

MINUTES  
NORTHEAST OHIO REGIONAL SEWER DISTRICT  
BOARD OF TRUSTEES MEETING  
NOVEMBER 6, 2014

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

I. Roll Call

PRESENT: D. Brown  
R. Sulik  
W. O'Malley  
J. Bacci  
T. DeGeeter  
S. Dumas  
R. Stefanik

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

II. Approval of Minutes

**MOTION** – Mr. O'Malley moved and Mayor Bacci seconded to approve the minutes of the October 16, 2014, Board Meeting. Without objection, the motion carried unanimously.

III. Public Session

Executive Director Ciaccia informed the Board that no one signed up to speak about a specific agenda topic.

IV. Executive Director's Report

Executive Director Ciaccia began his report by stating that last week the U.S. EPA Green Infrastructure Summit was held at Cleveland State University. A number of utilities and individuals from around the country visited. It was a well-run meeting with ample information.

It is interesting to see how far the narrative on green infrastructure has come. It is more reality-based at this point and people are getting a good feel for where green infrastructure fits into their construction portfolios.

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Ken Kopocis, the Deputy Administrator for the U.S. EPA Office of Water, was present and participated in shoveling mulch onto the last tree in the Slavic Village Green Infrastructure Ambassador project.

Executive Director Ciaccia advised that he and Darnella Robertson, Manager of Government Affairs, met with Moreland Hills Mayor Renda, president of the Suburban Council of Governments, and South Euclid Mayor Welo, who is the vice president of that organization. They met to discuss integrated planning. He shared the Districts thoughts as they relate to how communities might play a role in the effort. They were very supportive.

Executive Director Ciaccia stated that Lou McMahon will speak later in the meeting about what integrated planning is and the intended approach to it; however, a special Board meeting of at least two hours will be necessary to go over the details. There are a number of moving parts that are policy-based.

Concluding his report, Executive Director Ciaccia stated that meetings are set with the bond rating agencies -- Moody's on November 24 and Standard & Poor's on November 25. This will be the meeting before going out to market on the new bond issue. Staff is preparing a good summation of what it can deliver to the underwriters about management and financial position of the organization.

### V. Action Items

#### Authorization to Advertise

Resolution No. 250-14

Advertise for Bids for Construction of the Green Ambassador Fairhill/MLK Project. Engineer's Opinion of Probable Construction Cost: \$6,550,000.00.

**MOTION** – Mayor Stefanik moved and Mayor DeGeeter seconded to adopt Resolution No. 250-14. After discussion and without objection, the motion carried unanimously.

Mr. Brown inquired why the project was named the Green Ambassador Fairhill/MLK Project. Kellie Rotunno, Director of Engineering & Construction, explained that they are the first out green infrastructure projects and the ambassadors will be the first going into the community representing the green infrastructure program. Staff wants them to be marquee projects that are recognized and embraced by the community.

Mr. Brown noted a reference to it being one of three projects. He questioned if issues regarding the Doan Brook trash rack were addressed. Ms. Rotunno advised that this project has sewer separation like all green infrastructure projects for Appendix 3, and conveys stormwater drainage



Protection Project.

Resolution No. 254-14

Sponsorship Agreement for the 2014-2015 Water Resource Restoration Sponsor Program.

Resolution No. 255-14

Sixteen Month Agreement with County of Cuyahoga, Ohio; for the Disposal at the Southerly Wastewater Treatment Plant; of Wastewater Grit Collected at County Owned Facilities.

**MOTION** – Mr. O’Malley moved and Ms. Dumas seconded to adopt Resolution Nos. 253-14 through 255-14. After discussion and without objection, the motion carried unanimously.

Regarding Resolution No. 253-14, Mr. Brown questioned where it is located. Paul Kovalcik, Stormwater Projects Specialist, stated that the WRRSP project is in western Ashtabula County and protects significant forest growth and water tributaries to the Grand River.

Executive Director Ciaccia asked Frank Greenland, Director of Watershed Programs, to explain the WRRSP program.

Mr. Greenland stated that there is \$15 million statewide for watershed restoration or preservation. Preservation is property purchased; restoration could be wetlands upgrades, stream protection or similar activities. The program leverages State revolving loan funds for wastewater projects, reduces a percentage of the interest on loans and makes that money available to fund other projects on an annual basis at the State level.

Executive Director Ciaccia advised that the interest the District pays is rolled it into these projects for a reduced interest rate for toward loans. Entities apply and look for sponsors; since the District is a part of the program its money is being used in the program and can sponsor projects.

Mr. Greenland stated that even though this project is outside the service area it benefits Lake Erie. There were no competing projects in the service area.

Mr. Kovalcik stated that there is at least one that is tributary to the service area. The program changed in 2013. Previously entities seeking funding would approach the District and then go to Ohio EPA for approval; now they first are approved by Ohio EPA and then come to the District for sponsorship.

Mr. Brown stated that in the future staff may want to figure out how to make sure entities in the region are aware of this funding source so they can apply for projects more geographically connected to the District. Mr. Greenland advised that staff works hard with watershed groups to

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bolster their applications. Mr. Brown suggested continuing outreach so there is a level of competition.

Mr. Kovalcik advised that there were at least four put forward last year that were not selected by the Ohio EPA the District could have potentially sponsored. The Ohio EPA just released their draft program management plan with at least one restoration project that the District would likely sponsor next year.

Authorization to Enter Contract

Resolution No. 256-14

Construction Contract with Salini Impregilo/Healy Joint Venture for the Dugway Storage Tunnel Project. Contract Amount: \$153,013,052.00.

**MOTION** – Mr. Sulik moved and Mr. O’Malley seconded to adopt Resolution No. 256-14. After discussion and without objection, the motion carried unanimously.

Ms. Rotunno explained that this is the sister project to the Euclid Creek Tunnel (ECT); it converges at the Euclid Creek Tunnel Dewatering Pump Station and will function as one continuous system with the ECT to eliminate one billion gallons of CSO by 2020. This is the second large storage tunnel that will complete a portion of the Easterly CSO program.

Ms. Rotunno advised that this project was originally estimated to be \$179 million at the time of advertisement. Five bids were received and the lowest bidder was Salini Impregilo/Healy in a joint venture. Salini Impregilo is a large internationally-recognized tunneling firm with excellent qualifications. The design team of Hatch Mott MacDonald and Montgomery Watson reviewed the bids.

Mr. Brown referenced the goal was a combined 15% and is at 21.3% for the project.

Resolution No. 257-14

Professional Services Contract with H.R. Gray for the Tunnel and Micro Tunnel Specialty Testing and Construction Inspection Services Project. Contract Amount: \$5,000,000.00.

Resolution No. 258-14

One-Year Requirement Contract with Polydyne, Inc. for Centrifuge Polymer for Use at the Southerly Renewable Energy Facility. Cost: \$1,527,525.00.

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**MOTION** – Mayor Stefanik moved and Mayor DeGeeter seconded to adopt Resolution Nos. 257-14 through 258-14. After discussion and without objection, the motion carried unanimously.

Regarding Resolution No. 257-14, Mr. Sulik inquired what H.R. Gray is inspecting. Ms. Rotunno explained that testing construction and inspection services are in place to augment construction staff in the field to document materials, labor and equipment on construction sites.

This contract is to provide a higher level of specialty services on tunnel projects. H.R. Gray was the provider under previous procurement of these services. A new procurement was issued and they were ranked first for continuation of these services.

Moving to Resolution No. 258-14, Mr. Brown stated that it appears there is a particular product staff wants to buy. Ray Weeden, Director of Operations & Maintenance, explained that there is one recommended polymer and is actually a continuation of the one that has been utilized since the startup of the dewatering facility at the Renewable Energy Facility (REF).

Following performance testing of six polymers the one currently in use performed the best and has the less amount of polymer per pound to achieve the desired results.

Mr. Weeden explained that it is in the standardization phase following startup, which allows time to collect data in terms of the best use of polymer. Performance testing live in a unit like this with the amount of polymer needed could cause very big upsets. For those reasons staff would like to continue to use the current polymer while data is gathered on its performance. Staff is committed to performance testing moving forward for contracts of various polymers.

Authorization to Ratify Emergency Contract

Resolution No. 259-14

Emergency Contract with the Brewer-Garrett Company for the Emergency Replacement of the Renewable Energy Facility Control Room HVAC at the Southerly Wastewater Treatment Plant.  
Contract Amount: \$200,000.00.

**MOTION** – Mr. Sulik moved and Mr. O'Malley seconded to adopt Resolution No. 259-14. After discussion and without objection, the motion carried unanimously.

Mr. Sulik stated that the original equipment went in as designed but did not work. He inquired if the District should go back to the design engineers and advise them that they designed a faulty system, and whether the design engineers should pay the \$200,000. Ms. Rotunno explained that staff confirmed that the project was designed per current American Society of Heating, Refrigerating and Air Conditioning Engineers standards for occupied space.

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The equipment did what it was designed to do; however, when the building became occupied with operators and started to be used in the way that the building is currently used, things occurred that have nothing to do with the quality or the standard of the design and had more to do with the interactions of the people that are working in that building and the HVAC system that led to operator concerns about air quality. Staff could not define any problem with the design from a standards perspective or from a faulty perspective to go back on the consultant.

Mr. Sulik stated that the system was designed to be occupied and questioned why the design would not take that into account. Executive Director Ciaccia stated that from an operational standpoint the system as designed could work but the way the employees are using the space, it isn't working for them and is risky from an air quality perspective.

Mr. Brown understood that the problem would be fixed but the question is who owns the problem. He was attempting to reconcile the statement that there is not a design problem but the air is not what it should be for human occupation.

Executive Director Ciaccia stated that the District shared the decision of what was installed. Mr. Sulik inquired if the District shares the cost for the replacement. Executive Director Ciaccia stated that the District accepted the design as an acceptable standard.

Mr. Brown stated that the people who gave it to us were professionals the District hired for their design expertise and relied on their expertise. Executive Director Ciaccia stated that he understood the Board's points because they had the same discussions internally. He stated that the system would work with diligence.

Mr. Brown stated that the Board was not prepared to take that risk and that what is being done now is a standard that should have been applied when it was built. That is not something the District should have known – that is something those who designed it should have taken into account. Executive Director Ciaccia stated that it went through design review and was accepted by the District.

As to who now owns the error, Executive Director Ciaccia wished to discuss whether the Board suggested the matter should be litigated for \$200,000. The design firm was Malcolm Pirnie.

Mayor Stefanik clarified that the \$200,000 upgrade is necessary to correct the problem and the firm did not include it in the original design. He suggested approaching the firm to split the costs.

Ms. Rotunno explained that in discussions with the firm they say they followed the ASHRAE standards and did their due diligence. HVAC systems are designed on a pressurized basis and the design engineers set the system up to equalize pressure in equal areas. When a building becomes occupied, and doors are left open, it throws pressure off and the air flows differently.





049 and 050 Relocation Project. Consideration:  
\$6,000.00.

Resolution No. 263-14

Authorize Two Relocation Payments Associated with the District's Permanent Acquisition of Property in the City of Cleveland Necessary for Construction of the St. Clair Avenue Relief Sewer Portion of the Dugway West Interceptor Relief Sewer Project. Total Consideration: \$36,050.00.

**MOTION** – Mayor DeGeeter moved and Mayor Bacci seconded to adopt Resolution Nos. 262-14 through 263-14. After discussion and without objection, the motion carried unanimously.

Authorization of Bond Insurance

Resolution No. 264-14

Series 2014 Wastewater Improvement Revenue Bonds.

**MOTION** – Ms. Dumas moved and Mr. Sulik seconded to adopt Resolution No. 264-14. After discussion and without objection, the motion carried unanimously.

Ms. Dumas asked for an explanation.

Jennifer Demmerle, Director of Finance, advised that staff is requesting authorization to issue and sell \$450 million in revenue bonds to cover three years' of cash flow and refund the 2007 bond issue.

Staff is working with underwriters and its financial advisor to see how it affects future rates. They may curtail it to two years' cash flow but they wanted the maximum amount.

The refund of the 2007 bond issue will be around \$70 million and will have a net present value savings of \$5 million or 7%. The District's debt policy is that anything over 4% in savings they look to refund.

Ms. Demmerle advised that they are looking at a 30- to 35-year maturity and the possibility of deferring some of the principal to have flexibility for variable rate exposure.

Currently rates are around 3%, which is another reason they are looking at a fixed rate. Staff will meet with the rating agencies on November 24 and 25 and look to price the bonds the week of December 1 and close the week of December 8.

Ms. Dumas inquired how this issuance compares to 5-year or 10-year projections of the Capital

plan. Ms. Demmerle explained that in the 10-year plan they only have two years' worth of cash flow but have a higher interest rate. They are running the numbers because interest rates are so low that doing another year's worth of cash flow might be prudent. The size of this issuance is higher than normal.

VI. Information Items

1. Financial Report and Investment Advisor Performance Report for the Nine Month Period Ending September 30, 2014.

Ms. Demmerle advised that staff is meeting all financial metrics. Operating revenues have increased 11% over last year due to a combination of work in the internal billing department and the AMR project at the City of Cleveland.

Since the creation of the billing department in September 2013, they have been monitoring bills very closely -- especially since the bills were split in November. There has been more-timely submittal of SSCBOUTS billings than previous years. Staff has added 800 accounts to the billing system that was not being billed that has generated over \$400,000 in revenue. Implementation of the AMR has led to fewer canceled bills and consumption has increased this year. Operating expenses are only 4% over last year and is projected to be under budget for the year.

Ms. Demmerle advised that the District has \$264 million invested, of which 65% is in a short-term money-market account primarily for the Capital program. \$90 million as of September was left off the 2013 bond issue and \$100 million is in long-term investments on reserve funds. The investments are earning about 0.32% interest, which is better than the short-term index of 0.03%.

Executive Director Ciaccia advised that the billing team and WQIS have been finding accounts that were not in the system. It started when he noticed houses that were tying into the sewer system that previously had septic tanks. Subsequently staff found they were missing a lot of information about accounts and an audit revealed 800 accounts that were previously tied into the system but did not have accounts set up.

Mr. Brown asked how the issue would be fixed. Ms. Demmerle stated that they typically get information from billing departments with a list of accounts tied in that is forwarded to the Cleveland Water Department (CWD) to add to the billing system.

Mr. Greenland explained that the District relies on Cuyahoga County and communities which are required to let them know. Sometimes there are gaps. Staff must do more to remind them of their obligation.

Executive Director Ciaccia stated that there is work to do to tighten the process because they are reliant on others.

Ms. Dumas stated that there should be some validation when an account is submitted to CWD. Ms. Demmerle added that staff is doing that since the internal billing department was developed. Mr. Brown requested feedback when a final resolution is determined.

## 2. Integrated Planning Presentation.

Executive Director Ciaccia introduced Lou McMahon, from the law firm McMahon DeGulis, who was hired to represent the District in the integrated planning initiative with the EPA.

Mr. McMahon advised that this is the beginning of an important initiative by the U.S. EPA and offers opportunities to the District and this region.

The EPA issued a memorandum in June 2012 after discussion with wastewater utilities and communities that outlines the integrated planning framework. The memorandum was issued by Nancy Stoner and Cynthia Giles of the EPA Regional Administrators.

Mr. McMahon explained that what is significant is that it is a framework; there is no compliance schedule -- it is a voluntary opportunity for communities and utilities. The framework is being carried out in practice by the communities that are implementing it.

The framework is intended to help communities comply with Clean Water Act obligations and mandates -- not just CSO, SSO or plant requirements -- and to allow communities to act in a more holistic manner. It offers potential for a sensible approach for very expensive infrastructure retrofits.

Mr. McMahon stated that there has been some movement within the EPA to allow communities to prioritize their expenditures to comply with various requirements in terms of retrofits, CSO and stormwater and the Clean Water Act. There may be other methods to approach it that could include sustainable green infrastructure and to merge infrastructure projects with other community goals and opportunities, such as brownfields redevelopment or highway work.

Mr. McMahon stated that one of the goals of the integrated planning approach is to allow communities to integrate various infrastructure approaches to leverage non-ratepayer dollars to achieve multiple goals.

The integrated planning framework can allow for consent decree schedule modification and broaden the range of acceptable compliance measures -- including use of green infrastructure over a different timeframe or a different approach to meet compliance goals. The approach can

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also support economic benefits marrying highway or other street work in other aspects within the community.

Mr. McMahon advised that locally integrated planning can assist the District and community partners meet Clean Water Act objectives by creating mutual efficiencies. Integrated planning cannot, however, change the obligations to comply with the Clean Water Act and it does not lower regulatory or permitting standards, but it recognizes flexibility in whatever guidance documents may be out in negotiations.

The Clean Water Act contains flexibility for sequencing and scheduling of work; it will not necessarily reduce the cost overall of the District's program but it may allow co-benefits so Clean Water Act costs locally are lower than they otherwise would be -- or it allow more time to achieve compliance.

Mr. McMahon stated that integrated planning is voluntarily and locally driven. Ultimately, if a local plan is brought together and has local political support, it can be the basis for consent decree changes. Maintaining the existing regulatory standards is important. The effort will allow the District and its member communities and public partners to balance Clean Water Act requirements.

The responsibility to develop plans rests solely with the District and its community partners -- the owners of collection systems and stormwater infrastructure in particular. This opens opportunities for innovative technologies -- including green infrastructure -- at a source control level among those owners to generate benefits.

Mr. McMahon advised that the EPA listed eight guidelines of what they expect to see in an integrated plan. They include taking into account state requirements, meet Clean Water Act obligations, prioritizing projects, a funding method that meets those requirements, making sure that financial strategy is in place and providing meaningful stakeholder input.

There are six plan elements. The District's approach is already active and staff has put together a description of water quality, human health and regulatory issues to be addressed in the region.

A description of wastewater and stormwater systems and a description of current performance needs to fully integrate this plan and will need the support of partners and member communities as the owners of collection systems.

Mr. McMahon advised that a process for communication and stakeholder involvement is another element. Such measures include identifying alternative approaches or changes to the schedule, a plan for measuring success and improvements to the plan. The hope with these programs and requirements is there is more of a dynamic document than enforcement has provided in the past.

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Mr. McMahon explained that integrated planning is a chance to engage the public and see if there are other approaches -- such as the widespread use of green infrastructure -- and how to connect the goals of the community and neighborhood. There may be alternative approaches in which private property owners over time can put in source control on their own; that is private dollars going to Clean Water Act improvement.

Mr. McMahon cited a quote: "Don't make us spend all of our 21<sup>st</sup> century resources on 20th century solutions to retrofit 19th century infrastructure."

The District has been a leader and for years vigorously undertaken the identification of water quality issues and challenges in the region. The District has a consent decree that might be able to be changed if a business case could be made.

Mr. McMahon explained that this policy was issued a year after the consent decree was entered by the court and the District has been examining issues and challenges facing the region to be addressed by the program. Most Clean Water Act obligations are the ratepayers' obligations. There are taxpayers as the owners of the systems, the collection systems and the stormwater systems. The District launched this effort to identify efficiencies and prioritization that can benefit the region.

The District must determine its role and scope in the integration effort with engineering analysis and investigation and the participation of entities that can benefit from it.

Mr. McMahon advised that in terms of the Clean Water Act, the District's obligations are CSO and the treatment plants; however, the Clean Water Act contemplates more for the region and local obligations. Member communities have vast collection and stormwater systems that include SSO issues, septic tanks, stormwater outlets and connections that have a significant impact on water quality. They are not directly the District's responsibility.

Water quality issues and pollutants of concern include bacteria, phosphorous and ammonia. The impacts are beach closings, flooding, basement flooding and algal blooms that are not necessarily the District's responsibility but are public responsibility in the region.

Mr. McMahon summarized his presentation by stating that integrated planning includes identifying Clean Water Act compliance issues facing ratepayers and taxpayers in the District service area with technical and engineering analyses and investigations, and looking for alternative approaches and chances to prioritize projects. They intend to get a scope of the cost that faces all taxpayers and ratepayers in the region for Clean Water Act obligations to make the argument as to what is affordable in the appropriate time frame. That will be in concert with the rate study.

Mr. McMahon stated that the District has been active developing partnerships. There is an RFQ for integrated planning for a public awareness campaign. There has been engagement with Cuyahoga County to leverage their expertise in brownfields. Access to funding is vital for entities doing Clean Water Act work and an effort in construction coordination. There will be more information in the future regarding a program under consideration for community grants to assist communities to address issues.

Mr. Brown stated that it would be helpful to understand the effects and elements of other integrated plans to determine whether they are applicable to the District. One of the items that caught his attention was the definition of “leverage non-ratepayer resources.”

Mr. McMahon stated that as the approach moves forward the estimated cost of infrastructure improvements versus bids in construction costs will be tracked. There will be a recalibration of the model to dictate what the rate structure will be in the future.

Mr. McMahon stated that it will be important to understanding the return on investment for the final projects in terms of meeting the limit the EPA set to remove half a billion gallons of CSO per year, and whether there is value in the projects to achieve the final 10 or 15% and whether that money is better spent in other ways.

Executive Director Ciaccia stated that the big element being a defined regional utility is whether the communities will want to collectively participate or whether the District should stay within its box and spend the ratepayers' money on one issue. Mr. Brown stated that the question is always who pays and how much.

The Board agreed to schedule a separate meeting to discuss integrated planning.

VII. Open Session

There were no matters for Open Session.

VIII. Public Session (any subject matter)

No members of the public registered to speak during Public Session.

IX. Executive Session

**MOTION** – Mayor Bacci moved to go into Executive Session to discuss personnel matters. Discussion of the matter in Executive Session is permitted as specific exemption to the public meeting act pursuant to Ohio Revised Code section 121.22(G)(1). He specifically designated matters discussed in Executive Session to be protected from public disclosure in accordance with Ohio law and the attorney-client privilege.

A roll call vote was taken and by the motion passed unanimously. The Board met in Executive Session from 1:51 p.m. to 2:18 p.m.

X. Approval of Items from Executive Session

Resolution No. 265-14

Revise Board of Trustees Bylaws to Adopt Changes to Executive Management Structure and Adopt New Titles.

**MOTION** – Mayor Bacci moved and Mr. O’Malley seconded to adopt Resolution No. 265-14. After discussion and without objection, the motion carried unanimously.

IX. Adjournment

**MOTION** – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Mayor Bacci moved and Mr. Sulik seconded the motion to adjourn at 2:19 p.m. Without objection, the motion carried unanimously.



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Walter O’Malley, Secretary  
Board of Trustees  
Northeast Ohio Regional Sewer District



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