

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
OCTOBER 17, 2013

Meeting of the Board of Trustees of the Northeast Ohio Regional Sewer District was called to order at 12:35 p.m. by Darnell Brown.

I. Roll Call

PRESENT: D. Brown
R. Sulik
S. Kelly
J. Bacci
T. DeGeeter
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 October 3, 2013 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 and he advised that the monthly financial report was incorporated into the Board members' packets. He noted that the revenues have increased. As previously reported, revenues were down due to a lag in the invoicing of the District's SSCBOUTS customers. There were some issues between the District and City of Cleveland, Division of Water (hereinafter "CWD") related to those accounts which have since been resolved. Those bills were issued and as a result the District is receiving revenues on those accounts.

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The District is running below budget on its expenses as anticipated. Executive Director Ciaccia noted that some of the stormwater expenses had to be transferred over to the sewer operating budget. The District intends to continue to be under budget on its expenses.

Executive Director Ciaccia moved to the next report item regarding the stormwater litigation and he advised that this topic will be discussed further during Executive Session. Executive Director Ciaccia advised that at the previous Board meeting the Board had requested copies of the Court Order, District's Plan of Operation and for the stormwater authority to be highlighted under the plan. Director of Law, Marlene Sundheimer, provided the Board with the requested information and included a summary for their reference.

Executive Director Ciaccia advised that two class action lawsuits were filed against the District relative to returning the stormwater fees to the customers. In one case, filed by attorney Jordan Berns, who represents large property and business owners, Judge Nancy Margaret Russo issued a Stay of Proceedings; and, therefore the District is not required to pay back those fees immediately. Subsequently, attorney Berns withdrew his case without prejudice.

The other class action lawsuit is pending before Judge Richard McMonagle. There is a case management conference scheduled for October 22, 2013 at 8:30 a.m.

Executive Director Ciaccia moved to his final report item wherein he advised that there are some ongoing construction issues that will be further discussed during Director of Engineering and Construction Kellie Rotunno's Program Management monthly status and update report.

There were no questions from the Board.

V. Action Items

Authorization to Advertise

Resolution No. 253-13

CSO-SSMO Bundles Package #2 (CSO-SSMO-2) project. Engineer's opinion of probable construction cost: \$1,800,000.00.

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Resolution No. 254-13

One (1) year requirement contract to provide sodium hydroxide solution for use at all Wastewater Treatment Plants. Anticipated expenditure: \$65,900.00.

MOTION – Mr. O’Malley moved and Mayor DeGeeter seconded to adopt Resolution Nos. 253-13 through 254-13. Without objection, the motion carried unanimously.

Authorization to Issue Request for Proposals (RFPs)

Resolution No. 255-13

RFPs for a three (3) year contract for pre-employment background screening services. Cost not-to-exceed \$90,000.00 for the three year period.

MOTION – Mayor Bacci moved and Mr. Sulik seconded to adopt Resolution No. 255-13. Without objection, the motion carried unanimously.

Authorization to Enter Into Contract

Resolution No. 256-13

Contract with Nerone and Sons, Inc., for the Sewer Capacity Restoration and Repair (SCRR) project. Contract amount: \$455,176.40.

Resolution No. 257-13

One (1) year requirement contract with S&S Filter, LLC for biofilter media replacement at eight District odor control facilities. Cost: \$533,816.78.

MOTION – Ms. Kelly moved and Mr. Sulik seconded to adopt Resolution Nos. 256-13 through 257-13. Without objection, the motion carried unanimously.

Authorization of Property Related Transaction

Resolution No. 258-13

Authorize Right of Entry Agreement with Detroit Shoreway Community Development Organization to use District-owned property for the purpose of overflow parking on Thursday, November 7, 2013. Consideration: \$0.00.

MOTION – Mayor Starr moved and Mayor DeGeeter seconded to adopt Resolution No. 258-13. Without objection, the motion carried unanimously.

Add-On:

Authorization to Enter Into Contract

Resolution No. 259-13

Contract to perform as a sub-consultant with ARCADIS U.S., Inc. under their agreement with the City of Akron to provide testing services for the City of Akron's Water Pollution Control Station Headworks Study. Estimated revenue not-to-exceed \$20,500.00.

MOTION – Mr. Sulik moved and Mr. O'Malley seconded to adopt Resolution No. 259-13. Without objection, the motion carried unanimously.

VI. Information Item

1. District Health Care Update Presentation.

Executive Director Ciaccia advised that this information item will be postponed until the November 7, 2013 Board meeting.

2. Program Management Status Report and Update – September 2013.

Ms. Rotunno provided the Board with an update on Project Clean Lake. As previously reported, mining of the Euclid Creek Tunnel (hereinafter "ECT") has concluded. Excavation at Shaft #3 located in Beulah Park is complete. Shaft excavation at other sites is ongoing. The tunnel boring machine is nearly disassembled and extracted from the tunnel at the Shaft #5 location. The ECT project is moving forward on budget and on schedule.

Ms. Rotunno moved discussion to the Easterly Tunnel Dewatering Pump Station (hereinafter "ETDPS") and she advised that the contractor's request for additional compensation is under review. Said process has required a significant amount of time and resources due to the voluminous request made by the contractor. The District has to review direct cost reports in order to make its determination as to any possible entitlements or compensation. The Board will be kept apprised of this issue.

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The excavation of the cavern benches is ongoing and bench #5 is complete. Ms. Rotunno noted that cavern excavation is nearly complete. The underground contractor anticipates completion of the cavern in early November.

Installation of the fiber optic cable and excavation of the raw water tunnel is underway. Said tunnel will connect to ECT Shaft #1 at the Nine Mile Creek site. Ms. Rotunno noted that the ETDPS underground work is proceeding accordingly.

Ms. Rotunno moved discussion to the Renewable Energy Facility (hereinafter "REF"). As previously reported, problems were encountered with the waste heat boilers. A crack was found in nearly the exact same location of the two failed waste heat boilers. The manufacturer of the equipment has examined the cracks and conducted laboratory analyses. There are some preliminary findings as to what may have caused the cracks. The District will be meeting with the manufacturer next week to discuss those findings and determine a remedy to fix the equipment. Ms. Rotunno noted that, at this point in time, the problem appears to be localized and not present throughout the entire waste heat boiler system. The District will learn more about the potential remediation and time needed for repairs at next week's meeting. The manufacturer has acknowledged that they are somewhat responsible for providing the District with fully operational waste heat boilers in order to meet its needs.

According to the District's analysis, we are about 12 months beyond the initial proposed startup of the REF. It is critical for the District to have the ability to process its sludge and ideally incinerate it into ash. At a minimum, the centrifuges must be ready to dewater the sludge in order for the Zimpro process to be shut down. The District is working towards this anticipated outcome as it continues to address the issues of the failed waste heat boilers.

Mr. Brown commented that the REF was scheduled to start up 12 months ago and that there are other project elements on line to support the waste heat boilers. He questioned how warranties on the technology and other instrumentation will be impacted by this delay.

Ms. Rotunno clarified that the construction contract has not been delayed for one year. The one year plan to start up was prior to the mobilization of the contractor and applies to the plan to shut down Zimpro and is not specific to the construction contract.

With respect to the warranty issues on the equipment, Engineering and Construction is working closely with the Law Department to ensure that we obtain from the contractor the types of protections we need in order to either extend the warranty or engage in some type of agreement to ensure that the District's investment will be protected through the intended period of the warranty, which is essentially one year post startup.

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Ms. Rotunno moved discussion to the Key Performance Indicators (hereinafter “KPIs”) wherein she advised that cash flow is lagging behind at 79%, which was attributed to the delay ETDPS project. The business opportunity cash flow is faring better at 83%.

Ms. Rotunno moved to the KPI for meeting business opportunity goals at construction project close out. Three out of four projects closed meeting or exceeding their business opportunity program goals. The contractor for the Chemically Enhanced High Rate Treatment Pilot and Demonstration project failed to meet its goal at project close out.

Ms. Rotunno moved discussion to the KPI for the engineer’s opinion of probable construction costs wherein she advised that two bids were opened and both were significantly below the engineers’ estimate. On aggregate the District’s bids are 1.3% below the engineers’ estimates in which Ms. Rotunno attributed that to a competitive market.

Ms. Rotunno moved discussion to the KPI for design delivery and she advised that designs closed out on three projects. The aggregate of design close out was one day from the planned close out date. The District is performing very well on its design delivery.

There was nothing new to report with respect to cost savings through value engineering; however, Ms. Rotunno noted that year-to-date value engineering savings is \$24,000,650.00.

Ms. Rotunno moved discussion to the KPI for construction project close out being within budget and she advised that the four projects closed out at 95%. On aggregate, the District is at 90%.

Ms. Rotunno moved discussion to the KPI for construction schedules and she advised that the District is doing well with awarding its projects on time, averaging 17 days of the planned date. Although completing those four contracts on time improved our numbers from last month; we are still averaging 136 days beyond the planned completion date for construction contracts to date.

Ms. Rotunno concluded her report with a quote by Frederick Wilcox, “Progress always involves risks. You can’t steal second base and keep your foot on first.”

There were no questions from the Board.

VII. Public Session

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 an item for discussion in Executive Session.

MOTION – Mayor Bacci moved to enter into Executive Session to discuss the status of the stormwater litigation. Mayor Bacci stated that discussion of these matters in Executive Session are permitted as specific exceptions to the Public Meetings Act pursuant to Ohio Revised Code §121.22(G)(3) and 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 attorney-client privilege. A roll call vote was taken and the motion carried unanimously to adjourn into Executive Session.

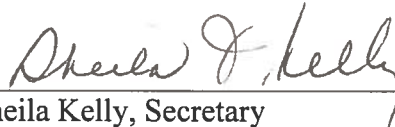
The Board met in Executive Session from 12:53 p.m. to 1:16 p.m.

X. Approval of Item from Executive Session

Mr. Brown advised that there were no items for approval from Executive Session.

XI. Adjournment

MOTION – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mr. Sulik moved and Mr. O'Malley seconded the motion to adjourn at 1:17 p.m. Without objection, the motion carried unanimously.



Sheila Kelly, Secretary
Board of Trustees
Northeast Ohio Regional Sewer District



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