

MINUTES  
NORTHEAST OHIO REGIONAL SEWER DISTRICT  
BOARD OF TRUSTEES MEETING  
OCTOBER 22, 2009

Meeting of the Board of Trustees of the Northeast Ohio Regional Sewer District was called to order at 12:37 p.m. by Darnell Brown.

I. Roll Call

PRESENT: D. Brown  
S. Kelly  
T. Longo  
W. O'Malley  
R. Sulik

*Mayor Starr and Mayor DePiero were absent.*

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

II. Approval of Minutes

**MOTION** – Ms. Kelly moved and Mayor Longo seconded that the minutes of the October 1, 2009 Board meeting be approved. Without objection, the motion carried unanimously.

III. Public Session

Executive Director Ciaccia advised that no members from the public registered to speak at Public Session, however, representatives from Mr. Excavator informed him of their interest to address the Board at the meeting, and he inquired whether any representatives Mr. Excavator were present at the meeting to address the Board during Public Session. No representatives were present.

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"). The District will meet with state and federal governments on November 2<sup>nd</sup>. Information has been exchanged since the last meeting and discussions remain positive.

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Executive Director Ciaccia advised that the City of Akron was sued by the governments and has since settled their lawsuit and finalized their CSO LTCP. The District is interested in obtaining the details of said settlement. The City of Akron is being required to remove the dam in Brecksville which will allow more fish to travel into the upper Cuyahoga River, which is beneficial to this region, and the District is pleased with that outcome.

Executive Director Ciaccia moved to the next report item regarding the Stormwater Management Program (hereinafter "SMP"). At the October 22<sup>nd</sup> Governance Committee (hereinafter "Committee") meeting, staff presented the Committee with the draft SMP Code of Regulations (hereinafter "Code"). The Committee moved that staff provide the full Board with the draft Code and present the information at the November 5<sup>th</sup> Board meeting. Subsequent to said meeting, the District anticipates distributing the draft Code to the member communities for review and comment. The final document is expected to be presented to the Board for consideration sometime in January 2010.

Executive Director Ciaccia informed the Board that the Suburban Council of Governments is scheduled to meet on Thursday, November 12<sup>th</sup> at 10:15 p.m. at the City of Independence Civic Center. The Code will be discussed at said meeting.

Executive Director Ciaccia moved to the next report item regarding government relations. Executive Director Ciaccia, Government Affairs Specialist Darnella Robertson and Deputy Director of Law Lisa Hollander will travel to Washington D.C. on October 28<sup>th</sup> and October 29<sup>th</sup> to meet with their delegation in order to discuss the District's commitments and financial implications as it pertains to the CSO LTCP. The District is interested in obtaining funding, relief and understanding from the federal government as it moves forward with the negotiations.

Executive Director Ciaccia advised that he continues meeting the mayors of the member communities and has met with 12 mayors individually. According to Executive Director Ciaccia, the meetings are going well and the mayors appreciate the efforts being made to inform them of the District's reforms, the SMP, and the advanced notice given regarding the financial implications due to the CSO LTCP which are expected to occur in 2012. Executive Director Ciaccia indicated that the mayors may play an instrumental role in assisting the District by informing their delegation of the much needed financial assistance in order to fund the CSO LTCP.

Executive Director Ciaccia moved to the next report item regarding the City of Cleveland Division of Water (hereinafter "CWD") billing. The first batch of bills sent yielded a 99.997% accuracy rate, which is phenomenal. Executive Director Ciaccia congratulated

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CWD on a job well done. Given the negative publicity CWD received earlier this year regarding its new billing system, this has been a significant feat.

Executive Director Ciaccia moved to the next report item regarding the Small Business Enterprise (hereinafter "SBE") program and the disparity study being conducted by NERA Economic Consulting (hereinafter "NERA"). NERA continues to collect data from prime service contractors as well as conducting the private sector disparity analysis. The disparity study is expected for completion early 2010. Of the 416 companies certified with the District's SBE program, there are 114 construction firms, 20 engineering firms, 82 goods suppliers, and 191 services firms. The District recently denied 20 SBE applicants.

The District kicked off its Small Business Development (hereinafter "SBD") program wherein 35 SBE firms attended. Prime contractors also participated including Independence Excavating, Inc., Kokosing Construction Company, Inc., Shook Construction, Ozanne Construction Company, Inc., Davey Tree Service and CH2M Hill. Executive Director Ciaccia indicated that the District appreciated the mentoring and assistance those prime firms provided the SBES.

Executive Director Ciaccia moved to the next report item regarding the District's financial forecast. Three-quarters of the year has been completed and the District's revenues are falling short of what was initially projected. Executive Director Ciaccia speculated that this resulted from the current economic situation. There were slowdowns at manufacturing plants, and the District is behind by about 2% then what was initially projected. The District is under its projected expenses, which is positive since the revenues are falling behind. The preliminary amounts do not include the increases for the labor negotiations, and if all employees were factored in, then this would bring the District to about 68% of what was projected. Executive Director Ciaccia referred to the Operations and Maintenance budget, and the District spent about 67% of what was initially projected during the 75% benchmark. The District is managing within budget given the shortfall of the projected revenues.

Executive Director Ciaccia stated that "we are doing well" financially, and he complimented Operations and Maintenance on their negotiation of the energy contracts as well as the other initiatives taken in order to keep costs down. Executive Director Ciaccia advised that Operations and Maintenance exercised another cost savings initiative by converting the fleet services to 10% ethanol-based gasoline, which reduced fuel costs by five-cents per gallon and is also ecologically friendly.

Executive Director Ciaccia moved to the next report item and advised that the District received 200 guests at its open house in September at the Southerly Wastewater Treatment Plant (hereinafter "WWTP"). The District is contemplating holding next

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year's open house at the Easterly WWTP in order to attract more individuals from the eastern portions of our service area.

V. Action Items

Authorization to Advertise

**Resolution No. 227-09**

**One-Year Requirement Contract for the Lubricants Inventory Product Class for Use at All Wastewater Treatment Plants and Environmental & Maintenance Services Center. Estimated Cost: \$49,000.00.**

**Resolution No. 228-09**

**Two-Year Requirement Contract to Purchase Laboratory Chemicals for the Analytical Services Department. Anticipated Expenditure: Not to Exceed \$156,000.00.**

**Resolution No. 229-09**

**Two-Year Requirement Contract to Purchase Laboratory Supplies for the Analytical Services Department. Anticipated Expenditure: Not to Exceed \$185,500.00.**

**Resolution No. 230-09**

**One-Year Requirement Contract for the Purchase of 120,000 Pounds of Liquid Polymer Needed for Sludge Dewatering in the Centrifuge Process at the Southerly Wastewater Treatment Plant. Anticipated Expenditure: \$286,800.00.**

**Resolution No. 231-09**

**Two-Year Requirement Contract to Provide Maintenance Services at the District's Ten (10) Combined Sewer Overflow Floatables Control Sites. Anticipated Expenditure: \$450,000.00.**

**Resolution No. 232-09**

**One-Year Requirement Contract for  
220,000 Gallons of Liquid Sodium  
Hydroxide Solution for Use at All  
Wastewater Treatment Plants.  
Anticipated Expenditure: \$795,000.00.**

**MOTION** – Mayor Longo moved and Mr. O’Malley seconded to adopt Resolution Nos. 227-09 through 232-09. Without objection, the motion carried unanimously.

Authorization to Issue Request for Proposals (RFPs)

**Resolution No. 233-09**

**RFPs for Collection Agency Services.**

**MOTION** – Ms. Kelly moved and Mr. Sulik seconded to adopt Resolution No. 233-09. Without objection, the motion carried unanimously.

Authorization to Pay Dues

**Resolution No. 234-09**

**National Association of Clean Water  
Agencies Membership. Cost:  
\$32,160.00.**

**Resolution No. 235-09**

**Annual Water Environment Research  
Foundation Subscription. Cost:  
\$95,013.00.**

**MOTION** – Mayor Longo moved and Mr. O’Malley seconded to adopt Resolution Nos. 234-09 and 235-09. Without objection, the motion carried unanimously.

Authorization to Pay Fees

**Resolution No. 236-09**

**2009 Fees to the Treasurer, State of  
Ohio for Ohio EPA Annual Discharge  
Fees for All Wastewater Treatment  
Plants. Cost: \$129,400.00.**

**MOTION** – Mr. O’Malley moved and Mr. Sulik seconded to adopt Resolution No. 236-09. Without objection, the motion carried unanimously.

Authorization to Amend Resolution

**Resolution No. 35-09b**

**Amend Resolution No. 35-09 for Quantity Increase of Sodium Hydroxide Solution for All Wastewater Treatment Plants. Cost: An Increase in the Amount of \$102,000.00 Bringing the Total Contract Amount to \$479,922.56.**

**MOTION** – Ms. Kelly moved and Mayor Longo seconded to adopt Resolution No. 35-09b. Without objection, the motion carried unanimously.

Authorization of Contract Modification

**Resolution No. 38-09a**

**Contract 09000776 with Kokosing Construction Company, Inc. for Additional Funding for the Cuyahoga Valley Interceptor Lift Station Improvements (CVI-LS3) Project. Cost: An Increase in the Amount of \$142,366.00 Bringing the Total Contract Amount to \$6,162,566.00.**

Ms. Kelly inquired as to the number of contract modifications that have been made to the Cuyahoga Valley Interceptor Lift Station Improvements (hereinafter “CVI-LS3”) contract. Executive Director Ciaccia stated that this is the first and hopefully the last contract modification for the CVI-LS3 project. This particular project received federal stimulus funding, but was bid prior to the receipt of said funding. The contract amount was garnered and certain requirements were attached to the stimulus funding which resulted in an increase in the total contract amount. Executive Director Ciaccia turned discussion over to the Director of Engineering and Construction, Kellie Rotunno, to provide the Board with a further explanation.

Ms. Rotunno corroborated Executive Director Ciaccia’s comments. She advised that subsequent to the stimulus monies being allocated to the District for the CVI-LS3 project, some of the aspects of the project, which were not originally bid, changed. Additional administrative costs associated with the CVI-LS3 project will be necessary in order for the contractor to be in compliance with the federal government’s recording requirements which is necessary in order to seek reimbursement. Simply put, the reimbursement process added an administrative burden to the CBI-LS3 contract. There was also a “Buy American” requirement for the equipment on this contract which was not a provision of

the original contract bid. Ms. Rotunno advised that of the \$5 million dollars the District received on this project, this modification is very small percentage.

Ms. Kelly inquired as to the percent of the increase that directly resulted from the stimulus funding. Ms. Rotunno replied 100%.

**MOTION** – Mr. Sulik moved and Mayor Longo seconded to adopt Resolution No. 38-09a. Without objection, the motion carried unanimously.

Authorization to Purchase

**Resolution No. 237-09**

**Direct Purchase of Programmable Logic Controller Training from Rexel Midland for All Wastewater Treatment Plants. Cost: \$42,200.00.**

**Resolution No. 238-09**

**Purchase Four (4) QLogic Fiber Channel Switches from Cambridge Computer Services. Cost: \$30,913.92.**

**MOTION** – Mr. Sulik moved and Mr. O'Malley seconded to adopt Resolution Nos. 237-09 and 238-09. Without objection, the motion carried unanimously.

Authorization to Enter into Agreement

**Resolution No. 239-09**

**Month-to-Month Lease Agreement with Gregg Wadsworth for Property Located at 150 E. 156<sup>th</sup> Street, Cleveland (Part of PPN 112-14-029) for the Euclid Creek Tunnel Project. Cost: \$650.00 Per Month.**

**Resolution No. 240-09**

**Authorizing the Executive Director, on behalf of the Northeast Ohio Regional Sewer District, to execute, accept or otherwise approve all documents, agreements, instruments or other necessary papers required by the Ohio Department of Transportation (ODOT), for the reimbursement for design and construction of the relocation of portions of the District's Westerly Low**

**Level Interceptor and Walworth Run Interceptor necessitated by ODOT's I-90 Inner Belt Bridge project and authorizing the issuance of Request for Proposals for design and CA/RE professional services during construction.**

Mr. Sulik inquired if the District had estimated costs associated with the relocation of the portions of the Westerly Low Level Interceptor (hereinafter "WLLI") and the Walworth Run Interceptor (hereinafter "WRI"). Executive Director Ciaccia replied that it is difficult determining the costs at this point, but it will be substantial, and he speculated that the cost will be at least \$8 million. Executive Director Ciaccia assured that all costs associated with the relocation of the WLLI and the WRI will be at the expense of the Ohio Department of Transportation (hereinafter "ODOT"). Executive Director Ciaccia advised that, under Resolution No. 240-09, the District is also seeking Board authorization to issue Requests for Proposals (hereinafter "RFPs") for the engineering services for the relocation project. The agreement between the District and ODOT provides for the District to design, bid and construct this relocation project and then seek 100% reimbursement from ODOT. There is no engineer's estimate at this time.

Mr. Brown commented that the relocation of those facilities will need to be completed in advance of ODOT's I-90 Innerbelt Bridge project, and he inquired whether the District is planning to expedite the design and construction of the relocation of the WLLI and WRI. Executive Director Ciaccia affirmed and stated that this supports the District's decision to simultaneously seek Board consideration for the issuance of RFPs for the design services as well as entering into the contract with ODOT. This project will definitely be expedited given the strict timetable.

**MOTION** – Ms. Kelly moved and Mayor Longo seconded to adopt Resolution Nos. 239-09 and 240-09. Without objection, the motion carried unanimously.

Authorization to Enter into Contract

**Resolution No. 241-09**

**Two-Year Contract with Marous Brothers Construction for the Beneficial Reuse of Ash Pilot Project at the Southerly Wastewater Treatment Plant. Cost: \$2,905,000.00.**



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**Resolution No. 242-09**

**Requirement Contract with Nair's Lawn Care, Inc. for Snow Plowing Services at the Environmental & Maintenance Services Center, George J. McMonagle Building, and Outlying Facilities. Cost: \$68,506.90.**

**Resolution No. 243-09**

**One-Year Requirement Contract with Ohio Machine Company/dba Ohio CAT for Stand-By Generator Maintenance for All District Facilities. Cost: \$304,179.00.**

**Resolution No. 244-09**

**Contract with Inland Waters Pollution Control for the Easterly Interceptor CSO 093, Huntington Garage Sewer Rehabilitation (EI-HSR). Cost: Not to Exceed \$1,055,679.38.**

Mr. Brown commented that there were some concerns regarding the Beneficial Reuse of Ash Pilot (hereinafter "BRAP") project, and he requested that Executive Director Ciaccia provide the Board with a brief overview of the project scope, the issues involving the proposals and the staff's recommendation to award the contract to Marous Brothers Construction (hereinafter "Marous").

Executive Director Ciaccia advised that the Manager of Environmental and Regulatory Support, Robin Halperin, will provide the Board with a brief overview of the BRAP project and the selection process used.

Mr. Brown explained that the District is at or near capacity for its ash storage and the District is required to find alternative means for the ash handling. Executive Director Ciaccia explained that the District has been incinerating for decades. The ash left after incineration has been stored onsite in the north fill area. Recently, the District has been filling the lagoons, which have reached full capacity. The ash must be moved offsite since the District no longer has any room for storing it. Ash is considered a solid waste and can be moved to a solid waste landfill, but this would be expensive and the District believed there were other feasible alternatives. Utilities such as the CWD, which manages their residuals in an ecologically-friendly manner, and the City of Akron have created a market for the handling of these types of material, and this could ultimately drive down the costs.

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Ms. Halperin provided the Board with an overview of the bid process, which was handled through the issuance of RFPs rather than competitive bids since permits will be required from the Environmental Protection Agency (hereinafter "EPA"). Executive Director Ciaccia indicated that the District wanted the contractors to be creative with their beneficial reuse of ash proposals since the District is seeking a long-term solution and not a one-year or two-year solution.

Discussion was turned over to Ms. Halperin.

Ms. Halperin stated that the District issued RFPs requesting an innovative, environmentally responsible and cost-effective approach to conduct this pilot scale project. Many vendors had different ideas on how to dispose of the District's ash including alternating daily cover at a landfill; recycling and blending the ash into topsoil; composting; or making bricks or other materials from the ash.

The RFPs were issued at the end of August and the District received five proposals from BioTech Agronomics, Independence Excavating and Kurtz Brothers, Inc., Marous Brothers and Emerald Environmental, Synagro Company, and Mr. Excavator.

The District's selection committee consisted of five District representatives from the Operations and Maintenance Department and Watershed Programs. This committee evaluated proposals for 10 different criteria, and 50% of the score was based on the proposed technical approach to be used. The committee was looking for a company having the qualifications and experience in handling this type of work and not just simply removing solid waste and stored in a landfill but actually gaining EPA approval and executing a successful reuse project. The committee was interested in determining how well the team understood the District's expectations and the regulatory process. The committee also reviewed the companies' involvement with similar projects. The committee rated the quality of the proposals.

Based upon the committee's evaluation, the teams of Independence Excavating and Kurtz Brothers, Inc. and Marous Brothers and Emerald Environmental both scored 86.8 out of 100 total points. The committee developed questions, clarified minor details on their proposals and further explored the expandability of their proposed reuse proposals. The committee was interested in determining which proposal was a better long-term solution and whether the market could be developed for this type of work thereby increasing the amount of ash that is recycled versus being stored in a landfill. It is the District's intention to prevent all District ash from having to be stored in the landfill.

The District's selection committee conducted interviews and reviewed the cost proposals. The team of Marous Brothers (hereinafter "Marous") and Emerald Environmental (hereinafter "Emerald") was determined to be the best bidder on the technical component

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and the second lowest bid submitted. The District negotiated with Marous and Emerald and made its recommendation to the Board for consideration to award the Beneficial Reuse of Ash Pilot project to the Marous/Emerald team. Ms. Halperin explained that Marous/Emerald had proven experience and knowledge in working with the EPA. Emerald has been recycling CWD's water treatment residuals for 10 years using the topsoil blending process, which is the same process they will use for the District's ash. Furthermore, Emerald has been recycling Akron's residuals for 13 years. The Marous/Emerald team has demonstrated proven experience in being able to handle the District's ash responsibly and in compliance with EPA regulations.

Ms. Halperin indicated that this is pilot project for both the District and the EPA since incinerated ash from wastewater sludge is categorized differently from water treatment residuals. Ms. Halperin stated that there are not standardized rules on the handling of ash, and having someone capable of communicating with the EPA is a vital role for the success of this project. The EPA would like to make this project a reality, but this will require much effort.

Executive Director Ciaccia stated that once this is established, future procurements will most likely be handled through the competitive bid process rather than the issuance of RFPs. Mr. Brown commented that after the project has been demonstrated, the District will compile a specification and advertise for bids. Executive Director Ciaccia affirmed and stated that the District is desirous of creating a market for this byproduct in order to increase competition.

Mr. Brown inquired whether a timeline for the process has been identified for both the EPA approval and cleaning of the lagoons. Ms. Halperin stated that two of the three lagoons reached full capacity, and the District needs to clean at least one lagoon this winter. According to Ms. Halperin, Marous and Emerald submitted their proposal to the EPA prior to the District and they have been discussing this project with the EPA for months. Ms. Halperin indicated that according to the EPA, the District should have something to move forward with this winter and this may either be on a temporary approval basis of a limited quantity or a final approval. The EPA will review the characteristics of the District's ash, the proposed topsoil blending process and whether the material is safe.

**MOTION** – Mayor Longo moved and Mr. O'Malley seconded to adopt Resolution Nos. 241-09 through 244-09. Without objection, the motion carried unanimously.

**Resolution No. 245-09**

**Sole Source Contract with Middough, Inc. for Professional Services for Electrical Substation Design of the Easterly Tunnel Dewatering Pump Station. Cost: Not to Exceed \$500,000.00.**

**Resolution No. 246-09**

**Contract with RGI International for the Construction of Interactive Displays at the Great Lakes Science Center during the 2009-2010 *H2O=Life!* Tour. Cost: Not to Exceed \$45,000.00.**

**Resolution No. 247-09**

**Retention of Bonezzi Switzer Murphy Polito & Hupp Co. L.P.A. to Represent the District in Labor Negotiations.**

**MOTION** – Mayor Longo moved and Ms. Kelly seconded to adopt Resolution Nos. 245-09 through 247-09. Without objection, the motion carried unanimously.

**Resolution No. 248-09**

**Awarding a seventeen (17) month requirement contract to FirstEnergy Solutions, 341 White Pond Drive, Akron, Ohio 44320, for the supply of the electrical power generation component for use at the District's outlying facilities.**

Mayor Longo commented that he was pleased and surprised with the responses.

Executive Director Ciaccia was pleased to have received three proposals, and that FirstEnergy Solutions (hereinafter "FES") decided to submit a proposal. FES was determined to be the lowest and best bidder, meeting the District's requirements. The District anticipates receiving substantial cost savings on its operating costs. Executive Director Ciaccia thanked Glenn Krassen and Deputy Director of Law, Lawrence English, on their efforts. Executive Director Ciaccia stated that this was a great effort which will result in future cost savings for the District.

Mr. Brown commented that this is another innovative approach in conducting business at the District. This is not business as usual. The District is looking for the opportunity to procure a commodity beneficial to the ratepayers and not accepting a monopoly on this

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market. Mr. Krassen provided the Board and the District with good information whereby the District and Board took advantage of that opportunity which resulted in a good outcome. Mr. Brown stated that the Board appreciated the due diligence conducted by the staff and it's outside counsel.

**MOTION** – Mayor Longo moved and Mr. O'Malley seconded to adopt Resolution No. 248-09. Without objection, the motion carried unanimously.

VI. Information Items

1. Capital Improvement Program Status Update.

Ms. Rotunno brought the Board's attention to an 11" by 17" pullout chart which was incorporated into their packets. In response to Mayor Starr's request for a summary form of the Capital Improvement Program (hereinafter "CIP") projects, staff compiled a detailed project list which included the financial information, contract amounts, contract modifications, and percentage of completion for each project.

Ms. Rotunno stated that the District has been actively bidding, and the Board authorized the advertisement for bids on larger projects including the Southerly Renewable Energy Facility (hereinafter "SREF") project, the Lee Road Relief Sewer (hereinafter "LRRS") project, the Southerly Substation Replacement (hereinafter "SSR") project and the Huntington Garage Sewer Replacement (hereinafter "HGSR") project.

The aforementioned projects were bid under the new revised front-end documents which include a new agreement, contract and general conditions. The bidding population, contractors and consultants are being introduced to the District's new front-end documents, and there will be an adjustment period. The District received many inquiries from the contracting community which will hopefully diminish over time as the District issues addenda and clarification to create a better understanding of the District's new bid process.

Executive Director Ciaccia clarified that the District has not "closed the door for anybody" and although some of the front-end documents and general conditions have changed, the District is willing to work with the contracting community so long as it is reasonable.

Ms. Rotunno explained that some of the bid dates may be delayed 1-2 weeks in order to accommodate any additional addenda needed to clarify or modify front-end language. Ms. Rotunno assured that in the event bid delays occur, those will not affect overall awards during target years.

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Ms. Rotunno referred to the Key Performance Indicator (hereinafter "KPI") table for the month of August, and listed to the right of that table were the KPIs for July. The District's CIP awards on a project basis reached 69% of its KPIs in July, and in August, the District awarded additional projects. The District improved on that KPI and has awarded 21 projects bringing it to a 70% compliance rating.

In August, the District reached 81% of its dollar value of awards compared to its goals, which was an improvement from the 76% in July.

The District is at 100% compliance with its engineer's estimates KPI. The low bidder remains within the 10% tolerance for the engineer's estimate.

Ms. Rotunno advised that the District continues closing its projects out less than 105% of the base contract amount and has achieved 100% of that KPI.

The District's goal is to close the contracts no more than 5% of the base contract amount, and the District has achieved 100% of that KPI.

Ms. Rotunno referred to graphic depicting the design Notices to Proceed (hereinafter "NTP"). The dark blue dashed line represented "where we may end up." The light blue bars and light blues lines represented "where we had planned to be." It is not likely that the District will achieve its goal for 2009. The contracts being awarded are the most critical to maintaining the District's operations and compliance status. This metric does not account for the asset management-based approach used to deliver the most crucial projects. Although the District is lagging on this KPI, the key projects are being delivered.

Ms. Rotunno moved discussion to construction projects, and she advised that "we are tracking a bit under currently as of August where we had planned to be." The dark blue line is below the light blue line, but staff plans making its recommendation to the Board for the consideration of several awards at future Board meetings and is anticipating coming close to meeting that KPI by the end of 2009. Ms. Rotunno advised that the District expects obtaining 34 NTPs this year which is 9 short of reaching 80%, which is the District's goal for 2009. The District projects awarding \$336 million by the end of 2009, which is \$54 million more than what was initially planned for this year.

Mr. Brown indicated that his concern was the District's ability to deliver projects on time since delays can be costly given inflationary factors and the cost of materials. A one year delay could potentially result in a 10% cost increases on projects and 10% of \$200 million will result in a \$20 million exposure. Mr. Brown stated that that as we continue developing our project delivery model, we must ensure that this model delivers District projects on time. Ms. Rotunno corroborated Mr. Brown's comments. She stated that

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inflation occurs throughout a 12-month period, and if awards were to roll over from December to January, the District would not experience the full 10% impact. Delivery is critical and the District has a team committed to delivering District projects.

Ms. Rotunno moved to the cash flow graph. The light blue bars depicted the District's goals and the dark blue bar represented the District's actual status. The District was approximately \$27 million behind on a cash flow basis. The cash flow graphic is new to the District and therefore there is no historical reference. In the past, contractors were not required to report on their cash flow, and in order to generate this graph assumptions had to be made including the linear cash flow projection of the projects currently in the queue. Ms. Rotunno explained that there were many legacy projects with large allowances which were built into the cash flow projections, and the District does not always spend 100% of those allowances. The District continues lagging in 2009 on a cash flow basis, but moving forward more of our projects will be delivered under the new bid process and the cash flow gap will close since the projects will be managed differently.

Ms. Rotunno moved discussion to the bids versus the engineer's estimates. Three projects were awarded in August under the new engineer's estimates and the District continues maintaining 6% under on the construction estimates relative to the lowest bid.

Ms. Rotunno moved discussion to the percentage of District projects closed out within 105% and usage of allowances. The total general allowances within the CIP are at \$7 million, and the total specific allowance is at \$3 million. General allowances require Executive Director Ciaccia's authorization, and he authorized \$767,000 of total available general allowance. The use of specific allowances requires Ms. Rotunno's authorization, and she authorized \$598,000 of those specific allowances.

Ms. Rotunno moved discussion to the contract closeouts. A project was closed out in August at 26% below the base contract amount since many line items were not performed or authorized. Ms. Rotunno stated, "that continues to build our metric on closing our projects with less than 5% authorized change orders above the base bid amount, which is a good thing." Mr. Brown agreed.

Ms. Rotunno advised the Board that the District continues to track Minority Business Enterprise (hereinafter "MBE"), Women Business Enterprise (hereinafter "WBE") and the SBE participation by using histograms and her desire is to utilize a cash flow method on those funds as well. According to Ms. Rotunno, it is difficult tracking with the histogram since the data is based on the percentage of completion.

Mr. Brown inquired when this information will be integrated into the CIP report. Ms. Rotunno stated that under the general conditions within the new front-end documents a

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new critical path methodology schedule submission will be utilized by the contractor wherein they will be required to include cash flow for the SBEs, and that data will be tracked as new projects are bid. Four projects have been bid under that contract provision. Executive Director Ciaccia added that this data will be blended through much of 2010. All new contracts will be under the new system, and he assured that the data is being tracked. Ms. Rotunno explained that it would be difficult requiring the contractors on existing jobs to submit their data on a cash flow basis since it was not a condition under the bid specification, and this type of administrative change would incur extra costs associated with the project resulting in contract modifications.

Mr. Brown commented that the Board receives its information at the front end of the contract, and although the Board is aware of the goals, "we have yet to be in the position to get the actual performance on those contracts." Mr. Brown indicated that he was uncomfortable with the Board not having this information on the old contracts. He was hopeful that the District can identify the performance indicators on these projects.

In response to Mr. Brown's concerns, Ms. Rotunno advised this information is available and can certainly be provided the Board. Furthermore, the Office of Contract Compliance is also planning their quarterly report which may also include project by project recordings. Mr. Brown advised that he would appreciate receiving this information and that it would be helpful to the Board.

VII. Open Session

Mr. O'Malley opened discussion about Project Labor Agreements (hereinafter "PLAs"). He was interested in entertaining future discussions and "adopting enabling language that would let us enter into PLAs with the Cleveland Building Trades Council (hereinafter "CBTC"). Mr. O'Malley referred to the current economic crisis and stated that Cleveland has one of the highest unemployment and poverty rates in the country.

Mr. O'Malley stated that a PLA is an agreement entered between the CBTC and an entity and has been used many times in our region. The PLA is used for both public and private agencies. Some public entities that have entered into PLAs include the Cities of Parma, Cleveland, North Olmsted and Euclid. Private entities entering into PLAs include University Hospital, which currently has a \$1.2 billion project under a PLA, and the Cleveland Clinic. The Cleveland Browns Stadium and the Rock and Roll Hall of Fame were successful PLA projects. Mr. O'Malley stated that President of the United States, Barak Obama, and Governor of the State of Ohio, Ted Strickland, support PLAs.

Mr. O'Malley stated that given the volume of District projects, more people have become interested in Cleveland jobs, and that the money is being taken back to their hometowns throughout the country. Mr. O'Malley believed that the use of PLAs would keep jobs in



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the Cleveland-area and not send the ratepayers' money back to Texas, Mississippi, Michigan or any other areas outside of our region. PLAs would ensure that people within this region are completing the work, jobs would be completed on-time and under budget, and that job stoppages would not affect the project delivery, which would address the previous mentioned concerns of the cost of inflation on delayed projects.

Mr. O'Malley advised that he will not be present at the November 5<sup>th</sup> Board meeting, therefore, he suggested that on the November 19<sup>th</sup> Board meeting the agenda include an opportunity for the Board to openly discuss the benefits that PLAs would bring to this region. Mr. O'Malley was hopeful that the Board would establish some type of language that would provide the ability to look at each job individually in order to identify whether the District would benefit from the use of PLAs on certain District projects.

Mr. Brown indicated that he understood Mr. O'Malley's concerns and that he supported the PLA discussion to be included on the November 19<sup>th</sup> agenda which he believed would be a topic of interest for the entire Board. Mr. Brown requested that the Board receive insight from both the Law Director and the Board's outside counsel as to the history of PLAs, the pros and cons on particular circumstances, and whether PLAs are advantageous. Mr. Brown suggested that prior to crafting language allowing the Board to enter into PLAs on a project by project basis, the Board should have a working knowledge of PLAs and whether they will be effective on District projects. Mr. Brown stated that he is willing to have the PLA discussion with the Board.

Executive Director Ciaccia advised that Mr. O'Malley discussed this issue with Ms. Sundheimer and himself over the last few weeks, and that staff has begun to research this topic. He believed that staff will be able to frame the issues for the November 19<sup>th</sup> meeting and garner that discussion, but he was interested in obtaining some further direction from the Board. Executive Director Ciaccia was aware of Mr. O'Malley's concerns, and they met with the CBTC. Attorney Craig White was also involved in those discussions and has conducted some advanced work on this issue. Executive Director Ciaccia stated that staff will be ready for the PLA discussion at the November 19<sup>th</sup> meeting.

Mr. Sulik requested that the PLA information be provided to the Board at least two to three weeks in advance of the November 19<sup>th</sup> meeting which will provide the Board ample opportunity to review the materials and prepare for the discussion.

Mr. Brown appreciated the comments made, and he indicated that in order to have a meaningful discussion on the PLA issue, the Board must obtain a decent level of understanding on the subject matter. There are pros and cons to using PLAs and they may not be beneficial on every project. There may be opportunities for the use of PLAs on the larger scaled projects. Mr. Brown advised that he supported engaging in a PLA

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discussion with the full Board. Mr. Brown described the District as having its own stimulus package since the District has the ability to help stimulate the economy, and he stressed the importance of the District to make wise investments.

Executive Director Ciaccia stated that staff will provide the Board with PLA information at least three weeks prior to the November 19<sup>th</sup> meeting and that they will also frame issues 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 matter for discussion in Executive Session.

**MOTION** – Mr. Sulik moved and Ms. Kelly seconded to enter into Executive Session to discuss labor negotiation matters and to specifically designate all matters discussed in Executive Session to 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.

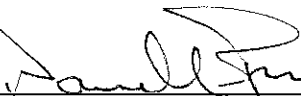
The Board met in Executive Session from 1:32 p.m. to 2:04 p.m.

X. 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 2:05 p.m. Without objection, the motion carried unanimously.



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Ronald Sulik, Acting Secretary  
for Dean E. DePiero  
Board of Trustees  
Northeast Ohio Regional Sewer District



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