

MINUTES  
NORTHEAST OHIO REGIONAL SEWER DISTRICT  
BOARD OF TRUSTEES MEETING  
OCTOBER 7, 2010

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 Vice President that a quorum was in attendance.

II. Approval of Minutes

**MOTION** – Ms. Kelly moved and Mayor Bacci seconded that the minutes of the September 16, 2010 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 moved to the first report item regarding the Combined Sewer Overflow Long Term Control Plan (hereinafter "CSO LTCP"), which he advised will be renamed Project Clean Lake.

An article was featured in *The Plain Dealer* on Saturday, October 2, 2010 which discussed issues related to CSOs. Executive Director Ciaccia commented that they did a great job covering the issues facing the District as well as other sewer districts throughout

BOARD OF TRUSTEES

Regular Meeting

October 7, 2010

Page 2 of 16

the country. The article received much attention and there have been responses from some of our customers.

On Tuesday, October 5<sup>th</sup>, Director of Watershed Programs, Frank Greenland, participated in a radio interview on WCPN along with reporter Michael Scott of *The Plain Dealer*. The radio program included a taped conversation with the director of the City of Akron's utilities. Executive Director Ciaccia commented that the interview went very well and that they received some very good questions from some of the listeners. Executive Director Ciaccia believed that the message of the issues the District is facing is being conveyed to the public.

The District held a conference call with representatives from the state and federal governments this morning and there will be a face-to-face meeting on Tuesday, October 12<sup>th</sup>. Executive Director Ciaccia explained that we are nearing the point of being able to present the Board with what he described as a "fair deal" during a public session at the November 4<sup>th</sup> meeting.

Mayor Starr inquired if Executive Director Ciaccia plans bringing the consent decree and rate increases to the Board. Executive Director Ciaccia replied that staff will present their recommendation as to the elements of the consent order to the Board for consideration. In response to Mayor Starr's inquiry about the subsequent rate increases, Executive Director Ciaccia explained that the consent order will certainly impact future rate increases, but the rate increases for the time period of 2012 through 2016 will come before the Board sometime in 2011.

Mayor Starr inquired whether the Board will be provided with any additional information. Executive Director Ciaccia replied that staff responded to the questions presented by Mayor Starr and Mr. Sulik and if there are any other concerns, he would be happy to address those issues. The elements of the agreement discussed during Executive Session have not changed.

Mayor Starr advised that Jean Chapman provided the Board with an article, and he inquired if the Board can be given all of the responses to the article as well. Executive Director Ciaccia affirmed.

Mayor Starr advised that he listened to the radio show broadcast, and he commented that Mr. Greenland "did a very professional job." Mayor Starr requested copy of the audio recording since much information was revealed during this discussion that would be beneficial to the Board. Executive Director Ciaccia affirmed, and he agreed that a lot of good information was presented during this discussion. Executive Director Ciaccia encouraged the Board members to listen to the audio since Mr. Greenland provided good background information that was very educational.

## BOARD OF TRUSTEES

Regular Meeting

October 7, 2010

Page 3 of 16

Mayor Starr inquired if we considered taking a different approach, and he questioned whether anyone from the District contacted the mayor, service director or legal counsel from the City of Akron to compare their approach with our approach. Executive Director Ciaccia advised that he has been in contact with Akron's officials and that he does not recommend the District to model their approach for the reason that it has not served Akron or their customers well in his opinion.

Mr. Brown requested clarification on the approach Akron has taken. Executive Director Ciaccia replied, "sue us."

Executive Director Ciaccia moved to the next report item regarding the Stormwater Management Program (hereinafter "SMP"). The District has spent millions of dollars over many years on the development and planning for implementation of the SMP. Many meetings were held with mayors, service directors and engineers of the member communities over the last two to three years. Subsequent to the Board approving the SMP on January 7, 2010, the District entered into litigation.

Executive Director Ciaccia recently responded publicly to a press release from the 12 communities in opposition to the SMP. Some of the mayors did not like Executive Director Ciaccia's response, and Executive Director Ciaccia explained that it was never his intention to get into a public debate over this issue but they "shot the first volley." An editorial featured in *The Plain Dealer* disagreed with the approach taken by the 12 communities.

Executive Director Ciaccia went through the timeline of events which occurred involving the SMP.

On January 7, 2010, the Board adopted the SMP and at said meeting, Mayor Earl Leiken of Shaker Heights and Mayor Joe Cicero of Lyndhurst were both present and addressed the Board during Public Session regarding the SMP.

Mayor Leiken commented at January 7<sup>th</sup> Board meeting that his "City Council has unanimously and enthusiastically passed a resolution supporting the Stormwater Management Program." Executive Director Ciaccia expressed the District's appreciation to Mayor Leiken for attending the Board meeting and offering his support of the SMP.

Mayor Cicero commented at the January 7<sup>th</sup> Board meeting that he wanted "to make clear that the stormwater maintenance program that this body is suggesting be put in place is not a bad idea. I do not have a problem with stormwater management." Mayor Cicero requested that this matter "go to a judge for declaratory judgment." Executive Director

BOARD OF TRUSTEES

Regular Meeting

October 7, 2010

Page 4 of 16

Ciaccia explained that the mayors' comments were verbatim and taken directly from the transcript from the January 7<sup>th</sup> Board meeting.

The District decided to take the SMP matter to court and requested a declaratory judgment. The District asserts that its authority to implement a stormwater program is under Ohio Revised Code §6119, which was adopted under its original plan of operation set forth in the court order. In the event the judge determines that the District does not have enough authority under its current plan of operation, then we have asked for permission to amend our plan of operation. Executive Director Ciaccia stated that we took the steps consistent with Mayor Cicero's suggestion.

On March 26, 2010, North Royalton filed a counterclaim alleging that they are a separate and independent sewer district not subject to the District's authority and that the District has exceeded the authority granted.

On June 25, 2010, the 12 communities in opposition to the SMP filed a motion to dismiss the District's request for declaratory judgment. Executive Director Ciaccia pointed out that Mayor Cicero initially suggested that the District file for declaratory judgment, but he is now asking to dismiss the District's motion for declaratory judgment. They have argued that the District's filing is flawed since we did not enjoin all of the property owners within the case. We enjoined them as member communities. They are claiming that as member communities they represent their municipal interests and not the interests of the residents. The 12 communities are also alleging that the District's proposed stormwater fee is a levied tax.

Executive Director Ciaccia pointed out that Cleveland Heights, one of the 12 communities in opposition to the District's SMP, sent correspondence to the United States Environmental Protection Agency (hereinafter "U.S. EPA") on August 18, 2010 in response to the U.S. EPA's findings and orders regarding their sanitary sewer overflows (hereinafter "SSOs"). In said correspondence, Cleveland Heights advised that the District's SMP could potentially be used to assist them with stormwater quality issues and if the District's lawsuit is successful, "revenues may become available to the City to enable the City to accelerate its capital improvement plan."

Executive Director Ciaccia pointed out that Cleveland Heights is fighting against the District's SMP and attempting to have the case dismissed while requesting that the federal government "go easy" on them for the reason that if the District is successful, it could help them.

Executive Director Ciaccia wanted to apprise the Board of these issues, and he expressed his concerns with the duplicity related to the SMP matter.

## BOARD OF TRUSTEES

Regular Meeting

October 7, 2010

Page 5 of 16

Executive Director Ciaccia referred to a letter to the editor written by John McNamara, a resident of the City of Broadview Heights. Referenced in Mr. McNamara's correspondence was that the City claims that the District's stormwater fee is a tax. Meanwhile, the residents of Broadview Heights have been paying this bill to the City over the past few years. Since the City of Broadview Heights is alleging that the District's stormwater fee is a tax, Mr. McNamara questioned if the City plans to reimburse its residents for the amounts they have paid over the past couple of years if the court determines the District's fee to be a tax.

Executive Director Ciaccia referred to the press release issued in September wherein the 12 communities stated that they have "joined together to challenge the Sewer District actions on behalf of our citizens." He reminded the Board about the initial allegation made by those same 12 communities wherein they argued that the District's complaint was flawed because the District did not enjoin all of the individual customers and that the municipalities do not represent their citizens. It was Executive Director Ciaccia's goal to apprise the Board of these misconceptions being perpetuated by some community leaders.

Executive Director Ciaccia referred to an email that he sent to the Board members which included correspondence from Mayor Licastro of Bratenahl whose community has now joined the 12 communities in opposition to the SMP. They alleged that the firm Squire Sanders & Dempsey LLP (hereinafter "SS&D") had previously written memoranda indicating that the District's plan of operation under ORC §6119 had to be amended. Executive Director Ciaccia stated that the memoranda stated that certain elements of the plan of operation may require potential amending; however, it did not state that the District had to amend its authority.

Mayor Licastro stated in his correspondence that a tribunal of judges from each county [Cuyahoga, Lorain, Lake and Summit counties] should be required to amend the District's plan of operation. Executive Director Ciaccia advised that a municipal tribunal was not required for declaratory action nor for a petition to amend under ORC §6119. Furthermore, the District had amended its plan of operation twice before; once in 1975 and once in 1979, and those matters were brought before a Cuyahoga County judge not a tribunal of judges.

Executive Director Ciaccia stated that on July 6, 2010, there were some interveners including the Catholic Diocese and the Cleveland Municipal School District that entered into the lawsuit.

On July 1, 2010, in the Cuyahoga County case, Summit County requested to be dismissed from our case and that was overruled by Judge Pokorny. A preliminary hearing was scheduled on the opposition communities' motion for injunction to stop the

## BOARD OF TRUSTEES

Regular Meeting

October 7, 2010

Page 6 of 16

implementation of our fee. Executive Director Ciaccia stated that this was continued indefinitely.

On September 15, 2010, the District's Motion to Dismiss the North Royalton claim was granted.

At the Court hearing on August 24, the District was ordered to complete email discovery to the suburban communities by September 24, and the Cleveland Municipal School District's Motion to Intervene was granted.

By October 26, and November 26, respectively, all experts must be identified. Since the suburbs argue that this is a factual case, we will need to prove that impervious pavement is the proper way to bill for stormwater, for example. Also, experts will need to examine the relevance of different types of ground soils relative to the issue of imperviousness. Executive Director Ciaccia advised that all involved parties will be required to identify and pay for the experts.

December 31, 2010 is the factual discovery cutoff date.

By January 31, 2011 the dispositive motions must be filed.

By February 28, 2011 all briefs in support and opposition briefs are due.

The hearing on the Motions for Summary Judgment is scheduled to go forward on March 15, 2011.

Executive Director Ciaccia advised that he received a letter from the attorney primarily representing the City of Lyndhurst who also represents the City of Olmsted Falls. Executive Director Ciaccia first provided the Board with some background. Last week, he attempted to contact Mayor Cicero of Lyndhurst in an attempt to extend an olive branch and explain that there is not a need to continue to adversely debate this issue in public since the matter is pending in court. Mayor Cicero's attorney sent a letter advising Executive Director Ciaccia not to contact Mayor Cicero and to work through him instead.

Executive Director Ciaccia wanted to apprise the Board of this situation since they may receive some complaints that Executive Director Ciaccia is a non-mayor or a non-elected official, and he is publicly commenting on the actions that are being taken. Executive Director Ciaccia indicated that he finds "no comfort in engaging them in this way," but the duplicity of their actions is providing us no other option but to respond.

BOARD OF TRUSTEES

Regular Meeting

October 7, 2010

Page 7 of 16

Mayor Starr wanted to inform the Board that this topic was discussed briefly at the last Mayors and City Managers meeting and that he spoke with Bob Downey from Cleveland Heights.

Mayor Starr referred to a quote in the *Crain's* business magazine. Executive Director Ciaccia pointed out that in Mr. Tucker's column regarding the SMP he indicated that that we cannot pave over everything and that we are eventually going to have to pay the piper.

Mayor Star commented that the development of malls and shopping centers creates an impact on our environment and he questioned, "Where does the water go?" Mayor Starr stated "you are talking \$57.00 per whole year, and you look at a regional concept to try and manage it. And, the millions of dollars that the damages have cost, and will continue to cost us, as stewards of the environment."

Executive Director Ciaccia agreed with Mayor Starr and he stated that it is primarily about the environment but also the viability of our region from an economic development standpoint. He stated that "we cannot hold ourselves out as a green city on a blue lake if we are not going to take care of the blue lake."

Mayor Starr referred to a form listing the extensive public outreach that the District underwent in an effort to inform our customers about the SMP (attached hereto and incorporated herein as Exhibit "A"). He advised that there are many public organizations and government bodies in Northeast Ohio that make public policy changes, for example, the Greater Cleveland Regional Transit Authority (GCRTA) or rate increases implemented by Cuyahoga County. For the \$57 average annual stormwater fee, the District began its public outreach campaign 36 months ago which commenced during a meeting held with Councilman Matt Zone back in October of 2007. Mayor Starr stated that the District held a total of 206 meetings. They visited each member community three times; religious organizations ten times; schools 20 times; and businesses 7 times. Mayor Starr commented that if we fail, it would not be due to a lack of effort.

Executive Director Ciaccia indicated that most of the communities are either in favor of the SMP or satisfied with waiting for the court to make the determination on the District's authority and do not want to spend a lot of money on this matter. The 15 communities in opposition to the SMP are taking a hard stance. This is frustrating since the District staff has done an excellent job and put in a lot of after-hours time on this effort.

Executive Director Ciaccia explained that he initially reached out to Mayor Cicero for the reason that he has been the most consistent on his stance. However, Executive Director Ciaccia simply wanted to express his desire to "put the sword down publicly" and he

never intended to discuss the case directly with Mayor Cicero as inferred in the correspondence received from Mayor Cicero's attorney.

Mr. Brown stated that the District has been involved with stormwater for quite awhile and has been engaged in studies for over five years in an attempt to identify the best practices in the industry for affecting the proper model and tool. After spending several millions of dollars and conducting much due diligence, the District has identified an equitable and practical approach, which should not be taken lightly. We did not arbitrarily walk down path; we chose a path based upon our due diligence.

Mr. Brown stated that it was never an issue about whether this was "the right thing to do." The issue was rather who pays and how much it will cost. We are already paying for stormwater impacts and by ignoring erosion problems there has been a loss of property, degradation of infrastructure, overburdening the collection systems and flooding.

Mr. Brown commented that no community can afford to complete the amount of work necessary to insulate or protect them from the impacts of upstream and downstream communities or the costs associated with stormwater infrastructure.

Mr. Brown commented that we must continue to convey the accurate message and that we are morally obligated to advance a cause that will benefit the quality of life in our region. Mr. Brown encouraged the District to continue taking the high road when dealing with these issues and that there are points of law, processes and practical points of view that we have to stick by.

Mayor DePiero advised that Mayor Bacci, Mayor Starr and he conducted outreach with the Mayors & Managers Association and held informal discussions without the attorneys present in an effort to resolve this issue and move forward. Mayor DePiero advised that the "rug kind of got pulled back" and his assumption was that they were advised not to have those discussions with the three mayors. Mayor DePiero commented that "we still remain committed as mayors who support this program" and will try to meet with them in hopes of a resolution.

Executive Director Ciaccia moved to the next report item regarding the rate analysis for the time period 2012 through 2016. The District is developing possible affordability programs to be included in the rate structure and also considering a fixed rate rather than a consumptive-based rate.

The City of Cleveland has conducted a rate study and Executive Director Ciaccia advised that he has contacted the utilities director at City of Cleveland in an effort to coordinate with them to make sure that both utilities are consistent in what they are looking for.



## BOARD OF TRUSTEES

Regular Meeting

October 7, 2010

Page 9 of 16

The rate study will also be impacted by the District's debt management. We anticipate issuing bonds soon, and Director of Finance, Jennifer Demmerle, has been working with the underwriting team. Executive Director Ciaccia anticipates that at the next Board meeting staff will be ready to discuss the rate structure. Actual rates will most likely not be available, but we are looking to try to smooth out the rate increases over the 5-year period.

Executive Director Ciaccia moved to the next report item regarding cash remittances. Cash is down \$6.7 million since last year at this time even with the 9% rate increase. In May, we were down 8.4%. In July, we were down 10.7%. In August, we were down 6.52%. There has been some positive movement from July to August which was largely due to the City of Cleveland Division of Water (hereinafter "CWD") addressing some of the pending billing issues. CWD is down to 6,000 bills pending from the 60,000 when they first went live with the new billing system.

According to Executive Director Ciaccia, accounts receivables were about \$62.8 million last year at this time whereas this year we are at \$83 million. The economy has been a factor and based on the advice from our auditors, the District had to adjust uncollectable amounts from 3% to 5% due to the economic conditions.

CWD's transition into the new billing system has also tremendously impacted our receivables. Executive Director Ciaccia referred to a chart depicting how receivables were impacted since the onset of CWD's new billing system. Executive Director Ciaccia stated that in September of 2009, "it was at \$63.3 million and then it shot up to \$70.9 million in December." The new system went live in September and shortly thereafter the system began suppressing bills. During the first quarter of 2010, Executive Director Ciaccia stated that "it shot up another \$8.2 million."

Executive Director Ciaccia advised that the District would like to monitor how aggressively CWD is pursuing collection activities, and he has made this request to the Director of Utilities. Executive Director Ciaccia questioned how aggressive can we be given the current state of the economy since people are struggling and the billing situation has caused some of our customers to receive pretty large "catch-up bills."

Executive Director Ciaccia indicated that he understood that CWD seemed to be floundering, but he is concerned with the upcoming rate increases. The perception may be that there is a lot of money that is not being collected; and therefore, Executive Director Ciaccia is attempting to retrieve data from the CWD to ensure that they are being as aggressive as possible in their attempts to collect the money that is owed to the District.

BOARD OF TRUSTEES

Regular Meeting

October 7, 2010

Page 10 of 16

Executive Director Ciaccia moved to the last report item and he advised that the District has signed the settlement agreement on the BCI-3D project. Executive Director Ciaccia stated that the District believes the settlement is favorable, and he was happy to have this matter resolved.

Mayor Bacci requested that the District keep a tab of the legal fees associated with the SMP litigation and then make a public records request from those communities as to the their legal fees related to this matter.

Ms. Kelly inquired if the BCI settlement went as expected wherein Executive Director Ciaccia assured the Board that the settlement was exactly as presented during Executive Session.

V. Action Items

Authorization to Advertise

Resolution No. 268-10

Two (2) year requirement contract for ash removal at the Westerly Wastewater Treatment Plant. Anticipated expenditure: \$287,400.00.

Resolution No. 269-10

One (1) year requirement contract for the purchase of 90,000 pounds of liquid polymer for use at the Southerly Wastewater Treatment Plant. Anticipated expenditure: \$220,000.00.

Resolution No. 270-10

One (1) year requirement contract for sodium hydroxide solution for all Wastewater Treatment Plants. Anticipated expenditure: \$86,700.00.

**MOTION** – Mayor DePiero moved and Mayor Starr seconded to adopt Resolution Nos. 268-10 through 270-10. Without objection, the motion carried unanimously.

Authorization to Purchase

Resolution No. 271-10                      Open market purchase of nitric acid solution for use at the Southerly Wastewater Treatment Plant. Anticipated Expenditure: \$48,000.00.

**MOTION** – Ms. Kelly moved and Mr. Sulik seconded to adopt Resolution No. 271-10. Without objection, the motion carried unanimously.

Authorization to Enter Into Agreement

Resolution No. 272-10                      Agreement with the Ohio Auditor of State to provide professional services for a performance audit. Cost not to exceed \$92,200.00.

Resolution No. 273-10                      Authorization to enter into a labor union agreement between the Laborers International Union of North America Local 860 and the Northeast Ohio Regional Sewer District for the period retroactive from July 1, 2009 through June 30, 2012.

Resolution No. 274-10                      Agreements for the 2010 Watershed Operating Support Grants. Cost not to exceed \$240,000.00.

Resolution No. 275-10                      Agreements with the United States Environmental Protection Agency (USEPA) to receive grant funding under the Great Lakes Restoration Initiative. Amounts: \$87,959.00 and \$248,060.00.

**MOTION** – Mr. O'Malley moved and Mayor Bacci seconded to adopt Resolution Nos. 272-10 through 275-10. After discussion, a Roll Call was taken and the motion carried with one abstention from Mr. Brown on Resolution No. 274-10.

Mayor Starr requested an explanation on Resolution No. 272-10.

Executive Director Ciaccia stated that the District is heavily into the construction area. The confidence of our customers was shattered when the federal government subpoenaed

## BOARD OF TRUSTEES

Regular Meeting

October 7, 2010

Page 12 of 16

District construction records and subsequently the former general counsel was charged and convicted of bribery and conspiracy. The District wanted to take the appropriate actions to address past practices and regain the public's confidence.

Prior to Executive Director Ciaccia joining the District, this organization, prompted by the Board, retained Calfee Halter & Griswold LLP (hereinafter "Calfee") to conduct an audit of the District's construction practices. The audit findings revealed a lot of information as to how things were being handled at that point in time.

The District recently engaged Bricker & Eckler LLP (hereinafter "Bricker") to examine old contracts since there were still many questions about past contracting practices. This analysis is nearing completion. On Wednesday, October 13<sup>th</sup>, District representatives will be meeting with Bricker representatives to review a draft of their findings. Executive Director Ciaccia anticipates that a draft of this report will be available to the Board by their next meeting.

Executive Director Ciaccia stated that each month Director of Engineering & Construction, Kellie Rotunno, presents the Board with a presentation on the District's construction program.

Resolution No. 272-10 is authorizing a third party, the State of Ohio Auditors, to review the District's procedures and the changes that have been made since 2007.

Mayor Starr referred to page 4 of 5, and he inquired about the protection of District employees and why it will be necessary for the State Auditors to request the health and medical records of the District employees. Mayor Starr was concerned that HIPPA regulations were being complied with and that employee medical records will be protected.

Executive Director Ciaccia invited Jim Penning, Chief Auditor, to report to the podium to address Mayor Starr's concerns.

Mr. Penning first introduced his team which included Michelle Sys, Regional Liaison for the Auditor of State, Randy Cole, Director of Audit Services and Technology, Matt Rogonjic, Assistant Chief Auditor, and Dawn Bendel, Senior Audit Manger assigned to manage the daily operations.

In response to Mayor Starr's question regarding the health and medical records of District employees, Mr. Penning described the wording on page 4 of 5 to be "boilerplate" language that it is incorporated into the Agreement to provide their clients with the assurance that should they encounter any confidential information related to employees or to business practices, this information will be protected under confidentiality statues.

The State Auditors will first request that the District remove or redact any confidential information with respect to employees and that those records be kept separate. Mr. Penning does not anticipate going into this area of the audit; however, the language is inserted into the Agreement to provide their clients with the assurance that the proper steps will be taken and that information will be treated as confidential material.

Authorization to Enter Into Contract

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|-----------------------|---|
| Resolution No. 276-10 | Two (2) year requirement contract with the J. F. Good Company for valves. Cost not to exceed \$53,937.08.   |
| Resolution No. 277-10 | Two (2) year contract with the Fedeli Group for benefits consulting with an option to renew up to a maximum of three (3) years. Cost not to exceed \$100,000.00 for a two (2) year contract and \$50,000.00 per renewal year. |
| Resolution No. 278-10 | Contract with Yard Keepers LLC for snow plowing services at the Environmental and Maintenance Services Center, George J. McMonagle Building and outlying facilities. Cost: \$32,936.50.                                       |
| Resolution No. 279-10 | Contract with C T Consultants, Inc. for professional services for the Doan Brook Enhancement Project. Cost: \$521,019.30.   |
| Resolution No. 280-10 | Contract with Inland Waters Pollution Control, Inc. for the Easterly Interceptor Service Agreement Contract (EISAC). Cost: \$4,347,229.55.  |
| Resolution No. 281-10 | Contract with Kenmore Construction Company, Inc. for the Westerly Wastewater Treatment Center Combined Sewer Overflow Treatment Facility Rehabilitation (CSOTF-R) project. Cost: \$960,723.00.                                |

Resolution No. 282-10

Contract with Oracle, Inc. for the renewal of the annual software maintenance and support agreement for the Oracle work and asset management (WAM) application. Cost: \$70,751.89.

**MOTION** – Mr. Sulik moved and Mr. O’Malley seconded to adopt Resolution Nos. 276-10 through 282-10. A Roll Call was taken and the motion carried unanimously with one abstention from Mr. Brown on Resolution No. 279-10.

Authorization to Pay Dues

Resolution No. 283-10

Annual dues for National Association of Clean Water Agencies (NACWA) Membership. Cost: \$32,160.00.

**MOTION** – Mr. O’Malley moved and Ms. Kelly seconded to adopt Resolution No. 283-10. Without objection, the motion carried unanimously.

Authorization of Settlement Agreement

Resolution No. 284-10

Settlement Agreement with Sharona Investments, c/o Howard Sonenstein, Northeast Ohio Regional Sewer District Case No. 10-007. Cost: \$388.60.

**MOTION** – Mayor DePiero moved and Mr. Sulik seconded to adopt Resolution No. 284-10. Without objection, the motion carried unanimously.

Authorization to Retain Legal Counsel

Resolution No. 285-10

Engage the firm of Colette Holt & Associates for legal support of the development and implementation of a Minority- and Women-Owned Business Enterprise (MBE/WBE) Program. Cost: Approximately \$25,000.00.

**MOTION** – Mayor Bacci moved and Ms. Kelly seconded to adopt Resolution No. 285-10. Without objection, the motion carried unanimously.

Authorization to Continue Engagement

Resolution No. 286-10

Retention of Porter Wright Morris & Arthur LLP to represent the District in the *NEORS D v. 3320 Woodland Avenue Ltd.* litigation matter.

**MOTION** – Mayor DePiero moved and Mr. Sulik seconded to adopt Resolution No. 286-10. Without objection, the motion carried unanimously.

Authorization to Ratify Expenditures

Resolution No. 287-10

Ratify \$1,500.00 to Radio Disney for an added appearance at the Luke Easter Park Unity Day Event at the District's request. A cost increase in the amount of \$1,500.00, bringing the total contract price to \$26,500.00.

Resolution No. 288-10

Ratify expenditures to Marra Services, Inc. and DRS Enterprise for the repair of the force main leak at East 55<sup>th</sup> Street and St. Clair Avenue. Cost: \$16,000.00 to Marra Services, Inc. and \$12,333.80 to DRS Enterprise for a total of \$28,333.80.

**MOTION** – Mr. Sulik moved and Mayor Bacci seconded to adopt Resolution Nos. 287-10 and 288-10. Without objection, the motion carried unanimously.

VI. Information Items

There were no information items.

VII. Open Session

There were no items for discussion.

VIII. Public Session (any subject matter)

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

IX. Executive Session

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

**MOTION** – Mayor Bacci moved to enter into Executive Session to discuss settlement of a litigation matter relating to an EEOC claim and to specifically designate all matters discussed in Executive Session be protected from public disclosure in accordance with Ohio Revised Code §121.22(g)(3) and attorney-client privilege. A Roll Call vote was taken and without objection, the motion carried unanimously.

The Board met in Executive Session from 1:23 p.m. to 1:37 p.m.

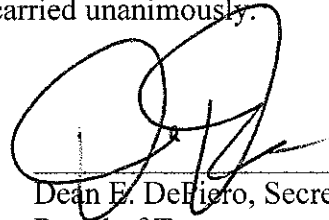
X. Approval of Items from Executive Session

Resolution No. 289-10	Authorizing the Settlement of EEOC Charge No. 532-2010-01423. Cost: \$8,500.00.
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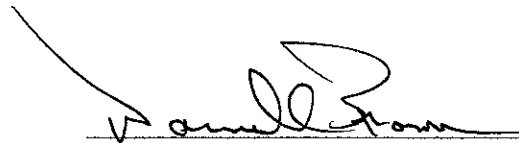
**MOTION** – Ms. Kelly moved and Mayor Bacci seconded to adopt Resolution No. 289-10. Without objection, the motion carried unanimously.

XI. Adjournment

**MOTION** – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Ms. Kelly moved and Mayor Bacci seconded the motion to adjourn at 1:37 p.m. Without objection, the motion carried unanimously.



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



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