

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
NOVEMBER 6, 2008

Meeting of the Board of Trustees of the Northeast Ohio Regional Sewer District was called to order at 12:30 p.m. by Mr. Brown.

I. Roll Call

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

The Secretary informed the President a quorum was in attendance.

II. Approval of Minutes

MOTION – Ms. Kelly moved and Mr. Liberatore seconded that the minutes of the October 16, 2008 Board meeting be approved. Without objection, the motion carried unanimously.

III. Public Session

Executive Director Ciaccia informed the Board that Mr. Norman Edwards registered to speak at public session regarding Mill Creek safety. Executive Director Ciaccia advised that this topic was not related to any agenda action items. Mr. Brown advised that at the appropriate public session the Board will entertain the comments from Mr. Edwards.

IV. Executive Director's Report

Executive Director Ciaccia moved discussion to his first report item regarding the Nine Mile Creek (hereinafter "NMC") property. This property was purchased by the District for \$1.5 million from Sunrise Development Corporation (hereinafter "Sunrise") in 2007 resulting in recent media attention. Questions have been raised regarding the amount the District purchased the NMC property for in 2007 versus the appraisal value and amount paid by Sunrise when it purchased the property in 2000. Executive Director Ciaccia

BOARD OF TRUSTEES

Regular Meeting

November 6, 2008

Page 2 of 16

advised that the District has had another firm review the 2007 appraisal which determined the numbers to be within a comfortable range. The District engaged another firm to complete a full appraisal of the NMC property to determine the property's value in 2007 and also in 2000 when the property was sold to Sunrise. The property was valued to be \$1.25 million in 2007 and \$800,000 in 2000 in the second appraisal. In total, there were three (3) appraisers whom reviewed the NMC property including the original appraiser, the appraiser who completed an assessment, and a new firm that completed an independent appraisal. Executive Director Ciaccia stated that the appraised values were determined to be significantly higher than the 2000 sale price to Sunrise, and that he was not in the position to question the amount paid by the District in 2007.

According to Executive Director Ciaccia, the District's rationale behind the purpose of purchasing the NMC property was substantiated. The District did own available properties next to the Easterly Plant; however, there will be a need for future expansion of the plant. The District is desirous of locating its dewatering pump station on one of the two sites to coincide with the NMC shafts. Executive Director Ciaccia indicated that utilizing the District's existing property for this would result in constructability issues. The shafts will be located away from the construction site of the dewatering pump station or some high-rate treatment facility that may be mandated by the Environmental Protection Agency (hereinafter "EPA") as part of the Long-Term Control Plan (hereinafter "LTCP").

Executive Director Ciaccia advised that he does not see the need for further internal investigation relating to this matter, and he acknowledged that the issue regarding the county's number versus the District's number is still in question. Included in the Board packets is a briefing from Assistant Director of Law, Julie Blair, who handles real estate transactions for the District. Ms. Blair's briefing includes what is required by the District for property purchase or sale as opposed to the county's requirements for tax assessment. Executive Director Ciaccia advised that Ms. Blair was present at the meeting to entertain any questions from the Board.

Executive Director Ciaccia reiterated his point that the need for the NMC property was substantiated, and that the \$1.5 million dollar transaction seems to have been "in the ballpark." Executive Director Ciaccia stated that he would have preferred the second appraisal value for this transaction; however, the sale was based upon the first appraisal. Executive Director Ciaccia stressed that all of the appraisal amounts were a "far cry" from the actual amount the property sold for in 2000 between the two (2) private entities, and that the questions involving this particular transaction may never be answered. With regards to the county's procedure in its evaluation and assessment of properties, Executive Director Ciaccia is unsure if the District can further investigate these issues and recommended allowing the county to address these matters. Executive Director

BOARD OF TRUSTEES

Regular Meeting

November 6, 2008

Page 3 of 16

Ciaccia advised that the District is reviewing past transactions and at a subsequent meeting; staff will address the Board with its findings.

Executive Director Ciaccia stated that there were questions as to whether the District would have benefitted from negotiating easements rather than purchasing the property. In response to this inquiry, Executive Director Ciaccia advised that the initial appraisal indicated the easement value would have been \$1.3 million which left a narrow gap between the purchasing and easement values. According to the most recent appraisal, the easement value was \$800,000, which is a substantial difference from the \$1.5 million sale price. Executive Director Ciaccia explained that easement negotiations would have been unlikely because the easements needed would have rendered the property non-saleable. The property would have been "crisscrossed" with major easements, and Executive Director Ciaccia did not feel confident that the property owner would have agreed to a "one-time payment for an easement" that would "lock up the property" resulting in a significant decrease in its value.

Mr. Brown requested staff explain the District's requirements of easement rights as it pertains to its facilities, construction on these sites, and the parameters established regarding constructability and what can be in close proximity of the easement. Mr. English replied that the District secures access to the site in order to repair and maintain its equipment and facilities. Mr. Bucci added that there are limits placed on building structures. Mr. English expounded that language is inserted in easement documents prohibiting the construction of above ground structures that may affect or interfere with what is underground. Mr. Brown inquired if this relates to access, maintenance and repair in which Mr. English replied that it would be a "restriction on its use rather than allowance for access." Executive Director Ciaccia added that the District needed to secure this location in order to accommodate an approximated ten (10) year construction period for this project.

Mayor Starr inquired if Executive Director Ciaccia's opinion is that a different set of terms or price for the NMC property could not have been negotiated. Executive Director Ciaccia affirmed. Mayor Starr questioned if this was "speculation or fact." Executive Director Ciaccia responded that "it is a fact by state law," and that the District could have negotiated higher but cannot negotiate less than the appraisal value. There was an appraisal on the table, and if the District were able to negotiate with the recent appraisal, then it could have purchased the property for \$1.2 million.

Mayor Starr stated that the District purchased the property in 2007 for \$1.55 million and the property sold in 2000 for \$200,000, resulting in an 87% increase in market value in an area of declining property values and environmental obsolescence. Mayor Starr inquired if the District contacted the parties involved with the NMC transaction including Mr. O'Deal, Mr. Schatz and Mr. Baker. Executive Director Ciaccia advised that the

BOARD OF TRUSTEES

Regular Meeting

November 6, 2008

Page 4 of 16

aforementioned parties were not contacted. Mayor Starr questioned why these individuals were not contacted in order "to get to the bottom of it." Executive Director Ciaccia replied that the transaction and documents are self-explanatory, and he is unsure what could be further garnered from them. Furthermore, the appraisal was reviewed and Executive Director Ciaccia stated that he is unsure what information these individuals could contribute.

Mayor Starr stated that Mr. Baker failed to include in his appraisal report the "\$200,000 land purchase by Forrest City as a comparable sale in the year 2000, but within a one-month period of time, he listed a sale in January 2001 of NEC Stock Avenue and the West 25th Street sale." Mayor Starr questioned Mr. Baker's methodology in breaking it off within a 30-day period and failing to include the comparable sale of \$200,000 in the year 2000. Mr. English requested Ms. Blair report to the podium to address Mayor Starr's inquiries.

Ms. Blair explained that comparable sales used in an appraisal tend to be within a five (5) year timeframe of the appraisal date. With respect to Mr. Baker's appraisal, the comparable sales should have gone back to about 2002. If a sale was relevant that was older, Mr. Baker would have included this as well. Ms. Blair stated that she could not speculate as to why Mr. Baker failed to include the \$200,000 sale in 2000. Mr. Baker did not include any information as to why he excluded sales as opposed to why he included certain sales. Mayor Starr questioned if the answer is "we have no answer?" Ms. Blair affirmed.

In response to Ms. Blair's explanation, Mayor Starr inquired if the District paid a "fair amount" or did it "get ripped off?" He questioned why Mr. Baker listed five (5) sales from 2001 and two (2) sales from 2002. Ms. Blair explained that Mr. Baker searched the market for comparable sales. If there was a sale beyond the typical range of sale date, then Mr. Baker would have included this information so long as it was relevant.

Mayor Starr questioned if the appraiser goes "beyond the five (5) years," as described by Ms. Blair, "as the principle of appraising?" Ms. Blair stated "typically." Mayor Starr stated "we don't know that answer either."

Mayor Starr questioned as to why Mr. Baker completed the appraisal three (3) months before the environmental contamination assessment was completed. Ms. Blair advised that the District did send the environmental assessment information to Mr. Baker inquiring if its findings impacted the property value. Ms. Blair stated that her records do not indicate whether Mr. Baker felt this environmental assessment had any impact on the property value. Mayor Starr questioned if the answer to his question is "we don't know?" Ms. Blair replied that the information was provided to Mr. Baker; however he did not update the appraisal to reflect any impact from the environmental assessment report.

BOARD OF TRUSTEES

Regular Meeting

November 6, 2008

Page 5 of 16

Mayor Starr stated that the Board voted on this proposal without having the “complete picture or adequate information.” He questioned why the District failed to wait three (3) months until having received the environmental assessment report before voting on the proposal. Ms. Blair indicated that she would need to review her files for further information.

Mayor Starr asked why the District did not update the appraiser as to the findings of contaminants such as arsenic at this site. Ms. Blair reiterated that Mr. Baker was provided with the environmental information. Mr. Baker did not provide an update indicating that the environmental assessment impacted the property’s value. Moreover, according to Emily Braman’s appraisal, she did not foresee the environmental findings to have any impact on property value either.

Mayor Starr referred to Ms. Blair’s e-mail correspondence dated June 7, 2007 in which she “warned of the contaminants and the potential effect they would have on re-sale” in the event the District decided to sell the property in the future. Ms. Blair advised that to her knowledge, the impact of the contaminants would become an issue if the area was to be developed as a residential community. The parcel is zoned for office, quasi-industrial use and not residential. The parcel can be developed as such based upon the zoning with the present contamination levels. Ms. Blair corroborated with an earlier comment made by Executive Director Ciaccia in which the re-sale would be limited due to the number of easements crisscrossing the property making the land unbuildable.

Mayor Starr stated that “Chapter 1157 of the Zoning Code of the City of Bratenahl zones that office building, research and distribution, including main uses for office buildings, professional use and storage, laboratories for scientific and research development, including scientific laboratory equipment/devices, and is not zoned industrial.” Ms. Blair affirmed.

Mayor Starr stated that the county appraised this property at “\$286,843 based on market value and not assessed value.” He questioned if the District looked into comparable sales supporting the county auditor’s appraisal in order to determine whether these comparable sales were legitimate at \$286,000 rather than questioning the “outdated comparable sales on \$1.5 million?” Ms. Blair responded that typically an appraiser uses county records as an “informational source” when completing an appraisal for fair market value for the purpose of right-of-way acquisitions. They will make reference to the county appraisal; however, the county’s appraisal practices differ because their intent is to establish “true value being an assessed value for tax purposes.” The county conducts “mass appraisals” based upon establishing a value over a range of parcels, and does not view each as a single, individual parcel. The county prefers creating a “sense of equity throughout an area.” Ms. Blair explained that this method is used in establishing true value for all

BOARD OF TRUSTEES

Regular Meeting

November 6, 2008

Page 6 of 16

residential parcels in a political subdivision. Mayor Starr interjected, "does the county auditor agree with you on that?" Ms. Blair replied that "the county auditor would agree that he does mass appraising," but she provided a simplified view as to how they determine property value.

Ms. Blair stressed that in the event the District needs to acquire property through appropriation, then its value would need to stand up in court. This requires fair market value being established by an appraiser with good credentials and background as opposed to a county appraiser working on mass appraisal status failing to take all individual points of a particular parcel into consideration. Mayor Starr inquired if this applies to residential, commercial and industrial. Ms. Blair affirmed. Mayor Starr indicated that he knows the market value for his home, and the county is not "80% off" and is "within a 5% to 10% range of market value."

Mayor Starr stated that according to the landmark case of *Park v. Ohio*, "all parcels have to be appraised for the same reason and principles and that is market value for tax purposes." Mayor Starr questioned if, in 2000, the owner should have paid \$1.5 million for the property in order to pay a fair property tax even though the county appraised the property at \$286,000? Ms. Blair replied that Ms. Braman's appraisal for January 2000 established fair market value prior to transfer to be \$800,000. Ms. Blair advised that the District can only speculate how \$200,000 was determined as the sale price for the transaction between Forrest City and New York Corporations. Based upon research, there appears to be no connection between the two entities, and the \$200,000 may not include the entire picture. Ms. Blair reiterated that according to Ms. Braman's appraisal, the market value in 2000 was \$800,000 and not \$200,000.

Mayor Starr stated that the Board, as an oversight, did not ask all the proper questions or demand all the correct documents. The Board must make sure that all appraisals are done correctly including obtaining the proper reports to determine any environmental problems. Mayor Starr acknowledged that Ms. Blair did alert the District through email correspondence as to the arsenic and contaminants found during the environmental assessment. He recommended in the future the Board obtain and review these reports when they are available. Mayor Starr questioned if there will be future reforms to avoid a repeat of this situation.

Executive Director Ciaccia agreed with Mayor Starr's point and assured the Board that appraisers will now undergo the competitive bidding process similar to how the District handles procurement with consultants, and the District will no longer rely on just one appraiser. It would be advantageous to the District if it engages multiple appraisers to determine the best performance and price. Staff is desirous of presenting the Board with an abundance of information at the time of making its recommendation through a resolution. Executive Director Ciaccia stated that he expects the Board, from its

BOARD OF TRUSTEES

Regular Meeting

November 6, 2008

Page 7 of 16

experience, to ask more questions as it pertains to land sales as well as all other District business.

Ms. Kelly added that she agreed that the District should obtain three (3) appraisals. This would hold appraisers more accountable for its product, and a 5% to 10% discrepancy would raise a red flag. Executive Director Ciaccia stated that the District will do this.

Mr. Brown thanked staff for the conducting additional due diligence regarding the NMC transaction. A concern of the Board is policy and procedure with respect to how an appraisal process should be conducted. Appraisers were not competitively bid in the past, and this has since changed. Mr. Brown commented that it is the Board's role to make certain that the process and procedure is consistent so that the outcome of the product presented to the Board by the staff is transparent.

Mr. Brown stated that the Board relies on staff to conduct its due diligence to ensure that the proper policies, procedures and protocols are being followed prior to making any recommendations to the Board. Furthermore, it is not the responsibility of the Board to "get down into the minutia or the day-to-day activities" resulting in the recommendations by staff to the Board.

Mr. Brown stated that it is imperative that prior to information being presented to the Board, staff ensures that all parameters established have been met. In an effort to address any red flags, safeguards have been implemented which differs from past practice.

Mr. Brown wanted to give context as to the different roles of the staff and the Board. He determined that the Board's role includes setting forth policies and the governance of the District. The Board spent the past two (2) years putting in place procedures to ensure levels of certainty that the District is in compliance with its approved protocols.

Executive Director Ciaccia added that staff is respectful of its partnership with the Board and the Board's role as an oversight authority.

Executive Director Ciaccia moved discussion to the next report item regarding the Flats East Development (hereinafter "FED") project. Included in the Board packets was a briefing document authored by Director of Engineering and Construction, Kellie Rotunno.

Executive Director Ciaccia stated that the current economic conditions impacted the FED project and the work has since halted. The District has combined sewer overflows (hereinafter "CSO") at this site. Eventually, the CSOs will need to be addressed as part of the CSO LTCP. These CSOs were originally proposed to be treated to a level of four (4) overflows per year. A proposed storage tank was going to facilitate the District in

BOARD OF TRUSTEES

Regular Meeting

November 6, 2008

Page 8 of 16

accomplishing this goal. In 2002, this project was valued at \$5 million. This project sat dormant as the District continued its ongoing CSO LTCP negotiations with the government.

In 2005, when the FED project was underway, there was a proposal that the District move forward with CSO mitigation. The project required new sewers and the District favored its participation in an effort to mitigate CSOs ahead of schedule. Initially, it was proposed to construct separate sanitary and storm sewers as well as a pump station that would pump 2.3 million gallons resulting in zero overflows, and this project would cost \$10.6 million.

In 2006, the District proposed allocating \$9 million toward the FED project as an agreement between the District, Flats East Bank Development Corporation (hereinafter "Developer"), the Port Authority and the City of Cleveland. In 2007, a resolution was going to be brought to the Board in order to consummate this deal and commit to the funding for the separate sewer and sanitary system and pump station. The previous Executive Director had the numbers from 2002 which were related to the LTCP for four (4) overflows per year. These numbers were escalated from \$5 million to \$8 million for the purpose of determining what the District's commitment should be. Furthermore, the numbers for the FED project which included the separate storm and sanitary system were escalated from \$10.6 million to \$11.1 million. Executive Director Ciaccia explained that at the time of the 2002 number of \$5 million, this was conceptual, and the EPA had not yet agreed to accept this particular plan. The previous Executive Director brought a resolution to the Board committing the District to \$8 million which was approved by the Board. The project commenced with the intent of installing separate storm and sanitary sewers and a 2.3 MGD pump station.

In August 2008, Executive Director Ciaccia informed the Board that the plans have since changed. It was determined that separating all storm and sanitary sewers was not feasible. Some of the older buildings remaining at this site could not be separated and would continue using the combined system. This would necessitate an 8 million gallon per day pump station rather than a 2.3 million gallon a day reservoir. This increased the price to \$12.2 million.

The Developers advised that there was a gap, and Executive Director Ciaccia explained that the District committed to \$8 million, and that he was not interested in returning to the Board requesting an increase on its commitment to this project. Executive Director Ciaccia and Ms. Rotunno met the Developers and the numbers provided seemed to be fair and legitimate, and that they received good pricing on the design and construction services. However, at this point, Executive Director Ciaccia did not see any reason to put forth any additional monies for the FED project.

BOARD OF TRUSTEES

Regular Meeting

November 6, 2008

Page 9 of 16

Due to the current economic situation with the credit markets, conditions have changed and the FED project now sits idle. The District continues to work with the Developers and has already invested approximately \$4 million toward the installation of the sewer lines and pump station, but \$8 million will not be enough to finish out this project. If the credit markets free up, Executive Director Ciaccia anticipates that the Developer will be able to continue with the project.

The District is looking into options to help move this project forward because a permit to install (hereinafter "PTI") was issued by the Ohio EPA which is not easy to obtain due to the ongoing CSO LTCP negotiations; the project will be more costly if the contractor has to demobilize and then remobilize at a later date; and the District invested over \$4 million into this project thus far.

Executive Director Ciaccia advised that the money spent towards this project will go towards the CSO LTCP which would need to be spent anyhow, and the numbers for the construction contract and engineering services seem reasonable. There may be some value engineering opportunities where the District can reduce costs from \$12.2 million. Executive Director Ciaccia wanted to inform the Board that staff will meet with the Developer to discuss possible remedies in an effort to move this project forward.

Mayor Longo stated that it will be an ongoing quagmire and nothing will be firm until the finance markets straighten out. The project can move forward once clients are brought on board by the Developer. Mayor Longo stated that he understands the need to put the systems in place to address the overflow issues. He is concerned that once the systems are in place, the scope of the project could change including the location of various buildings. He questioned how the District will be assured that the location of the pipes and easements will be accurate.

Ms. Rotunno advised that the District's project will be the footprint of the above ground superstructure. The Developer separated the CSO and sewer project from the superstructure project, and will be preserved irrespective of what happens above ground. Ms. Rotunno explained that the project elements being worked on are those requiring fully functioning CSO systems, all others are being deferred. The costs associated with the latter are also being deferred until such time when the economic conditions and financial outlook improve. Ms. Rotunno advised that the money invested into the subgrade CSO project remain the same regardless of future building plans.

Mayor Longo stated that he understood Ms. Rotunno's explanation, however, there is no guarantee how this will unfold. Once things get back to normalcy and the project continues, he is concerned that this can become very costly for the District if the facilities are placed in the wrong area.

BOARD OF TRUSTEES

Regular Meeting

November 6, 2008

Page 10 of 16

Ms. Rotunno agreed with Mayor Longo's concerns as to the uncertainty of the terms, however, the District's obligation to the Ohio EPA is to control its CSO discharges in this area. If the District pays for construction of said improvements to control its CSOs and a future developer decides to reinvent the wheel and relocate its facilities, they would be responsible for the relocation of said facilities because the District already fulfilled its obligation. Mayor Longo stated that this would "maybe" be the case, and Ms. Rotunno stated that "in an ideal world" this is how it would unfold.

Mayor Longo stated that "in theory they should cough up something." He was concerned that once the project is underway and the pressures build from economic development, the District and Board will need to reevaluate its position.

Executive Director Ciaccia stated that the District should complete its infrastructure as planned and take advantage of the PTI. If in the future a contractor wants to reinvent the wheel and requests the District to move its sewer, the District can always say "no."

Mayor Longo concurred that since the District made its commitment, it should move forward, and it is unknown how the economic situation will evolve in the next six (6) months to a year.

Executive Director Ciaccia advised that he will keep the Board apprised of any new developments as it pertains to this issue.

Mayor DePiero stated that the District is obligated to move forward in fulfilling its CSO obligations. He stated that the District should complete the project and hopefully receive the approval from the EPA. Executive Director Ciaccia affirmed that this would be part of the District's LTCP. Furthermore, Executive Director Ciaccia stated that he was pleased with the deal before the conditions changed and already having a PTI issued for this project is significant. The project costs would only increase prior to an agreement being reached between the District and the EPA for its CSO LTCP.

V. Consent Agenda

No Discussion ensued on Resolution Nos. 260-08 through 262-08.

Resolution No. 260-08

**Acceptance of Hearing Examiner
Findings regarding David Calabrese of
Calabrese, Racek Management, Inc.,
NEORS Case No. 08-007.**

Resolution No. 261-08 **Acceptance of Hearing Examiner Findings regarding Gilberto Maldonado, NEORS Case No. 08-008.**

Resolution No. 262-08 **Authorizing SSCBOUTS Application No. 1338 for Fabrizi Trucking & Paving, 6751 Eastland Road, Middleburg Heights, Ohio 44130, Referenced Account #58-382-128-005. Estimated savings to the customer is \$10,347.00.**

MOTION – Mr. Liberatore moved and Mr. Sulik seconded to adopt Resolution Nos. 260-08 through 262-08. Without objection, the motion carried unanimously.

VI. Action Items

Authorization to Issue Request for Proposals
No discussion ensued on Resolution No. 263-08 through 264-08.

Resolution No. 263-08 **One (1) year contract for laboratory services. Cost not to exceed \$60,000.00.**

Resolution No. 264-08 **For provision of cellular phone equipment and service including voice and data communications. Estimated cost for one (1) year procurement is \$125,000.00.**

MOTION – Mayor Starr moved and Mr. Liberatore seconded to adopt Resolution Nos. 263-08 and 264-08. Without objection, the motion carried unanimously.

Authorization to Enter into Agreement
No discussion ensued on Resolution No. 265-08.

Resolution No. 265-08 **Authorization to accept petition and negotiated terms to include a portion of the City of Willoughby Hills in the District service area.**

MOTION – Mayor Longo moved and Ms. Kelly seconded to adopt Resolution No. 265-08. Without objection, the motion carried unanimously.

Authorization to Enter into Contract

No discussion ensued on Resolution Nos. 266-08 through 269-08.

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| Resolution No. 266-08 | Southerly Centrifuge Polymer with Polydyne, Inc. Cost is \$273,600.00. |
| Resolution No. 267-08 | Southerly Digester Dome Removal – Contract 28C1, with Nerone & Sons, Inc. Cost not to exceed \$457,045.00. |
| Resolution No. 268-08 | Westerly Generator Closure Plan – Contract SPI-7, with Northeast Ohio Trenching Services, Inc. Cost not to exceed \$423,500.00. |
| Resolution No. 269-08 | Annual maintenance and support for Oracle Work and Assessment Management software with Oracle, Inc. Cost is \$66,690.45. |

MOTION – Mayor Longo moved and Mr. Liberatore seconded to adopt Resolution Nos. 266-08 through 269-08. Without objection, the motion carried unanimously.

Authorization to Amend Resolution

No discussion ensued on Resolution Nos. 270-08, 31-08d and 37-08a.

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| Resolution No. 270-08 | Amend Resolution No. 337-06 to extend Contract No. 3033 for the second year option for investment advisory services with Boyd Watterson Asset Management, LLC. Cost not to exceed \$50,000.00. |
| Resolution No. 31-08d | Adding two (2) classifications to salary Resolution No. 315-07. |
| Resolution No. 37-08a | Amend Resolution No. 37-08 for the provision of cellular telephone service. A cost increase in the amount of \$26,600.00 bringing the total contract to an amount not to exceed \$124,100.00. |

MOTION – Ms. Kelly moved and Mr. Sulik seconded to adopt Resolution Nos. 270-08, 31-08d and 37-08a. Without objection, the motion carried unanimously.

Authorization to Submit Grant Application

No discussion ensued on Resolution No. 271-08.

Resolution No. 271-08

Grant application for the “Walworth Run Green Infrastructure Feasibility Study”, and providing up to \$50,000.00 in matching cash funds.

MOTION – Mayor Longo moved and Mr. Liberatore seconded to adopt Resolution No. 271-08. Without objection, the motion carried unanimously.

VII. Information Items

1. Write-Off of Inactive Accounts in the Amount of \$1,665,928.17.

Director of Finance, Jennifer Demmerle, informed the Board that each year the District writes off accounts deemed uncollectable. These accounts have been inactive for six (6) years or more and have not had any cash activity for two (2) years. According to Ms. Demmerle, the write off amount for this year is approximately \$1,665,000 or about 1% of the District’s total billings, which is consistent with the previous years.

Mayor Longo questioned if a 1% increase is comparable to the previous years. Ms. Demmerle replied that it is usually around 1% which averages \$1.6 million in write-offs. Mr. Bucci added that these accounts are six (6) years old. Mayor Longo thought that write-offs for inactive accounts usually averaged a half percent. Ms. Demmerle indicated that these write-offs are from 2001 and prior, and that there will most likely be an increase as they review accounts from 2006 and 2007.

Mayor Longo inquired if there are any trends starting to unveil. Ms. Demmerle stated that there is an increase in accounts receivable and a 16% increase from last year in the District’s inactive accounts receivables.

Mr. Brown stated that the foreclosure crisis will have an impact on the accounts for 2007, 2008 and beyond. There are ongoing discussions between the District and the City of Cleveland regarding moving from quarterly to monthly billing. He questioned if this would have an impact on receivables as well. Ms. Demmerle speculated that the ability to pay will be easier for the customer moving from quarterly to monthly billing, but foreclosures have increased by 9% of the District’s total receivables.

BOARD OF TRUSTEES

Regular Meeting

November 6, 2008

Page 14 of 16

Ms. Demmerle added that the District is currently reviewing its collection efforts and may consider pursuing collection agencies to increase receivables. Mayor Starr questioned if the District used collection agencies in the past. Ms. Demmerle advised that the City of Cleveland handles the District's collection efforts. Mayor Starr inquired how the City pursues collections. Mr. Bucci advised that they use an internal and external collection agent. Mayor Starr questioned if the District would hire an outside collection agent on a contingency basis. Ms. Demmerle stated that collection agents usually take a percentage of what it collects. Mayor Starr questioned if that is an acceptable business practice in which Ms. Demmerle affirmed.

2. NEORSF Financial Report and Investment Advisor Performance Report for the Nine Month Period Ending September 30, 2008.

Ms. Demmerle stated that the financial report includes the third quarter for 2008. The District's operating revenue increased by 6.4% from 2007 due to sewer rate increases. The District's operating expenses continue to be within its \$98 million budget and 60% of the budget has been spent thus far which is about a 2% increase from 2007.

The District's investment portfolio is approximately \$283 million with a return of about 2.93%, which in 2007 was around 4%. Ms. Demmerle advised that the District continues to exceed its benchmark which is a 91-day Treasury bill.

Mayor Starr referred to the U.S. Agency Securities pie graphs within the report. He questioned if these investments are secure with the current crisis involving Freddie Mac, Fannie Mae, the collapse of the financial markets, subprime lending and the Congress bailout. Ms. Demmerle stated that the District's investments are mainly in Fannie Mae and Freddie Mac, which is in conservatorship meaning they received added security. Ms. Demmerle advised that the District requested additional collateral on its CDs, and this collateral is backed by Ginnie Mae. Furthermore, there are investments with federal home loan banks that have not been affected by the Freddie Mac and Fannie Mae situation. Ms. Demmerle stated that, according to the District's financial advisor, the District's investments are secure.

Mr. Bucci added that, in the past, it was implied that these agencies were backed by the U.S. government, however, with the subprime mortgage fiasco this was not implied anymore. The U.S. government is now backing these investments. Mr. Bucci explained that the majority of what was affected in the subprime market was derivative products, which by state law; the District is not allowed to purchase.

Mayor Starr stated that the District could have potentially been exposed, and that Congress's vote on the bailout issue was in the District's favor. Mayor Starr commented on CDs being collateralized and inquired as to how this process works. Ms. Demmerle

BOARD OF TRUSTEES

Regular Meeting

November 6, 2008

Page 15 of 16

replied that the District has three (3) CDs and the banks post additional collateral or 105% of the CD value. These are typically backed by Ginnie Mae.

Mayor Starr inquired as to the "Statement of Net Assets, September 30th" which showed a change in net assets from \$18,254,000 to \$7,172,000, a decrease of \$16,352,000. Ms. Demmerle explained that the District had a bond issue in May 2001, and spending on this issue is subtracted from invested capital assets net-related debt.

VIII. Open Session (no items for discussion)

IX. Public Session (any subject matter)

Mr. Norman K. Edwards stated that he had a couple of questions pertaining to the Mill Creek project. He understood that contractors were fired, and inquired if the Board was aware when this job would be rebid and if there was an anticipated completion date. Mr. Edwards stated that he is concerned with the methane gas issue, and "getting rid of the contractor is totally fine," but will the District "bring another contractor in?" Mr. Edwards questioned if the job will be rebid and if the Board has reached a "conclusion as to go forward and stop the fears and concerns" that he has regarding the gas problem.

Mr. Brown replied that the District requested its consultant to prepare a complete scope of services needed in order to finish the project. Once this scope is complete, the project will be bid. It is the District's intent to complete the project as soon as possible, and there is a plan to continue monitoring the tunnel site. The consultant managing the project scope is also overseeing the subcontractors handling the tunnel monitoring and reporting. There are two ongoing issues including the status of the site location and monitoring, and the procurement of additional services to finish the project. Executive Director Ciaccia corroborated Mr. Brown's statement.

Mr. Edwards questioned if the gas is now contained. Mr. Brown answered that there is an active system on this site that is designed to monitor, mitigate and evacuate any methane gas. The District's intent is to ensure that the system is active which requires proper monitoring and maintenance. Mr. Brown indicated that there is no cause for concern at this point, and the monitoring system being used is similar to the system at the Mill Creek 2 tunnel.

Mr. Edwards asked if there was a timeframe as to when the District would meet with the consultant. Mr. Brown advised that the District engaged the consultant to complete the final scope. Mr. Edwards asked if this will take six (6) months to a year or is it hard to determine at this point. Executive Director Ciaccia advised that the District is not committed to a date yet. Mr. Brown stated that the Board would first need to authorize bids by resolution. After the bids are received, then the recommendation will be made to

the Board as to awarding the contract. The completion date will be included in the contractor's bid and will be made available at the time the contract is awarded.

X. Executive Session

Mr. Brown stated that there were matters for discussion in Executive Session.

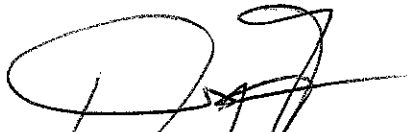
MOTION – Mayor Longo moved and Mayor DePiero seconded the motion to enter into Executive Session. All matters discussed in Executive Session are protected from public disclosure pursuant to Ohio Public Records Act, and all discussions in Executive Session are to be kept confidential pursuant to Ohio Revised Code Section 102.3(b) and/or attorney-client privileged communications. The issues to be discussed in Executive Session, which are to be kept confidential, include *Nerone & Sons vs. NEORS*, two (2) personnel matters involving the department of Engineering and Construction, Executive Director Ciaccia's performance objectives, and labor negotiations. A roll call vote was taken and without objection, the motion carried unanimously.

Mr. Liberatore and Mr. Sulik advised the Board that they will excuse themselves from the labor negotiations portion of Executive Session.

The Board met in Executive Session from 1:35 p.m. to 2:32 p.m.

XI. Adjournment

MOTION – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mayor Longo moved and Mayor DePiero seconded the motion to adjourn at 2:33 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