

MINUTES  
NORTHEAST OHIO REGIONAL SEWER DISTRICT  
BOARD OF TRUSTEES MEETING  
NOVEMBER 21, 2013

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

I. Roll Call

PRESENT: R. Sulik  
S. Kelly  
J. Bacci  
T. DeGeeter  
W. O'Malley

ABSENT: D. Brown  
G. Starr

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

II. Approval of Minutes

**MOTION** – Mr. O'Malley moved and Mayor DeGeeter seconded that the minutes of the November 7, 2013 Board meeting be approved. Without objection, the motion carried unanimously.

III. Public Session

Executive Director Ciaccia informed the Board that Victoria Mills registered to speak during Public Session regarding Resolution No. 288-13.

Ms. Mills was invited to the podium to address her comments to the Board.

Ms. Mills advised that she is from the Doan Brook Watershed Partnership (hereinafter "Doan Brook") and said her organization is supportive of the District's work including wastewater and stormwater management, non-source point pollution, flooding, abatement, erosion control and the education of citizens on water and wastewater management at the hyper-local capillary levels.

Ms. Mills concluded her comments by stating that Doan Brook will continue to practice comprehensive approaches to wastewater, watershed management and aquatic ecology,

## BOARD OF TRUSTEES

Regular Meeting

November 21, 2013

Page 2 of 13

advocate for the collective goals and mission of keeping a clean Lake Erie, and writing grants to fund our shared goals to leverage the District's investment in Doan Brook.

Executive Director Ciaccia noted that representatives from Doan Brook, West Creek Conservancy, Rocky River Watershed Partnership, Chagrin River Watershed Partnership, and Tinkers Creek Watershed Partnership were present at today's Board meeting in support of Resolution No. 288-13.

Mayor DeGeeter recognized two City of Parma residents, Irv and Dorothy Hazel, and welcomed them to the Board meeting. Mayor DeGeeter indicated that Mr. & Mrs. Hazel attended the meeting on behalf the West Creek Watershed's Executive Director Derrick Shafer. Mayor DeGeeter stated that he looks forward to continuing a wonderful working relationship between the City of Parma and friends of the West Creek Watershed.

Mr. Sulik stated that the District supports watershed projects and will continue to be involved in said projects. He thanked the attendees for their support.

#### IV. Executive Director's Report

Executive Director Ciaccia moved to the first report item and he advised that included in the Board members' packets were the financial statements through the end of October. The District's revenues and expenses are on target. The District is slightly below its budget, which is good. Executive Director Ciaccia noted that the District would be more under budget if it did not have to assume stormwater issues due to the stoppage of the Stormwater Management Program (hereinafter "SMP"). The District is tracking well and anticipates being well within budget at year end.

Executive Director Ciaccia moved to the next report item and he advised that on November 12<sup>th</sup> the District filed its appeal in the stormwater case. The City of Cleveland filed an amicus brief in support of the District and 16 suburban communities jointly signed an amicus brief which included all communities represented on this Board. Cleveland Metroparks also filed an amicus brief on the District's behalf. NACWA, AOMA, and a coalition of regional districts in Ohio all filed joint amicus briefs.

Executive Director Ciaccia explained that the District has a lot of support from very important groups and remains hopeful that it will be able to present its case and the merits of the SMP before the Supreme Court of Ohio. In the meantime the District will rely on the communities for stormwater management.

District representatives met with the Mayors and City Managers Association as well as the Suburban Council of Governments. During those meetings Executive Director Ciaccia indicated that he questioned the members, if not the SMP, then what is the

## BOARD OF TRUSTEES

Regular Meeting

November 21, 2013

Page 3 of 13

alternative program? The District carried out stormwater management and has been working towards the development of a regional SMP for decades.

Executive Director Ciaccia stated that when he joined the District this organization had to make a decision regarding the best way to handle the findings of a \$12 million study which identified \$200 million worth of stormwater problems throughout this region. The District could have either placed the study results on a shelf, pass the liability off to the communities to collectively deal with stormwater issues, or have the District carry out the SMP. The District chose the latter.

Executive Director Ciaccia questioned what are the alternatives? Should we simply do nothing or individually accept the liability of stormwater issues that were identified in those reports which have now become public record? Should the District or some other organization establish a collective approach to handle stormwater? Executive Director Ciaccia was hopeful that this will become a moot point when the court rules in the District's favor. In the meantime, the District will continue to pose those questions to the leaders of this region.

Executive Director Ciaccia moved to the next report item wherein he advised that he, Deputy Executive Director, F. Michael Bucci and Director of Administration and External Affairs, Constance Haqq, met with Mayor Jackson last week to discuss the Community Benefits Program (hereinafter "CBP"). Mayor Jackson seemed pleased with the District's progress and job creation efforts through its combined sewer overflow and stormwater programs.

Executive Director Ciaccia moved to the next report item wherein he advised that the District hosted some "match-maker" events for the Minority-, Women- and Small Business Enterprises (hereinafter "MBE, WBE and SBE"). The first was session was presented by Director of Engineering and Construction, Kellie Rotunno, and Office of Contract Compliance Manager, Tiffany Jordan, and was held on November 7<sup>th</sup> for the engineering community. The second session was presented by Dominion East Ohio Gas and the District at Dominion's facility on November 15. This session was geared more towards construction. Executive Director Ciaccia advised that both sessions were well attended.

Executive Director Ciaccia advised that several meetings in have been held in Glenville associated with the Dugway sewer projects. Community meetings were held on November 12<sup>th</sup> and November 17<sup>th</sup>. Both were well attended. Executive Director Ciaccia commended Ms. Haqq and her staff on their efforts of conducting great outreach in the Glenville community. Councilman Kevin Conwell indicated at a city council meeting that he was impressed at how much time the District is spending in the Glenville

BOARD OF TRUSTEES

Regular Meeting

November 21, 2013

Page 4 of 13

community prepping the residents for the big construction project which will be underway soon.

Executive Director Ciaccia moved to the next report item wherein he advised that Mr. Bucci and Government Affairs Specialist, Joe Jenkins, attended a meeting held by the Cuyahoga Valley Republicans in Brecksville. Tom Kelley, head of the Citizens Reform Association of Cuyahoga County (hereinafter "CRACC") presented an argument in opposition to the District's work and the rate increases associated with carrying out its projects in order to be in compliance with federal mandates. Mr. Bucci was present in an effort to present a counter-balance to Mr. Kelley's allegations. Executive Director Ciaccia indicated that although moderate progress was made, it was important for the District to have a voice in the discussion.

Executive Director Ciaccia moved to the final report item to address the issues raised by the Board at the previous Board meeting regarding the MBE/WBE subcontracting goals on the Easterly Secondary System Improvements (hereinafter "ESSI") project. The bidders did not meet the District's subcontracting goals and Ms. Rotunno prepared a report, which was included in the Board members' packets, to explain the process. Ms. Jordan and her staff surveyed many of the subcontractors to determine if they were contacted by Shook Construction Company (hereinafter "Shook"). Executive Director Ciaccia turned discussion over to Ms. Rotunno.

Ms. Rotunno began her presentation by recognizing Ms. Jordan on her tireless outreach efforts as well as the project controls group that provided much data to support this analysis.

The first item was to verify the good-faith efforts made by the Shook Walbridge Joint Venture (hereinafter "Shook Walbridge JV") to contact MBEs and WBEs for subcontracting opportunities. Ms. Jordan called 85 of the 117 firms Shook Walbridge JV claimed to have contacted. She was able to speak directly with 61 of those 85 firms of which 37 recalled being contacted directly by Shook Walbridge JV and 16 could not specifically recall whether they were contacted. Most firms indicated that they receive a high volume of calls from various contractors requesting bids and quotes and had difficulty remembering which specific firm contacted them. Furthermore, eight firms claimed having not been contacted directly by Shook Walbridge JV.

Ms. Rotunno explained that attached to the memorandum was the data sheet used by Shook Walbridge JV in the preparation of the bid. It lists the firms that were contacted by the contractor as well as the outreach efforts made by the Office of Contract Compliance. Ms. Rotunno stated that based on the analysis it was determined that at the time of bid, the contractor made a good-faith effort.

BOARD OF TRUSTEES

Regular Meeting

November 21, 2013

Page 5 of 13

Ms. Rotunno moved discussion to the second point identified in the memorandum which was to take an historical look over the last three years of the MBE/WBE commitments at the time of bid compared to MBE/WBE achievements at project close out. According to the data analysis, on aggregate, construction contracts committed 19.6% of their contract values to business opportunity certified firms which includes MBE, WBE or SBE. At the time of construction project close out, participation was 24% on aggregate. Ms. Rotunno noted that contractors have improved upon bid-time commitments by about 25% which is indicative of the District's efforts to continue working with the contractors beyond the bid period and throughout project duration in an effort to encourage contractors to increase its MBE, WBE and SBE subcontracting participation.

Ms. Rotunno moved discussion to the third point identified in the memorandum which was to evaluate Shook's historical performance of providing subcontracting opportunities on District projects. In the recent past, the District identified three projects where Shook was the primary contractor. On two of the three projects, Shook increased its subcontracting goals from the goals stated at the time of bid, which was a testament to their good-faith efforts. Shook was only able to achieve 55% percent of the District's goal on the other project at the time of closeout.

Ms. Rotunno moved to the next point which was to evaluate Shook's three current construction contract commitments. Two of the three projects either met or exceeded the District's business opportunity goals. One of the three projects was lower than the District's goal. The latter was awarded with a goal of 14% compared to the District's goal of 20%. Ms. Rotunno noted that since these projects are currently under construction, the District cannot extrapolate the subcontracting goals at project close out.

Ms. Rotunno explained that the subcontracting points are discussed during monthly progress meetings between the construction supervisors and contractors. It is a standing agenda item when the construction supervisors are discussing pay applications. The contractors are also required to enter their pay records and this information gets compiled into Ms. Rotunno's monthly report to the Board.

Ms. Rotunno moved to the fourth point identified in the memorandum and she advised that Shook Walbridge JV committed \$5,251,200.00 of the contract value to firms registered with the District's business opportunity program. Ms. Rotunno explained that while that dollar value may seem like a small percentage of the contract, it represents nearly 16% of the total annual cash across all of the District's construction projects.

Ms. Rotunno noted that according to a letter from the contractor, which was attached to the Board members' memorandum, the contractor anticipates improving upon their subcontracting commitments throughout the duration of the project. Ms. Rotunno assured that the District will continue to dialogue with the contractor on a monthly basis

## BOARD OF TRUSTEES

Regular Meeting

November 21, 2013

Page 6 of 13

to ensure that the good-faith efforts continue throughout the duration of the project. The contractor is aware of the District's expectation that subcontracting commitments should improve before project close out.

Executive Director Ciaccia explained that in addition to subcontracting commitments being taken into consideration at the time of bid, the District also closely monitors subcontracting opportunities throughout the duration of the project. Situations change throughout the duration of the project which on average can span over a period three year period. Various subcontractors enter at different phases of the project and it is therefore conceivable that a particular subcontractor who may have been part of the initial bid is no longer available. Conversely, additional opportunities may arise during project duration. For example, a larger contractor who may have been available at the time of the initial bid may be replaced with a subcontractor. The prime contractor has the capability to either improve upon or find itself at a disadvantage at project close out. Executive Director Ciaccia stressed that given these potential outcomes, it is therefore important to understand what happens throughout the course of a project as well as at the end of a project.

Ms. Kelly was happy to see progress being made however she was concerned about the contractors' perception of doing business with the District. Ms. Kelly inquired if during Ms. Jordan's outreach whether the subcontractors were surveyed about their perceptions of doing business with the District. She stated that if the perception is negative, then the District will not attract participation. Given the magnitude of District contracts, Ms. Kelly could not understand why more contractors were not interested in participating.

Ms. Jordan explained that each project is different but in reference to the ESSI project and Shook in particular, the feedback her office received was positive. Ms. Jordan stated that although some of the subcontractors could not recall whether Shook contacted them, they indicated that it was very likely Shook did. Ms. Jordan stated that Shook is great with their good-faith effort and that Bernie Ashyk conducts great outreach efforts in reference to working with minority contractors. The feedback from MBEs and WBEs was positive with respect to the ESSI contract.

Ms. Kelly requested that Ms. Jordan provide the Board with examples of the types questions asked during the survey.

Ms. Jordan stated that if a subcontractor was listed on the bid as being contacted by Shook then she would inquire as to why they chose not to bid. Some of the responses included that they were busy at this time or did not have a chance to provide a quote to Shook. Many of the subcontractors indicated that they submitted a quote; however, they were advised that their pricing was not competitive.

Ms. Kelly suggested that staff keep a record of the responses as to why subcontractors chose not to bid. If there is a common thread, then it can be corrected.

Ms. Jordan stated that some companies indicated that when they receive requests for quotes from contractors, they do not have time to go through the bid specifications in order to identify all of the relative components relating to their bids. Therefore, they choose not to bid.

V. Action Items

Authorization to Issue Request for Proposals (RFPs)

Resolution No. 280-13	RFPs for the Woodland Hills Green Infrastructure project.
Resolution No. 281-13	RFPs for professional services for customer inquiry tracking application software
Resolution No. 282-13	RFPs for professional services for environmental permit compliance reporting software.

**MOTION** – Mayor Bacci moved and Mr. O’Malley seconded to adopt Resolution Nos. 280-13 through 282-13. Without objection, the motion carried unanimously.

Authorization to Enter Into Agreement

Resolution No. 283-13	Agreement for sponsorship of the 2013-2014 Water Resource Restoration Sponsor Program Lake Erie Bluffs – Phase IV project.
-----------------------	--

**MOTION** – Mayor DeGeeter moved and Ms. Kelly seconded to adopt Resolution No. 283-13. Without objection, the motion carried unanimously.

Authorization to Enter Into Contract

- Resolution No. 284-13                      One (1) year contract with three one (1) year options to renew with St. Vincent Charity Medical Center for occupational health services. First year cost not-to-exceed \$27,000.00; Total cost not-to-exceed \$130,000.00.
- Resolution No. 285-13                      Three (3) year contract with option to cancel after one year with Sterling Infosystems, Inc. for background investigation services. Cost not-to-exceed \$30,000.00 per year; Total cost not-to-exceed \$90,000.00.
- Resolution No. 286-13                      Contract to provide in-kind analytical services with a value of \$7,915.32 to Chagrin River Watershed Partners, Inc.
- Resolution No. 287-13                      One (1) year requirement contract with JCI Jones Chemicals, Inc. for sodium hydroxide solution for use at all Wastewater Treatment Plants. Cost: \$58,890.77.

**MOTION** – Ms. Kelly moved and Mayor Bacci seconded to adopt Resolution Nos. 284-13 through 287-13. Without objection, the motion carried unanimously.

Authorization to Implement Program

- Resolution No. 288-13                      Implement 2013 Watershed Grants Program – Operating Support Grant. Cost not-to-exceed \$250,000.00.

**MOTION** – Mayor DeGeeter moved and Mr. O’Malley seconded to adopt Resolution No. 288-13. Without objection, the motion carried unanimously.



Authorization of Compensation

Resolution No. 289-13

Authorizing the Executive Director to grant up to 2% general increases for non-union employees, and authorizing the Executive Director a budget dollar amount not-to-exceed \$500,000.00 for providing performance pay for 2014.

**MOTION** – Mayor Bacci moved and Ms. Kelly seconded to adopt Resolution No. 289-13. Without objection, the motion carried unanimously.

VI. Information Items

1. Industrial Pretreatment Program Update.

Superintendent of Environmental Services, Frank Foley, explained that each year by May 1<sup>st</sup>, the District is required under its pretreatment program to provide a list of the industries in the service area that have been in significant non-compliance in the past year. The District was asked to report on its progress around this time. Mr. Foley turned discussion over to Supervisor of Enforcement, Kevin Roff, to provide the Board with the update.

Mr. Roff stated that in April the District provided a list of companies that were in significant non-compliance (hereinafter “SNC”) and to be published on an annual basis. SNC for significant industrial users (hereinafter “SIU”) is published annually for a pretreatment year from March 1<sup>st</sup> to February of the following year. Mr. Roff stated that SNC is defined by the federal code of regulations as well in Title 2 of the District’s pretreatment regulations.

SIUs can be in SNC for many reasons. Procedural violations can include failure to conduct required sampling or failure to submit required monitoring reports. Furthermore, SIUs can be issued a notice of violation (hereinafter “NOV”) if those responses are submitted late.

Sampling violations can be based on self-monitoring or sampling done by District investigators. Sampling SNC is determined by inputting data into a set of criteria defined in the Code. Mr. Roff explained that the number of SIUs in the SNC in the table provided for the first two quarters of the pretreatment year is in line with previous years. When comparing the first two quarter results from 2012 and 2013, the numbers are nearly identical.

BOARD OF TRUSTEES

Regular Meeting

November 21, 2013

Page 10 of 13

The District is expected to take appropriate enforcement actions when there are violations as defined by the Enforcement Response Plan. The first level is the issuance of a NOV. At a minimum, SIUs issued NOVs are required to respond within 30 days. The response should include an explanation of the cause of the violation and a plan of action to return to compliance and prevent further violation(s).

The next level is to schedule a compliance meeting for industries having issues with maintaining compliance below its discharge regulations and limits, or for SIUs being in SNC for two consecutive years. During the compliance meeting, the SIU is notified whether it will be required to develop a formalized compliance schedule. The District typically expects the SIU to obtain an outside evaluation of its treatment system to determine what modifications or improvements are necessary. The SIU is required to follow a District-approved implementation schedule which identifies dates of upgrades or modifications to the treatment system. An increase to the self-monitoring of the discharge may be required. Lastly, it may be required for the SIU to send its pretreatment system operators to a training program.

Mr. Roff concluded his report by stating that for the 2013 pretreatment program year, 24 SIUs were issued NOVs. Seven compliance meetings were held which also includes show cause hearing settlement meetings and three compliance schedules have been issued.

Mr. Sulik referred to the first chart presented by Mr. Roff which indicated that five companies have been in violation for consecutive years and he inquired as to what steps the District has taken with regards to those companies.

Mr. Roff replied that one company discontinued an operation that was causing the non-compliance. Another company recently changed ownership and are removing processes which contributed to non-compliance. Two companies were placed on compliance schedules. One SIU was issued a show cause that is currently engaged in settlement negotiations.

There were no further questions from the Board.

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

Ms. Rotunno moved to the first report item regarding Project Clean Lake wherein she was just informed via email that the Euclid Creek Tunnel (hereinafter “ECT”) project was the Tunnel Association of Canada’s tunnel international project of the year. Ms. Rotunno advised that she will be forwarding the video link to the Board and members of District staff.

## BOARD OF TRUSTEES

Regular Meeting

November 21, 2013

Page 11 of 13

Ms. Rotunno advised that the ECT project is moving along according to schedule and budget. There is a lot of concrete being poured and most of the work is surface or structural since the tunnel has been completed. Ms. Rotunno was pleased to report that St. Clair Avenue was re-opened five days ahead of schedule.

Ms. Rotunno moved discussion to the Easterly Tunnel Dewatering Pump Station (hereinafter "ETDPS") and she advised that the contractor has completed excavation of the cavern bench. Structural concrete work is underway at the Easterly interceptor junction chamber which will eventually take flow to the Easterly wastewater treatment plant. Excavation continues at the raw water tunnel which will eventually connect the pump station to the ECT. The underground structural improvements are nearing completion and the contractor will soon transition into the next phase of the project, which is construction of the massive pump station.

Ms. Rotunno advised that the contractor's claim for additional compensation regarding the installation of the 604 rock anchor bolts is under evaluation. The District will be meeting with the contractor tomorrow.

Ms. Rotunno moved to the next report item regarding the Renewable Energy Facility (hereinafter "REF"). Incinerator No. 1 is almost to temperature. The issues associated with the waste heat boilers in the train #1 appear to be repaired sufficiently in order to operate this unit. The District is hopeful to burn sludge by Thanksgiving. After startup of waste heat boiler #1 and fluidized bed incinerator #1, the District will move on to #3 and then #2. The District anticipates having all three operating by early January 2014. The District is hopeful that it will be burning sludge soon and not have to resort to the utilizing the sludge hauling services which were authorized at the last Board meeting.

Ms. Rotunno moved discussion to the Key Performance Indicators (hereinafter "KPI"). Cash flow experienced an uptick bringing it closer to the projected cash flow curve in November. The District is currently running 82% of its cash flow as projected from the beginning of the year.

Business opportunity cash flow is running at 83% which is slightly above the overall cash flow. Since the end of October, the District paid out more than \$25 million to certified business opportunity firms under its capital program. The District is tracking consistent with the overall cash flow. Payments are going out, which is good.

Ms. Rotunno moved discussion to the KPI for business opportunity participation at the time of project close out. The Combined Sewer Overflow Relining and Replacement project closed out exceeding its goal. The District is at 28% cumulative participation on its construction contracts.

Ms. Rotunno moved discussion to the KPI for the engineer's estimate of probable construction cost. Bids have been within 3.3% of the engineers' estimates and we are meeting that KPI.

Ms. Rotunno advised that the District on average is completing its designs within one day of the completion date. Additional cost savings have been identified in the amount of \$130,000 through alternative equipment for the Easterly Storage and Feed Facility, bringing the year to date value engineering savings to nearly \$25 million.

Ms. Rotunno stated that the District is meeting its KPI for construction project close at 90% of the contract amount.

Ms. Rotunno moved discussion to the KPI for awarding projects on time. On average, the District is awarding projects within 38 days. Ms. Rotunno noted that the District is slipping on its design performance and bid performance. Construction projects are closing on average 183 days from the planned time at the time of bid. This remains an area of focus and also raises the concern as to whether the District is moving its designs through too quickly resulting in more time during construction to address areas thus moving out the anticipated construction completion date. During the design phase, the District must continue to identify ways in which it can improve its construction schedule performance.

Ms. Rotunno concluded her report with a quote by Steve Maraboli, "Happiness is not the absence of problems; it's the ability to deal with them."

There were no questions from the Board.

Ms. Rotunno explained that since design impacts construction, we have to keep

#### VII. Public Session

No members from the public registered to speak at Public Session.

#### VIII. Open Session

There were no items for discussion.

#### IX. Executive Session

Mr. Sulik stated that there were no items for discussion in Executive Session.

X. Adjournment

**MOTION** – Mr. Sulik stated business having been concluded, he would entertain a motion to adjourn. Mayor Bacci moved and Mr. O'Malley seconded the motion to adjourn at 1:15 p.m. Without objection, the motion carried unanimously.



---

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



---

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