland agreed.

VI. Information Items

1. Program Management Status Report and Update – September 2011.

Ms. Rotunno advised that an improved version of the monthly Capital Improvement Program (hereinafter “CIP”) update was incorporated into the Board members’ packets. The modified CIP report included a more concise executive summary with graphics. Ms. Rotunno encouraged Board members to provide her with any feedback regarding the revised CIP report. It is the District’s intent to adjust the amount of information and communicate the CIP highlights to the Board in an efficient manner.

Ms. Rotunno noted that she would like to discuss the changes made to the CIP. The Board will continue to receive updates on the Key Performance Indicators (hereinafter “KPIs”) but the progress will be color-coded. A green circle indicates that the District is on track or ahead of its KPI goal. Yellow denotes that the District is behind on its current KPI but is expected to meet its goal by the end of the year. Red indicates that the District is behind on its KPI and is not expected to reach its goal by the end of the year.

Ms. Rotunno moved discussion to the Euclid Creek Tunnel (hereinafter “ECT”) project. The Board was scheduled to tour the ECT and Nine Mile Creek (hereinafter “NMC”) sites following the Board meeting. Ms. Rotunno advised that the NMC location is the launch site for the tunnel boring machine. The contractors have been blasting at this site and are nearly 110 feet below ground. Each blast results in approximately ten feet of vertical excavation. The Board members will most likely observe activity related to the extraction of material which was blasted yesterday.

Mr. Brown inquired about the final elevation wherein Ms. Rotunno replied that we are almost halfway to our final elevation of 250 feet.

Ms. Rotunno explained that the District is successfully working on the utility relocations at the Easterly shaft site at Lakeshore Boulevard and that the Triangle Park shaft site has been excavated to a depth of approximately 35 feet. Ms. Rotunno noted that there is activity at three of the five shaft locations.

Ms. Rotunno moved discussion to the Easterly Tunnel Dewatering Pump Station (hereinafter “ETDPS”) and she advised that four addenda to the original invitation to bid have been issued. Bids are expected to open on October 13th in which the District anticipates a large number of bidders and very competitive pricing.

Mr. Sulik inquired as to the time of the bid opening wherein Ms. Rotunno advised that it will commence at 2:00 p.m.

Ms. Rotunno moved discussion to the Renewable Energy Facility (hereinafter "REF"). The REF site will also be toured by the Board this afternoon. All nine centrifuges were installed and the dewatering facility is underway. A 10-ton bridge crane was installed over the centrifuges. Switch gears and the installation of the refractory in one fluidized bed is nearing completion.

Ms. Rotunno moved discussion to the CIP delivery KPI and she advised that one was coded in green and one was coded in yellow. The District is on target to deliver the number of projects, but the dollar value of those projects is expected to be under the projected amount. Ms. Rotunno explained that this is a result of the current competitive bidding climate which is conservative.

Ms. Rotunno advised that the District is behind on the KPI related to the engineers' estimates of probable construction cost. The District desires being in the green band of plus or minus 10%, however, it is currently at 16.9% under the engineer's estimate for the average of the bidders on District projects.

Ms. Rotunno noted that with respect to professional services contracts, the District is negotiating that a certain amount of incentive fee be based on performance of the aforementioned KPI metric. If the green bar is reached, then they receive 100% of the incentive fee linked to their engineer's statement. If they reach the yellow bar, the incentive fee is reduced. If they reach the red bar, then they will not receive an incentive fee.

Ms. Rotunno moved discussion to the KPI for performance on construction contracts. If there are no project closeouts then Ms. Rotunno has no information to provide to the Board but she can supply the Board with data related to the progress on the active construction projects.

Ms. Rotunno referred to a graphic which depicted the 30 active construction projects represented by blue bars. The green line represented the KPI threshold of 105% of the base contract amount. Two out of 30 projects are expected to exceed that threshold. Ms. Rotunno noted that the projects are ongoing and that the bars will be updated on a monthly basis. The intent is to provide an accurate view of the ongoing performance of all active construction projects.

Executive Director Ciaccia referred to the graphic and he clarified that the District is within the KPI of the general allowance.

Ms. Rotunno noted that a 10% bar will be added to the graphic and that the top bar on the vertical axis is 10%, which is the maximum threshold for most general allowances. Ms. Rotunno clarified that the green bar is the target and that anything between 5% and 10%

is within the contract value but that the District would ideally like to be within the 5% range.

Executive Director Ciaccia explained that the Board revised its Bylaws to allow for 10% general allowance over the base contract amount which is represented by the top of the chart. A cost overrun would be considered a contract modification and would therefore require Board authorization. There are currently no contracts slated for contract modification.

Ms. Rotunno moved to the Business Opportunity Program goals in which there were none since there were no project closeouts.

Ms. Rotunno concluded her report with a quote from Winston Churchill, "A vocabulary of truth and simplicity will be of service throughout your life."

Mayor Starr commented that the new CIP report format provides good information to the Board as well as the public. Mayor Starr questioned if the CIP report was available to the public on the District's website. Ms. Rotunno replied that the information is currently not available on the District's website but that this could be accomplished.

Mayor Starr commented that the CIP report format is good and that in the past, the Board was denied such information and was told that this information was not available. The Board now receives ample information and that it can never be provided too much information. Mayor Starr commented that he was pleased with the format.

Mr. Brown concurred with Mayor Starr and he stated that it provides a very good snapshot of the KPIs. Mr. Brown agreed that the information should be made available on the District's website since it provides the public with an overview of District projects and the value they are getting for their rates.

Ms. Rotunno advised that she will work with Constance Haqq, Director of Administration and External Affairs, to prepare a version of the CIP Executive Update to be uploaded to the District's website.

Executive Director Ciaccia explained that the Board will be apprised of the SharePoint program which is being employed by the District as a tool for managing the CIP. Executive Director Ciaccia advised that there is a wealth of information to be shared with the Board through SharePoint. Executive Director Ciaccia shared an example with the Board. Last week he was able to review the supporting documentation and information that were in the queue for three work orders that were available for his approval today. Since, he had the information at his disposal he was able to review it prior to the work orders being submitted to him for approval which made the process move along quickly.

Mr. Brown stated that another advantage to SharePoint is that it is a web-based program. Ms. Rotunno added that the program can be accessed remotely from home or at conferences. Executive Director Ciaccia added that contractors can access their portions of the jobs as well.

Mayor Starr questioned who chooses Ms. Rotunno's quotes. Ms. Rotunno advised that she chose the quote for today's meeting.

VII. Public Session (any subject matter)

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

VIII. Open Session

There were no items for discussion.

IX. Executive Session

Mr. Brown stated that there was a matter for discussion in Executive Session.

MOTION – Mayor Bacci moved to enter into Executive Session to consult with legal counsel and District administration regarding a settlement authorizing and authorization in the matter of a Workman's Compensation claim. He specifically designated all matters discussed in Executive Session be protected from public disclosure in accordance with the Public Means Act pursuant to Ohio Revised Code Section §121.223(G). He specifically designated all matters discussed in executive session to be protected from public disclosure in accordance with Ohio Revised Code §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 1:25 p.m.

Approval of Item from Executive Session

Resolution No. 242-11

Authorizing Settlement of Cuyahoga
County Case No. CV 11 744945 – Workers'
Compensation Claim of Elliott Davis

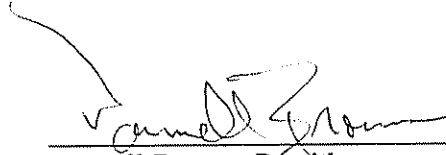
MOTION – Mayor DePiero moved and Mr. O'Malley seconded to adopt Resolution No. 242-11. Without objection, the motion carried unanimously.

X. Adjournment

MOTION – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mayor Bacci moved and Mr. O'Malley seconded the motion to adjourn at 1:26 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