

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
NOVEMBER 5, 2009

Meeting of the Board of Trustees of the Northeast Ohio Regional Sewer District was called to order at 12:33 p.m. by Darnell Brown.

I. Roll Call

PRESENT: D. Brown
G. Starr
D. DePiero
S. Kelly
T. Longo
R. Sulik

Mr. O'Malley was absent.

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

II. Approval of Minutes

MOTION – Mayor DePiero moved and Ms. Kelly seconded that the minutes of the October 22, 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.

IV. Executive Director's Report

Executive Director Ciaccia congratulated Mayor Starr on successfully being re-elected to the position of Mayor of the City of Middleburg Heights.

Executive Director Ciaccia moved to the first report item regarding the Combined Sewer Overflow Long Term Control Plan (hereinafter "CSO LTCP"). A meeting was held on Monday, November 2nd with the state and federal governments to discuss geotechnical

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issues associated with the proposed tunnels to be constructed for the CSO LTCP. According to Executive Director Ciaccia, the meeting went well and there will be a subsequent meeting to discuss the District's alternative plan which was submitted to the governments for consideration.

Executive Director Ciaccia moved to the next report item, and he informed the Board that on November 28th through November 29th, Government Affairs Specialist, Darnella Robertson, Deputy Director of Law, Lisa Hollander and himself attended a series of meetings with the District's delegation in Washington D.C. On November 28th, the group held a strategy session with the District's federal advocacy firm, Alcalde & Fay (hereinafter "Alcalde"), and they received a presentation on the climate change bill, which will impact the District in the future.

District representatives met with Tony Baker and Tom Tilton from U.S. Representative Betty Sutton's office to discuss the CSO LTCP. Meeting discussions included the District's commitments for the CSO LTCP, anticipated rate impacts for this region, and alternative funding options in order to mitigate exposure to our customers. Executive Director Ciaccia advised that District representatives met Representative Sutton in person later on November 28th.

Executive Director Ciaccia advised that District representatives met with Brandon Garrett from Congresswoman Marcia Fudge's office to inform them of the implications of the CSO LTCP. District representatives met Congresswoman Fudge on November 29th.

Executive Director Ciaccia advised that that District met with Senator Sherrod Brown and Jonathan McCracken and both gentlemen had a good grasp of the issues associated with the LTCP and CSOs. Executive Director Ciaccia stated that this was a very good meeting.

Executive Director Ciaccia advised that one of the common themes that surfaced at those meetings was potential funding options through the \$475 million allotted to Great Lakes projects, which the District will look into.

On November 29th, the District met with Laurie Henninger from Senator George Voinovich's office who has a good understanding of the issues facing the District.

The District met with Congresswoman Eddie Bernice Johnson of Texas and Congresswoman Marcia Fudge. According to Executive Director Ciaccia, this was a significant meeting. Congresswoman Johnson is the chairwoman of the House Subcommittee on Water Resources and Environment, and she has also been instrumental in the Water Resources Development Act (hereinafter "WRDA") bill, which is a funding source for projects. Congresswoman Johnson provided the District with the criteria of

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projects she is interested in, and some of the District's stormwater projects and CSO LTCP projects may qualify for funding associated with the WRDA bill. Executive Director Ciaccia expressed his desire of having Congresswoman Fudge's support of a funding bill wherein Congresswoman Johnson indicated that she would like to see that as well.

District representatives met with Vic Edgerton of Congressman Dennis Kucinich's office.

District representatives met with Congressman Steven LaTourette and his staff member, Laurie Groves-Rowley. Congressman LaTourette understood the issues facing the District and he informed the staff of potential funding sources in the federal government. Congressman LaTourette is a co-sponsor of the Clean Water Trust Fund.

According to Executive Director Ciaccia, those were very productive meetings and this is his third time meeting with the majority of the District's delegation. Executive Director Ciaccia was pleased that he had the opportunity to personally meet with most of the representatives. He advised that District staff previously met with Congressman Kucinich and Senator Voinovich during its last visit to Washington D.C. Executive Director Ciaccia assured that the District staff will continue meeting with their delegation, and that there is a much follow-up to be completed by Ms. Robertson, Ms. Hollander and Alcalde & Fay. The District identified projects that are good candidates for funding.

Mr. Brown referred to the \$475 million funding allotted to Great Lakes projects. He inquired when that funding will be available and which entities are eligible to apply for said funding. Director of Watershed Programs, Frank Greenland, was unsure of the timeframe. There are different funding sources for different types of projects including invasive species, sediment control, erosion control, and stream restoration. There are opportunities for the District to obtain funding or leverage funding for the member communities. The District will examine this bill in order to determine the types of projects applicable for funding. Mr. Greenland explained that different government agencies "control different pots of money" and he was unsure if this changed. The District and watershed groups will be eligible for funding and will be required to follow a application process similar to the Water Resource Restoration Sponsor Program (hereinafter "WRRSP").

Mr. Brown inquired if "a pot of money set aside for sensitive waters of the state as defined by our good friends in Columbus." Mr. Greenland replied that a "well-written project description that includes that reference should be accounted for in the scoring of that project."

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Mr. Brown suggested that the District conduct its due diligence and retain a good lobbying firm. Mr. Brown inquired whether the District's delegation was aware of the anticipated double digit rate increases facing the customers within this region. The District staff and Board will be held responsible for these double digit rate increases resulting from the federal government passing unfunded mandates. Mr. Brown commented that although the District's delegation understands and has recognized what the District faces, they cannot individually "do what is required to bring some money home." They need to collaborate in the interest of their constituents. We will be better served if our delegation does something to mitigate the financial impacts facing this region.

Executive Director Ciaccia stated that he stressed this point with our delegation. One of the representatives commented that "they're going to run you out of town" and Executive Director Ciaccia explained that this would not be the case since this is mandated by the federal government.

Executive Director Ciaccia stated that he continues to personally meet with the mayors of the member communities to prepare everyone for what is coming down the pike. Although there probably will not be enough money in the coffers to make a significant difference, our delegation should show their support on behalf of their constituents to prove that they have done their part.

Mr. Brown participated in a meeting at the Water Environment Federation's Annual Technical Exhibition and Conference (hereinafter "WEFTEC") that discussed Kansas City's CSO LTCP. Kansas City was locked into a consent decree allowing them up to four CSO discharges per year; however they wanted six CSO discharges per year. Conversely, the District is negotiating up to four CSO discharges and the government countered with zero, which is a significant cost difference. It will be interesting to see the outcomes of negotiations throughout the country that are environmentally responsible but not cost prohibitive.

Executive Director Ciaccia commented that factors contributing to our negotiation with the Environmental Protection Agency (hereinafter "EPA") include the sensitive waters designation and also the EPA region in which we are located. Some regions may choose to move forward more aggressively than others and that is "the nature of the beast."

Mr. Brown commented that given the sensitive waters designation and zero CSO discharges, we need to influence the people at the top since the "difference between zero and four is hundreds of millions of dollars out of somebody's pocket." Mr. Brown commented that "the cavalry has to get mounted and we have to charge to make sure that everyone understands that we are not trying to shirk our responsibilities," but there are significant costs associated, and how much will we benefit from going beyond a

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reasonable program. Mr. Brown commented that those discussions are occurring at the federal level but we should also receive support from the state.

Mayor Longo stated that Mr. Brown "was right on the money." If another part of the country can have four overflows, why are we required to have zero. This should be a rallying point for our congressional delegation since it will cost their constituents hundreds of millions of dollars to achieve this goal. Mayor Longo commented that pressure from our congressional delegation could be immense, and "if we have to suffer with zero, so should Kansas City."

Mayor Longo stated that the District has put forth a significant amount of funding for the project behind the Cleveland Municipal Housing Authority (hereinafter "CMHA") on West 25th Street. Mayor Longo questioned if this type of erosion and sewer project qualifies for federal funding from the \$475 million allotted for Great Lakes projects. Executive Director Ciaccia advised that this project would probably not qualify for the \$475 million, but there may be other avenues to pursue funding. Mayor Longo stated that Congressman Kucinich and especially Senator Voinovich "should be on that."

Ms. Kelly commented on Mr. Brown's suggestion for the District to hire a lobbyist and she recalled in a previous meeting wherein the Board authorized those services, and she questioned the effectiveness of utilizing a lobbyist. Executive Director Ciaccia stated that an advocacy firm and lobbyist is one in the same. The District met with Alcalde in Washington D.C. prior to attending the various meetings with our delegation. This was Alcalde's first effort on our behalf which he believed to be successful. Alcalde was instrumental in facilitating the meeting between District staff and Congresswoman Johnson who is not in our delegation but is very prominent in the Congress. Alcalde is expected to follow up with the representatives and provide the District with more contacts.

Mr. Brown requested that District staff follow up with the Board as to their perception of the tools and strategies being used by our federal advocates and whether they are producing opportunities for the District.

Executive Director Ciaccia advised that staff will keep the Board apprised of the outcomes. The services provided are contingent upon what is budgeted for and in the past, the advocates mainly accompanied staff to meetings. Executive Director Ciaccia is expecting a higher level of follow-up and continual contact between the people in Washington D.C.

Mr. Brown commented that this will be an ongoing issue for the District and criteria should include the ability to find and locate funding sources wherein Executive Director Ciaccia advised that this is primary benchmark for the federal advocates.

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Executive Director Ciaccia moved to the next report item regarding the passage of Cuyahoga County reform Issue 6 and how it will affect the District. The Cuyahoga County Commissioners are the appointing authority for one Board Trustee seat, which is currently held by Mayor DePiero, whose term expires in 2012. This reform will require the District to address the appointing authority under the Court Order and determine whether it should be changed to the "County Administrator" or "County Council" but this will be at the Board's discretion. Executive Director Ciaccia suggested that this issue be referred to the Governance Committee for consideration. Mr. Brown agreed and referred this matter to the Governance Committee.

Executive Director Ciaccia moved to the next report item regarding Project Labor Agreements (hereinafter "PLAs"). At the October 22nd Board meeting, Mr. O'Malley requested that the Board and staff consider having discussion at the November 19th Board meeting regarding the use of PLAs on District projects. An attorney from the Cleveland Building Trades Council (hereinafter "CBTC") will make a presentation at the meeting. Executive Director Ciaccia was hopeful that the Board found the information provided by Director of Law, Marlene Sundheimer, to be useful. Craig White, legal counsel to the Board, has also participated in some of the meetings with Ms. Sundheimer, and he is also a good source for the Board given his past experience as former legal counsel to the CBTC.

V. Action Items

Authorization to Advertise

Resolution No. 249-09

Two-Year Requirement Contract for the Lighting and Fixtures Product Class for Use at All Wastewater Treatment Plants and the Environmental and Maintenance Services Center. Anticipated Expenditure: \$33,100.00.

MOTION – Mr. Sulik moved and Mayor Starr seconded to adopt Resolution No. 249-09. Without objection, the motion carried unanimously.

Authorization to Issue Request for Proposals (RFPs)

Resolution No. 250-09

RFPs for Easterly Wastewater Treatment Plant Chemical Storage and Feed Facility, Contract EFPI-3.

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Resolution No. 251-09

**RFPs for Southerly Wastewater
Treatment Center Preliminary
Treatment Facility Improvements,
Contract SFPI-1.**

MOTION – Mayor Longo moved and Mayor DePiero seconded to adopt Resolution Nos. 250-09 and 251-09. Without objection, the motion carried unanimously.

Authorization to Purchase

Resolution No. 252-09

**Replacement Parts for the Degrit
Electrical System Rehabilitation at the
Southerly Wastewater Treatment Plant.
Anticipated Expenditure: \$140,000.00.**

MOTION – Ms. Kelly moved and Mr. Sulik seconded to adopt Resolution No. 252-09. Without objection, the motion carried unanimously.

Authorization to Enter into Contract

Resolution No. 253-09

**Contract with C. D. Whitfield Company
for Easterly Air Handling Units Coil
Replacement Project. Cost: Not to
Exceed \$90,482.00.**

MOTION – Mayor Longo moved and Mayor Starr seconded to adopt Resolution No. 253-09. Without objection the motion carried unanimously.

Resolution No. 254-09

**Contract with MWH of Americas, Inc.
for Tunnel Dewatering Pump Station
Project. Cost: \$13,795,756.00.**

Mayor DePiero requested an explanation on Resolution No. 254-09. Director of Engineering and Construction, Kellie Rotunno, advised that this is for the design, construction and construction administration services for the Easterly Tunnel Dewatering Pump Station (hereinafter "ETDPS") project associated with the Euclid Creek Tunnel (hereinafter "ECT") and Dugway Storage Tunnel (hereinafter "DST"). The ETDPS is part of the District's CSO LTCP and will pump from its proposed location at the Nine Mile Creek (hereinafter "NMC") property to the Easterly Wastewater Treatment Plant (hereinafter "WWTP") for treatment.

Mr. Sulik inquired about the timeframe of the ETDPS. Ms. Rotunno replied four years before the pump station will be designed and constructed.

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Mr. Brown inquired about the construction budget for the ETDPS. Ms. Rotunno replied that the construction budget will be determined after preliminary value engineering assessments are made, and that many concepts are under consideration. Ms. Rotunno estimated the project to cost between \$100 million and \$140 million.

Executive Director Ciaccia inquired how long the design for this project will take. Ms. Rotunno advised that the design will take two years. Mr. Brown inquired about the length of the construction on the ETDPS. Tim O'Rourke from the Wade-Trim program management team reported to the podium. He advised that the design will take less than two years and it will be about a three year construction period.

Mr. Brown inquired how construction of the ETDPS will impact that portion of the service area which is primarily serviced by the Lakeshore interceptor and is under capacity. Mr. O'Rourke stated that ETDPS will dewater the flow captured during wet-weather events. The flow will be pumped into an existing interceptor and carried to the Easterly WWTP for treatment.

Executive Director Ciaccia added that the Board had previously authorized a contract with Hatch Mott MacDonald for the design of the ECT. Mr. O'Rourke advised that the ECT will be bid at the end of summer in 2010. The next phase includes the design of the DST.

Mr. Brown inquired whether these components are part of the CSO LTCP wherein Executive Director Ciaccia affirmed.

Ms. Rotunno added that "the sizing of this particular tunnel system and the pump station remain consistent with our proposed plan and do not represent any significant changes in the levels of control from our proposed plan." Mr. Brown commented that this is important for reasonable level of control.

MOTION – Mayor Longo moved and Mr. Sulik seconded to adopt Resolution No. 254-09. Without objection the motion carried unanimously.

Resolution No. 255-09

2010 Renewal of Annual Maintenance and Support with ESRI, Inc. for Software Tools. Cost: \$31,100.00.

Resolution No. 256-09

2010 Renewal of Annual Maintenance and Support with Kronos, Inc. Cost: \$29,585.25.

MOTION – Mayor Longo moved and Ms. Kelly seconded to adopt Resolution Nos. 255-09 and 256-09. Without objection, the motion carried unanimously.

Authorization of Contract Modification

Resolution No. 128-09a

Contract No. 09001069 with Stevens Painton Corporation for the Train Avenue Relief Sewer – Contract TARS Project. Cost: An Increase Not to Exceed \$46,524.15 Bringing the Total Contract Amount to \$1,921,744.15.

Mr. Sulik requested clarification on Resolution No. 128-09a. Ms. Rotunno advised that the Train Avenue Relief Sewer (hereinafter “TARS”) project will receive stimulus funding under the American Recovery and Reinvestment Act (hereinafter “ARRA”). Since this project was bid prior to receipt of said funding, the contractor did not initially incorporate the accounting provisions necessary in order to be in compliance with the ARRA reporting standards. The District will receive over \$1 million in funding for the TARS project and it is costing us \$46,000.

Ms. Kelly inquired if this is the first contract modification for the TARS project. Ms. Rotunno affirmed.

MOTION – Mr. Sulik moved and Mayor Starr seconded to adopt Resolution No. 128-09a. Without objection, the motion carried unanimously.

VI. Information Items

1. NEORSD Financial Report and Investment Advisor Performance Report for the Ninth Month Period Ending September 20, 2009.

Director of Finance, Jennifer Demmerle, advised that the third quarter Financial Statement and Investment Advisor Performance Report provides more detailed financial information than what is provided in Executive Director Ciaccia’s monthly Board report.

Mr. Sulik observed that the revenues are falling short of what was initially projected, and he questioned if this was a result of the foreclosures. Ms. Demmerle stated that the District’s consumption decreased and some adjustments were made since the implementation of the new billing system with the City of Cleveland Division of Water (hereinafter “CWD”). The District had to estimate its data for September when the new billing system was implemented and there were some reporting issues. CWD is working through those issues and the District is meeting with CWD on Tuesday, November 10th to

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address some of those concerns which should be rectified prior to November's month-end report.

Mr. Brown inquired as to the estimated percentage of the decline in revenue. Ms. Demmerle observed a 9% to 12% decrease. Prior to implementation of the new billing system, there was much data clean-up which resulted in the adjustments having to be made within the system which affected the revenues. Those adjustments are being analyzed in order to place them in the proper period since adjustments occurred over two or three years and hit our revenues in 2009. Ms. Demmerle advised that once this determination is made the District will restate its financial statements.

Mr. Sulik was under the impression that the CWD system was working properly. Ms. Demmerle stated that there are no major problems with the billing system and that the issues involve the reporting and reconciliation between the old and new systems.

Mr. Sulik questioned if this resulted from customers now sending in one check for water and sewer instead of two separate checks. Ms. Demmerle did not believe the issues stemmed from transferring to a single bill but that people are trying to familiarize themselves with the new system, the money intake and reporting requirements. Ms. Demmerle stated that the new billing system went live on September 24th instead of the end of a month. We are still trying to work through some glitches.

Executive Director Ciaccia advised that there were some accounting issues since the revenues are down but the cash is up. There were also some issues with the summer sprinkling program, which will be addressed. Executive Director Ciaccia advised that this was a massive conversion which fortunately did not impact the customers, but affected the accounting system, and this will need to be addressed.

Mr. Sulik inquired if the investment advisors predict an increase in the interest rates. Ms. Demmerle stated that rates will continue to be low and there will not be much relief over the next year. The District will conduct its due diligence and continue to invest as much as possible.

2. Update on Title V Stormwater Management Code.

Executive Director Ciaccia advised that Mr. Greenland will present the Board with the proposed Title V, Stormwater Management Program, of the *Code of Regulations of the Northeast Ohio Regional Sewer District* (hereinafter "Code"). Staff presented this information to the Governance Committee and the Committee authorized staff to present the draft SMP Code to the full Board. Staff was seeking Board authorization to send the draft SMP Code to the member communities for their review and comment. Furthermore, the District will hold public meetings throughout the service area.

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Executive Director Ciaccia then turned discussion over to Mr. Greenland to provide the Board with an overview of the proposed SMP Code, Title V.

Mr. Greenland advised that the District has had the Code for quite sometime and that it has been revised over the years. The Code consists of four sections including Title I – Sewer Use Code, which outlines the rates; Title II – Pretreatment Regulations, which allows the District to administer the federal pretreatment regulations to industries; Title III – Separate Sanitary Sewer Code, which resulted from grant requirements and covers the Community Discharge Permit Program; Title IV – Combined Sewer Code, which was implemented following federal CSO policies and state CSO strategies. The District reserved Title V for the anticipated SMP Code.

Mr. Greenland advised that there are 10 chapters under Title V and that each section is referenced within the handouts.

Mr. Brown encouraged the Board to ask questions throughout the presentation.

Mayor Starr commented that there are 62 member communities within the service area, and he questioned how the SMP will impact new developments within those 62 political subdivisions. If a new subdivision is constructed, will there be an extra bureaucratic step within the process or will permits to be reviewed. Mayor Starr made reference to section 5.0508 of the SMP Code.

Mr. Greenland replied that with respect to wastewater, the Ohio EPA requires the District to review community plans if they are requesting a permit to install (hereinafter “PTI”) new sewers in developments or residential areas. The District must determine whether it has the capacity to accept wastewater from those new developments. Conversely, the District intends following a similar protocol with the SMP. Communities have requirements at the local-level for development plans, site reviews and stormwater management plan reviews. The District intends working with the communities during their review phase in order to examine the stormwater management plans for new developments, especially if they are connecting to the regional sewer system. The District will work with the city engineer while concurrently reviewing the site plans. Mr. Greenland commented that the District does not consider this process to be an administrative burden and that the District does not want to cause any delays at the community level, but we need to do this in order to understand changes within the regional system while protecting the regional and community systems. It is not the District’s intent to create more problems within the regional or local systems.

Mayor Longo commented that the language “shall provide” was used and he questioned if this is mandatory rather than advisory. Mr. Greenland replied that “we are asking you to provide...”

Mayor Starr inquired if a builder constructs five lots in a residential subdivision, is he required to bring plans to the District. Mr. Greenland stated that this is contingent based upon the requirements at the community level and that these requirements are typically for larger projects. Mayor Starr requested a definition of larger projects. Mr. Greenland replied industrial warehouse, office building and large developments. Mayor Starr requested a definition of large developments. Mr. Greenland replied that he did not have the exact number of households that would be considered as a large development.

Mayor Starr inquired whether the District will have to “stamp some sort of approval.” Mr. Greenland clarified that this is “a review with a District return of comments regarding a development,” and that the District intends working cooperatively with the communities.

Mayor Starr commented that “we are doing Phase 2 Stormwater now and most of us have the Cuyahoga County Soil Conservation District as advisors” and he questioned whether this will be an additional step or duplication. Mr. Greenland advised that this is not duplication but a vital step in order to understand changes of stormwater patterns and to provide advice and comments to the communities so that we are not creating new problems within the service area. The District has no other mechanism to understand the changes in the regional systems which is necessary in order to protect the District’s investments.

Mr. Brown inquired if the current review is more site-specific wherein Mr. Greenland affirmed. Mr. Brown inquired if this is an effort to identify the impacts on the regional stormwater system. Mr. Greenland advised development of the stormwater master plans will begin early in the SMP which will include input from the communities. The District will develop short- and long-term capital improvement plans (hereinafter “CIP”) in order to prioritize the SMP projects. The SMP will be a cooperative program with all of the communities to solve problems and not to create new issues or add to the costs of the solutions.

Mayor Starr referred to costs associated with the SMP which were explained on pages 17 and 18 of the document. Of the three tiers listed, he inquired which tier was for commercial properties. Mr. Greenland advised that commercial is separate and that the three tiers relate to residential parcels. Commercial fees are established within the SMP Code and will be covered in further detail during the presentation. The District established 3,000 square feet of impervious area as the Equivalent Residential Unit (hereinafter “ERU”) charge, which represents the typical amount of impervious area on the average residential lot, which is not the square footage of the house. Mayor Starr inquired if this includes roofs, driveways and sheds. Mr. Greenland affirmed.

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Mayor Starr inquired as to what is considered a typical lot because 35 feet in Middleburgh Heights versus 75 feet in Gates Mills is five acres. Mr. Greenland advised that the ERU calculation is based on impervious area and not acreage. The District analyzed its housing stock across the service area wherein it was determined that 70% of the housing stock has between 2,000 to 4,000 square feet of impervious area; 10% to 20% of the houses have less than 2,000 square feet of impervious area and are considered small houses; and 10% to 20% are very large houses.

The average ERU was determined to be 3,000 square feet of impervious area. If a commercial lot is 10 times larger, then the impervious area would be calculated as 30,000, or 10 times the average ERU of 3,000. We want to maintain equity throughout the region.

Mayor Starr inquired if the District will have a profile for each parcel wherein Mr. Greenland affirmed. Mayor Starr inquired of the 62 member communities how many parcels have been analyzed. Mr. Greenland stated over 500,000 parcels have been analyzed with the use of satellite imagery and Cuyahoga county records. Mr. Greenland stated that it is an enormous task but we are doing a good job.

Chapter 1 – Title and Distribution, Applicability and Statutory Authority

The SMP is applicable to all parcels within the District's wastewater treatment service area. There are customers within the defined service area that are septic tank customers or do not receive wastewater service from the District but generate stormwater, and those customers will be included in the SMP. A good example is parking lots which do not receive wastewater treatment but generate a lot of stormwater.

Communities can petition to join the District for stormwater-only service if they are not currently serviced by the District for wastewater treatment. The District is open to any customers desiring wastewater and stormwater management, and a provision is being developed to allow for communities to be stormwater-only customers which will result in greater management and protection of the watersheds.

Mr. Greenland advised that the Title V, Section 5.0107 does not infringe upon member communities' management and maintenance of local storm sewer systems and will be comparable to the District's responsibility of regional wastewater systems.

Mr. Greenland referred to a color-coded graphic depicting the major watersheds served by the District including Rocky River, Cuyahoga River, Chagrin River and the Lake Erie tributaries. The red represented the District's service area, and those areas within that boundary will be included in the regional SMP. The blue lines represented 450 miles of the regional stormwater system which includes streams, storm sewers and culverts.

Chapter 2 – Definitions

No discussion.

Chapter 3 – Findings and Purpose

Flooding and erosion continue to threaten public and private properties and a watershed approach is needed to manage this intercommunity problem. Adequate funding is necessary in order to address these issues, and an impervious area based fee provided the most equitable system to generate revenue for funding of the SMP.

The purpose of the SMP is to comprehensively manage the regional stormwater system and to support community efforts by providing technical assistance and guidance to cooperatively solve problems. The District will develop watershed-based Stormwater Master Plans with community input.

The District will construct capital improvement projects to solve long-standing stormwater problems as well as operate and maintain the regional stormwater system.

Chapter 4 – Administration

Mr. Greenland advised that Chapter 4 establishes the rules, policies and procedures that will allow the District to administer the SMP Code. The District is developing a Stormwater Fee Credit Policy Manual to inform and guide customers of the credit program.

Mayor Longo questioned if the District plans to implement watershed-based Stormwater Master Plans, and will the master plans of developing areas such as Mill Creek dovetail into the District's SMP. Mr. Greenland advised that the District will build upon those previous efforts. Any prior efforts will be valuable by assisting the District in determining stormwater drainage issues, priorities and solutions. Mayor Longo advised that "we have one" and he questioned if "we will be working hand in hand." Mr. Greenland affirmed. There will also be Watershed Advisory Committees (hereinafter "WAC") which will include community officials and other entities. Mayor Longo stated that some communities have not yet developed this type of approach.

Mr. Greenland advised that there are provisions for stormwater fee adjustments and that although we are doing a great job with the QA/QC of the billing data, there may be times where fees need to be adjusted or changes made to the data. A Billing Policy Manual will be crafted to cover all aspects of the billing. Stormwater fee adjustment provisions and the appeals procedure for customers were also incorporated into Chapter 4.

Chapter 5 – Authority and Responsibility

This chapter establishes the District's role in managing and maintaining the regional stormwater system. The District will utilize WACs during the stormwater master

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planning process. The District will monitor changes which will help with the SMP going forward.

Mayor Longo inquired about the Cuyahoga County Sanitary Engineers role, and he questioned "what will happen with the existing setup to make it more palatable to tie-in with everything that we are going to be doing?" Executive Director Ciaccia stated, "that is probably a conversation that we are going to be having." The Cuyahoga County Engineer has established roles and given the changes within the structure of the County it is appropriate to discuss whether "they need to be in that business or whether there is another entity that needs to take that over." Discussions were previously held with the County and under the new structure and management the District will be prepared to engage further discussions. Executive Director Ciaccia stated that this dovetails the expanding role the District has with clean water issues throughout our region. Mayor Longo suggested that the Soil and Water Conservation District be included.

Mr. Greenland advised that the stormwater master planning process will begin early in the SMP and will help identify operation and maintenance (hereinafter "O&M") plans and CIPs by watershed area. Each watershed will have specific O&M plans and CIP plans. The involvement of community officials will help us to understand the problems, solutions and priorities.

Mr. Greenland advised that stormwater master planning is necessary to prioritize the project recommendations across the service area. Mr. Greenland referred to a slide depicting problem locations and as discussions continue with the communities this map may change.

Mr. Brown commented that prioritizing projects within each of the watersheds is important since stormwater problems in one community could affect stormwater issues in another community. Stormwater projects constructed in other communities will improve the impacts to the regional stormwater system.

Mayor Longo commented that "you cannot stop there" and we have to "improve the chances for economic development" and stopping flooding in one area will improve that particular corridor but you have changed the dynamics for an entire area.

Mayor Longo commented that there are also quality of life issues and educational opportunities. Schools have not yet "approached the impact that the watershed has on everybody's life." By teaching children from kindergarten age as to what this means to them and their future coupled with the local hospitals being tied into the quality life issues, then this "could really take on a life of its own."

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Mr. Greenland agreed and he advised that the District is looking beyond community borders and will identify priorities on a watershed basis. The message being given to the communities is that money spent on projects upstream will solve problems in downstream communities. The District will use the SMP to manage stormwater problems while creating opportunities or amenities going forward. Many stormwater solutions result from on-site stormwater management, creating or linking parks and community amenities.

Mr. Greenland referred to a slide which listed potential early action construction projects wherein communities may have already completed some engineering or planning and that the projects are viable and not going to create stormwater problems elsewhere. There were approximately 18 projects on the list and some of those projects may change going forward.

The District's responsibilities will include performing the inspection and maintenance of the regional stormwater system, blocking culverts and addressing problems along the streams. The District will promote green infrastructure and utilize natural stream restoration methods. Mr. Greenland advised that onsite stormwater management is necessary.

Mr. Greenland advised that the District will be reviewing community stormwater management plans in order to monitor stormwater impacts to the regional system and to ensure that we are not creating additional problems.

Chapter 6 – Standards and Requirements for Stormwater Management

The District is asking that member communities to adopt the stormwater standards consistent with the Stormwater Phase 2 general permit requirements. The District is reserving the right to develop additional standards in order to protect the regional stormwater system, in the future. In order to understand whether additional standards are necessary to better protect the regional stormwater system, the District is planning to complete the stormwater master planning and initial SMP implementation first.

Mayor Longo suggested that instead of approaching this from an engineering standpoint we should follow the Metroparks' approach and use conservation, quality of life, clean water and green infrastructure. Mayor Longo suggested that we start formulating our strategy.

Mr. Greenland stated that this is the premise of the District's SMP. The District met with the Metroparks when the SMP discussion first began, and the image of the District at that time was that we were a big pipe agency and simply building pipes will not work for stormwater management. According to Mr. Greenland, "we have heard some good things recently from external parties about the District's image" regarding its desire to

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implement green infrastructure and conservation methods, and these are already happening and we need to keep the ball rolling.

Mr. Greenland advised that inappropriate connections to the regional stormwater system shall be eliminated. The Board expressed their desire for language to be included within the Code to address situations similar to the recent cooking oil spill on the Cuyahoga River. This section will provide the District with the authority to eliminate the inappropriate connections.

Chapter 7 – Stormwater Fees

The District will establish a separate stormwater account and fees will be based on the calculation of the amount of impervious surface of a parcel. Stormwater exemptions will include public road rights-of way, railroad rights-of-way, less than 400 square feet impervious surface and non self-supporting municipal functions in member communities.

Mr. Brown inquired whether the exempt parties were free from having to demonstrate stormwater practices. Mr. Greenland inquired whether Mr. Brown was referring to them needing to utilize practices that are appropriate in order to protect the regional stormwater system. Mr. Brown affirmed.

Mr. Greenland advised that the District is the regional integrator and must be the convener at the table during discussions with other entities. The Ohio Department of Transportation (hereinafter "ODOT") will be charged for their service yards but not the roads. The roadways will impact the regional stormwater system, and we need to be at the table convening that. Mr. Brown commented that that was precisely his point, and that the freeway system and ramps create hard surface exacerbating runoff. According to Mr. Greenland, the Stormwater Master Plan will provide the District with tools including technical information, computer models and simulation providing the ability to demonstrate how landscape changes will impact the regional stormwater system. Bringing this type of technical information to the table will result in better decision making.

Mr. Brown commented these types of agencies need to be held accountable, and entities like ODOT should practice sustainable approaches including the materials used for constructing roadways and drainage systems, and this should be included in their project specifications. We cannot do this in a vacuum or spend hundreds of millions of dollars in only one area.

Mayor Longo referred to I-480 and I-271 projects which resulted in the District having to solve the stormwater problems, more specifically, the \$150 million Mill Creek interceptor. He commented that if we are going to implement a SMP, then ODOT has to be at the table. Nobody wants to stop economic development, but the District

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continuously has to foot the bill. Meanwhile, the federal government wants zero discharges while more stormwater is being pumped in to the system. This is a balancing act across the whole region and we must actively address these situations in order to avoid future problems at a lower cost. Mayor Longo commented that "this is a great process that we are getting into, but there is a tremendous responsibility."

Mr. Brown commented that we have many partners especially since the sensitive waters issue, but you can't speak out of both sides of your mouth."

Mr. Greenland presented the Committee with a sample stormwater fee calculation, and he stated that the average residential parcel has approximately 3,000 square feet of impervious surface. The 3,000 square feet average was within range when compared to other utilities.

Mr. Greenland referred to a slide depicting the schedule of stormwater fees, and he advised that the District is proposing a 5-year schedule. Tier 1 is established for small houses; Tier 2 for average houses; and Tier 3 for large houses. The 2010 stormwater fee for an average house will be \$4.75 per month which equates to an annual fee of \$57. Stormwater will be billed on a quarterly basis. Those fees will be the same in 2011, and there will be a marginal increase over the years of 2012, 2013 and 2014 averaging a total 8% increase over the 5-year period. The homestead rate will be offered to qualifying candidates which will be consistent to the wastewater rates.

Ms. Kelly inquired if there is a minimum of 3,000 square feet of impervious area. Mr. Greenland clarified that 3,000 square feet is the average amount of impervious area for the typical house. The minimum impervious area applies to parcels having less than 400 square feet, and those parcels will not be billed for stormwater.

Ms. Kelly inquired about the stormwater fees for parcels having 1,500 square feet of impervious area. Mr. Greenland advised that those parcels are considered small residential. Ms. Kelly inquired if small parcels are required to pay at the rate of 3,000 square feet of impervious area. Mr. Greenland explained that parcels having 2,000 square feet or less of impervious area fall under Tier 1 which equates to \$2.85 per month. Tier 2 encompasses the average houses between 2,000 and 4,000 square feet of impervious area. Tier 3 encompasses the larger houses or parcels having 4,000 square feet or greater of impervious area. Parcels having less than 400 square feet of impervious area will not be charged for stormwater management.

Mr. Brown inquired about the offsets issued to customers that structurally improve their lots for onsite stormwater management including porous pavements, downspout disconnect and rain gardens. Mr. Brown inquired if those credits apply to residential

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properties as well as commercial. Mr. Greenland affirmed and advised that he had a slide which will address the credits.

Mr. Greenland referred to a chart depicting the District's ERU of \$4.75 for average residential units in comparison to some established national utilities. To the far right were west coast communities that have long established utilities and support watershed protection. The smaller charges seemed to provide some services for Phase 2 stormwater management and not much for O&M costs or CIP projects. The District believed that its entry point for stormwater fees was moderate and provided enough revenue for our SMP.

Mr. Greenland provided an example of stormwater fees for larger non-residential parcels. The parcel has 40 times more imperviousness than the average residential lot, and their fee before credits are applied will be 40 times more (120,000 sq. ft. = 40 ERUs (\$4.75) = \$190/month = \$2,280/year – less any credits).

Chapter 8 – Stormwater Fee Credits

Credits should be offered to customers for management of stormwater, and certain requirements will be established for the credit process. The District is crafting its Stormwater Credit Policy which will be available to all customers. Credits of up to 50% will be offered to customers reducing stormwater quantity including pervious pavement and rain gardens. Credits of up to 25% will be offered to customers for improving the quality of stormwater runoff. Customers reducing both the quantity and improving the quality of stormwater can obtain up to a 75% credit on their stormwater fees.

Mayor DePiero inquired about the District's proposed process to verify that stormwater is being controlled by the customers applying for the credits. Mr. Greenland advised that the District is developing a SMP Credit Policy Manual and the criteria will provide guidance to all customers seeking credit. Customers will be required to submit a credit application to the District including supporting documentation. The District will review the information and make its determination regarding any applicable credits which will be applied to the customers' bill.

The District wants to ensure that customers constructing facilities to control the quantity or improve the quality of stormwater continue to maintain those structures. Language will be incorporated into the SMP Code regarding ongoing maintenance responsibilities.

Mayor DePiero inquired whether "there is a model being used and has it worked?" He commented that this "seems like a great idea" but that it will be labor intensive since "you would have to have a lot of people to do this."

Mr. Greenland advised that the District researched credits offered by other utilities and that they visited four different locations. Some utilities found credits to be an

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administrative nightmare. The District will manage the administration of its credit program which will generate a lot of work. The District's intent is to incentivize the region to manage its stormwater onsite.

Mayor Longo commented that the use of rain barrels is being promoted throughout Cuyahoga County, and he inquired if those qualify as credits applicable to homeowners. Mr. Greenland stated that the District will offer up to a 25% credit for residential customers. Mayor Longo commented that "it is good but it is going to be a nightmare to stay on top of." Mr. Greenland stated that we will balance administration in order to manage the credit program. The residential credit will most likely involve stormwater quantity control. The District is working on the credit policy which will be publicized on the District's website in an effort to inform residential customers the necessary steps needed to obtain that credit. The District wanted to incentivize the region by offering credits for onsite stormwater management to both large parcels and residential parcels.

Schools between kindergarten and 12th grade incorporating watershed management and stormwater management into their curriculums can earn up to a 25% education credit. Schools are the only entities eligible to achieve a 100% credit if they reduce stormwater quantity, improve stormwater quality and obtain the education credit. Mr. Greenland advised that the District will develop the material and assist with the curriculum for use at the schools desirous of achieving the education credit.

Ms. Kelly commented that the "*Where Does It Go?*" program is very educational, and she suggested that a program be developed to educate the public on green infrastructure. Mr. Greenland agreed that we need to educate the public on green infrastructure, and he advised that staff will be bringing to the Board for consideration a Request for Proposal (hereinafter "RFP") to conduct a green infrastructure study.

Mr. Greenland referred to a slide which demonstrated onsite stormwater management and sustainable practices including the use of pervious pavement, lots of green space, rain barrels, detention ponds, stormwater retention and minimization, improving stormwater quality and reducing stormwater quantity. He advised that a facility similar to this example may be eligible of receiving a 75% credit on their stormwater fees.

Chapter 9 – Community Cost-Share Program

Mr. Greenland stressed that 100% of the revenues collected from the customers will be used for stormwater purposes in the watershed areas and 7.5% of the communities' revenue will be given back to the communities for local based stormwater projects. Communities shall apply for the funds and remain consistent with the SMP. Projects must be stormwater related. Policies have been discussed and the District will allow the communities to accumulate funds for up to a 5-year period. The District found this to be

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a good measure to give some of the revenue back to the communities for community specific projects.

Mayor DePiero commented that this could help immensely with the little community stormwater projects. Some communities such as Broadview Heights and North Royalton have implemented local stormwater programs and are charging fees to their residents. Mayor DePiero inquired as to how this will factor into the District's program and will communities having implemented local stormwater programs be eligible to receive credits.

Executive Director Ciaccia advised that Mayor Alai of Broadview Heights inquired about his community's local stormwater charge. Executive Director Ciaccia advised Mayor Alai to keep the fee since a significant amount of local investments will need to be made. At this point, Executive Director Ciaccia did not foresee the community's receiving stormwater credits for local based stormwater management programs for the reason that there are still large undefined issues on the regional stormwater system. Executive Director Ciaccia stated that "there are a lot more resources needed to be brought to bear on the regional basis which we are taking over" and the community cost share is the only program being offered at this point.

Mr. Greenland added that discussions have been held with some of the communities as to how the SMP will balance some of the community initiatives. The SMP is quite similar to the regional wastewater treatment in that regard since there is a regional wastewater fee and the communities charge local sewer fees for the handling of local wastewater related issues.

Chapter 10 – Violations and Penalties

Mr. Greenland advised that the SMP violations and penalties are consistent with the other titles of the Code. The District will have some authority on violations and penalty options. Entities failing to remove improper discharges will be subject to administrative hearings, penalties and fines.

Mr. Greenland referred to the timeline for implementation of the SMP, and he requested Board consideration to immediately distribute the draft SMP Code, Title V, to the member communities for their review. There will be a 30-day comment period. The District will take the comments into consideration and revise the SMP Code as needed.

Mayor Longo moved and Ms. Kelly seconded a motion to authorize District staff to distribute the proposed SMP Code to the member communities for their review. Mr. Brown inquired whether there were any questions on the motion.

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Mayor DePiero indicated that he was in “support of the motion” and “maybe we ought to dispose of the motion.” He suggested that a presentation be given to the mayors and managers in November or December since the Board is being asked to vote on the SMP in January. Executive Director Ciaccia advised that District staff will be attending the Suburban Council of Governments (hereinafter “SCOG”) meeting on November 12th and presenting the SMP at said meeting. Mr. Greenland will also present the SMP Code at five different community meetings.

Mayor Longo reminded Executive Director Ciaccia that 10-12 mayors will change on January 1st. Executive Director Ciaccia advised that he will reach out to some of the new mayors over the next couple of months before coming back to the Board in January.

Mayor DePiero inquired if the SMP presentation will be made before the SCOG and not the entire Cuyahoga County Mayors and City Managers Association (hereinafter “Mayors and Managers”). Executive Director Ciaccia advised that the District was not planning to present the SMP at the Mayors and Managers since the organization is comprised of many communities that are not members of the District service area. In the past, some of the West Shore communities complained when the District made a presentation at the Mayors and Managers meeting since this did not involve their communities. Executive Director Ciaccia advised that the District will be amenable to present this information at the Mayors and Managers meeting but he deferred this issue to the Board.

Mayor Longo commented that the communities should be interested since they now have the option through their watershed to be a participant in the regional SMP.

Mayor DePiero advised that he will contact the president of the Mayors and Managers regarding the District presenting the SMP at an upcoming meeting. Executive Director Ciaccia advised that the District will be prepared to make its presentation at the organization’s November 12th meeting, if necessary.

Mr. Brown commented that the District should allow the incoming administrations the opportunity to examine the SMP Code since they will ultimately be held accountable or responsible for the outcome.

Mr. Brown referred to the previous discussion held regarding the \$475 million allotted to Great Lakes projects and he implored whether stormwater management utilities and watershed work qualifies for said funding. Mr. Brown commented that “these are great ideas but at the end of the day it comes down to who pays and how much they pay.” The ability for the District to obtain funding to offset some of the costs associated with the SMP would be a wonderful outcome.

Mr. Greenland replied that District staff is currently reviewing the details of the WRDA bill to identify avenues to leverage itself in an effort to bring resources back to this region.

Executive Director Ciaccia indicated that the most applicable funding source for the stormwater initiatives will be through the WRDA in which the District intends to apply for funding.

Mr. Brown commented that it would be nice to inform the public at informational meetings of alternative funding options for the SMP and that it “does not necessarily have to be done again on the backs of the ratepayers” we should continue finding means to offset the program’s cost.

Mr. Greenland advised that the public has inquired about alternative funding sources, and staff informed the public at those meetings of the WRRSP Program as well as other options in order to leverage funds.

Mr. Greenland concluded his presentation by informing the Board that staff will bring the SMP and SMP Code to the Board for consideration in January, and that the District will begin billing for the SMP in July 2010.

MOTION – Mayor Longo moved and Ms. Kelly seconded to authorize District staff to distribute the proposed SMP Code to the member communities for their review. Without objection, the motion carried unanimously.

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 were no matters for discussion in Executive Session.

X. Adjournment

MOTION – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mayor Longo moved and Mr. Sulik seconded the motion to adjourn at 2:13 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