

MINUTES  
NORTHEAST OHIO REGIONAL SEWER DISTRICT  
BOARD OF TRUSTEES MEETING  
DECEMBER 17, 2009

Meeting of the Board of Trustees of the Northeast Ohio Regional Sewer District was called to order at 12:32 p.m. by Darnell Brown.

I. Roll Call

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

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

II. Approval of Minutes

**MOTION** – Mayor DePiero moved and Mr. Sulik seconded that the minutes of the December 3, 2009 Board meeting be approved. Without objection, the motion carried unanimously.

III. Public Session

Executive Director Ciaccia advised that Barbara Hermes, Heather Elmer and Paul Alsenas registered to speak at Public Session regarding the Stormwater Management Program (hereinafter "SMP"), however, there were no agenda items for Board consideration regarding the SMP.

**MOTION** – Mayor Longo moved Ms. Kelly seconded to allow Mr. Alsenas, Ms. Hermes and Ms. Elmer to address their comments to the Board during the first Public Session, and that Mr. Alsenas would be limited to 10 minutes. Without objection, the motion carried unanimously.

Mr. Brown requested that Mr. Alsenas, Ms. Hermes and Ms. Elmer please come forward and address their comments to the Board, in that order.

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Mr. Alsenas, Director of the Cuyahoga County Planning Commission (hereinafter "CCPC"), thanked the Board for the opportunity to speak on behalf of the District's proposed SMP, which he described as "one of the most important issues that will be decided in this community in decades." He wanted to address the Board on this very important decision.

Mr. Alsenas advised that the CCPC is the "first public body, more than a year ago, that publicly endorsed the District moving forward to develop the SMP." The CCPC Board is comprised of the three Cuyahoga County Commissioners; a City of Cleveland representative, City Planning Director, Robert Brown; and seven mayors, each representing a cluster of the 58 suburban communities which are geographically distributed throughout Cuyahoga County.

According to Mr. Alsenas, the CCPC attended various District functions, but "a lot of conversation and decision-making does not address some of the larger regional parts of the framework that need to be an integral part of this discussion."

Mr. Alsenas provided the Board with handouts, and he brought two visual graphics. Mr. Alsenas stated that he "wanted to illustrate a couple of points and connect some dots that will help to add to the amazing array of factors that you have to put into your decision."

Mr. Alsenas advised that he worked as the Engineering and Sanitary Planning Director from the Cuyahoga County Engineer's Office; therefore, he is familiar with the technical components of the proposed SMP. He worked directly for the Cuyahoga County Commissioners and County Administrator for many years and dealt with significant situations that involved taking complex circumstances, which is "a big need for the County, organized it across municipal boundaries and delivered a service model to take care of that issue."

In Cuyahoga County, there is an Advanced Life Support System, an Emergency Incident Management System, E-911 System and a countywide Solid Waste Management System.

Mr. Alsenas stated that CPCC strategically planned and created a specialized transportation and partnership with the Greater Cleveland Regional Transit System "to take households that are transitioning from welfare to self-sufficiency to tens of thousands with a specific solution to take them to the job rich parts of the community." An entire system was created to address the needs of senior citizens. This metropolitan scale delivery system was the first in the country designed to transport senior citizens to their doctors' appointments or to complete other errands.

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Mr. Alsenas stated that “water is the platform on which all life exists, and as we sit here in the largest human habitation on the shores of the twelfth largest body of freshwater on earth, it has to be a part of your decision-making.” According to Mr. Alsenas, we have a stewardship responsibility, and the Board has the unique authority and mission to address those issues. Even though the entire community is responsible for stormwater at some level, no one within the community has the responsibility and opportunity similar to the Board in order to address the stormwater issues.

Mr. Alsenas moved discussion to the regional flooding issues, and he stated that the Board has seen “the typical work that your awesome staff has done to describe the problem areas and solutions.”

It has become recently apparent that another significant issue is the direct and indirect cost of the damage caused by stormwater flooding on a watershed basis and across municipal lines. During his tenure with the Sanitary Engineering Department, Mr. Alsenas witnessed hundreds of flooded basements as well as the health and property affects resulting from flooding. When a major storm is predicted, people become anxious because they fear the potential outcome of flooding created by stormwater. As the climate changes, storms are becoming more severe and many new areas plagued by stormwater will arise.

Mr. Alsenas referred to a graphic and stated that water is ubiquitous in this region and is an integral part of our landscape, and “any system that ubiquitous that cannot be resolved based on watershed approaches has to be managed.” We have thousands of miles of great waterfronts and local streams which are connected in the web of life of natural systems and ecology, including clean drinking water. “This is our brand.”

Mr. Alsenas questioned how one cannot realize the degree to which we need comprehensive systemic solutions? Mr. Alsenas reiterated that the Board uniquely has the opportunity, mission and authority for a systemic solution.

Mr. Alsenas moved discussion to the regional erosion issues. There is not much awareness and knowledge of erosion and how critical it is. According to Mr. Alsenas, erosion issues have not been an integral part of the public discourse of the SMP proposal.

Mr. Alsenas referred to a graphic depicting the Cuyahoga River watershed. Rainwater falls from the sky into the rivers and flows from the south to the north and into Lake Erie, mostly through the Cuyahoga River watershed. However, there are two small sections within the service area that do not drain to the Cuyahoga River watershed and those are located to the far east and the far west. As water flows downhill it takes soil runoff from its natural landscape and washes it into the streams, the Cuyahoga River and the

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navigation channel, and this is how sedimentation occurs. Each year the United States Army Corps of Engineers (hereinafter "USACE") needs millions of dollars worth of funding to dredge the navigation channel of the Cuyahoga River, and this has become a budgeting issue for the federal government. That dredge saturated solids are taken to a confined disposal facility. Discussion in the media included creating a new dredge facility because the existing dredge locations are reaching full capacity.

Mr. Alsenas shared a narrative with the Board. The USACE, the City of Cleveland, and other stakeholders such as Cuyahoga County have recently completed a plan to create new capacity for the dredge we take out of the River, a plan that is going to cost hundreds and hundreds of millions of dollars. The input is what comes from the watershed, not what comes from the River, because that is where it ends up. Discussions now involve the need for confined disposal facilities, including a bay, and how this will be financed.

During this process with the USACE, we incorporated whole system thinking, which means going to the source and trying to solve the problem that way. According to Mr. Alsenas, "the USACE agrees that the future plan, this plan that we are working on now, should end up, 20 years from now, with disposal of dredge so we never have to build another dredge facility again in the City's future. This plan shouldn't just be a facility for 20 years of dredge; it should be facility for 20 years as we decrease the amount of dredge through managing erosion on the landscape. Hundreds of millions of dollars over many years could be addressed by the work you are doing here by addressing erosion."

Mr. Alsenas referred to a graphic of the green print which showed the characterization of Cuyahoga County and its new 21<sup>st</sup> century landscape, which involves green space. "The SMP will allow us to implement things that Portland, Oregon and our competitive sectors are doing. "This is real economic development, and the new economic development."

Mr. Alsenas indicated that he respectfully inquires from those opposing the District's SMP whether they have proposed an alternative solution to the District's proposal to manage this region's stormwater issues. We need to have an answer. We cannot ignore the erosion and flooding caused by stormwater in this region.

Mr. Alsenas concluded his presentation and stated that he would be happy to entertain any questions from the Board. He also plans contacting each Board member individually.

As a member of the Board of Trustees of the West Creek Preservation Committee (hereinafter "Committee"), Ms. Hermes attended the meeting to speak on behalf of the Committee, which supports the proposed SMP. Ms. Hermes stated that Mr. Alsenas spoke on many of the details that the Committee planned to bring forward.

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Ms. Hermes attended the public forum held on November 23<sup>rd</sup> in the City of Parma, and she stated that “this SMP will go a long way in making a healthier West Creek watershed” as well as many other watersheds or all of the watersheds in this region. The Committee wanted to lend its support to the SMP.

Ms. Elmer advised that she is with the Ohio Coastal Training Program (hereinafter “OCTP”) which is a partnership that provides informed training decisions that impact Lake Erie. The OCTP is a partnership of the Ohio Department of Natural Resources (hereinafter “ODNR”) Office of Coastal Management and the Division of Wildlife’s Old Woman Creek National Estuarine Research Reserve, The Ohio Sea Grant College Program and the Ohio Lake Erie Commission. The program is primarily funded by the National Oceanic and Atmospheric Administration and the ODNR.

Ms. Elmer stated that as manager of the program which provides training to local governments on land use and water quality issues, she wanted to express her support for the SMP and specifically for the technical services, coordination and education and outreach components that would fall within the regional watershed integrator role. Ms. Elmer expressed support for the information support component for the stream system manager role.

Ms. Elmer stated that when developing the OCTP’s training and technical services, local government officials were asked about the challenges they face and the types of training and technical assistance they need. In response to a survey conducted in 2007, 38% indicated stormwater as one of the top three issues they were facing within their capacity in local government. Funding for infrastructure improvements and education and training for citizens, themselves, their staff and developers were listed as the greatest challenges. Stormwater management was the highest rated training topic among a suite of 42 different training topics in this survey.

The OCTP collaborates with other regional and state entities to leverage its funding and ensure coordinated provision of high quality training throughout the Lake Erie watershed. The OCTP partnered with the District most recently to bring the research expertise of the University of New Hampshire Stormwater Center to Ohio to train public and private sector engineers and plan reviewers on the hydraulic and water quality performance of different stormwater technologies.

The OCTP looks forward to continued coordination and partnership with the District to offer this training and assistance to the governments, developers and other stormwater professionals. Effective stormwater management is essential to human health and safety and also to the long term protection of Lake Erie, which is a huge environmental and economic asset for this region. Having a regional stream system manager and watershed

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integrator in the District would be a step towards managing and addressing the regional's stormwater challenges.

Mr. Brown thanked all Public Session speakers for addressing their comments to the Board on this very important issue and for taking time out their busy schedules to provide their support and knowledge of the SMP.

Mayor Longo referred to the maps provided by Mr. Alsenas and he commented that when looking at the watershed map which identified flooding locations and the Cuyahoga County green print showing the activity nodes throughout the area are synonymous. Mayor Longo stated that "we at the District do not connect the dots because if it isn't for all of the work, the interceptors, the wastewater treatment plants (hereinafter "WWTP"), these activity centers and the economic well-being of this county would not exist." The District needs to "connect our involvement in the day-to-day activity whether it's walking on a trail, going to work, and the impact that we have on the economy of northeast Ohio."

Mayor Starr stated that Paul Schweikert of the Village of Sagamore Hills contacted him on December 16<sup>th</sup>, and he inquired if Mr. Schweikert was present at the meeting and wished to give testimony or reserves the right in the future speak to the SMP. Mr. Schweikert thanked Mayor Starr and indicated that he did not want to speak to these issues at this time.

IV. Executive Director's Report

Executive Director Ciaccia moved discussion to the Combined Sewer Overflow Long-Term Control Plan (hereinafter "CSO LTCP"). The District met with the state and federal governments on December 14<sup>th</sup>, and, for the most part, this was a positive meeting. We have come closer on the technical aspects of the CSO LTCP; however, there are some negative components which will be discussed during Executive Session. The meeting with the governments was fruitful and we are moving in the right direction.

Executive Director Ciaccia moved to the next report item regarding government relations and the state and federal advocacy services. He advised that Tucker and Ellis, the District's state advocacy firm, is working on a number of legislative initiatives with the State of Ohio as it pertains to additional entities that provide deferred compensation services since we are currently limited to only two providers for that particular service.

Executive Director Ciaccia stated that it would be supportive to the SMP if the District would be granted or have the ability to acquire conservation easements and to increase the power to clean or remove obstructions from private property.

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From a construction and procurement standpoint, the District is seeking the authority to enter into design-build projects, similar to the Ohio Department of Transportation (hereinafter "ODOT"), as an alternative method.

The District desires broader appropriation authority than \$25,000, since currently anything exceeding that amount requires Board authorization. Other agencies such as the City of Cleveland have increased the appropriation authority to \$50,000.

Executive Director Ciaccia advised that aforementioned issues will be brought to the Governance Committee for consideration before moving forward.

The District is seeking more flexibility with contract bidding regulations. Executive Director Ciaccia provided an example of having to reject bids exceeding 10% of the engineer's estimate. He was not fond of this particular requirement since it allows contractors to bid high in order to see other bid proposals.

Alcalde & Faye (hereinafter "Alcalde") handles the District's federal advocacy services and their concentration is on the Water Resource Development Act (hereinafter "WRDA") funding. The District submitted \$11.5 million worth of projects for WRDA funding. The District would be required to come up with 25% of that amount and therefore the District is in the running to receive an estimated \$8.6 million in WRDA funding. The projects submitted for the WRDA funding include the Walworth Run Outfall Phase II, Chevy Branch of Big Creek Watershed Restoration, Brandywine Creek Watershed, Bear Lake Dam Removal and Stream Restoration. Executive Director Ciaccia stated that the District is hoping to receive funding for some, if not all, of the aforementioned projects.

Executive Director Ciaccia moved to the next reporting item regarding the District's finances. The District anticipates finishing 2009 under budget.

Executive Director Ciaccia moved to the next report item regarding the cities of Strongsville and North Royalton wastewater service. Discussions were held to increase District wastewater service in those communities. Executive Director Ciaccia referred to a map of Strongsville, and he stated that the gold-area is served by the District and the blue-area is served by two plants managed by American Water. The contract for operations they have with American Water expired, but it has been extended.

The cities of North Royalton and Strongsville inquired if the District would make a proposal for taking over that part of the system. The District conducted its analysis of Strongsville, and Deputy Executive Director, Michael Bucci, is spearheading this initiative. District representatives met with Mayor Perciak and his staff. According to Executive Director Ciaccia, "there is obviously an asset value to some of the

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infrastructure they have, especially the plants.” The District is working on its proposal and determining its return on investments. Mayor Perciak is looking forward to receiving those numbers.

Mr. Bucci added that a plan was developed years ago for an east leg of the southwest interceptor that would decommission the plants located in the cities of Strongsville and North Royalton, and we would be able to revisit that plan to see if it makes sense today.

Mayor DePiero inquired as to what benefits the ratepayers of the cities Strongsville and North Royalton will receive from this initiative and whether they are paying higher rates than other member communities under the current system. Mr. Bucci believed they were paying more based on their local charge, which is a rate above and beyond the standard rate charged by the District.

Mayor DePiero questioned if the overall rates were higher. Mr. Bucci clarified that the District’s rate for that area is around \$40, and those customers are also charged approximately \$10 per MCF for their local charge. Therefore, those customers are paying around \$50 per MCF.

Executive Director Ciaccia stated that the District will bring this issue back to the Board for discussion during an Executive Session since this initiative will require a property acquisition. Moreover, Mayor Perciak is interested in advancing this discussion with his City Council.

Mr. Brown inquired if the District will evaluate the condition of those assets wherein Executive Director Ciaccia advised that they already have. Mr. Bucci stated that the District pulled their NPDES permits and conducted sampling to determine whether the plants were in compliance. The District conducted an overview on the asset condition and has proposed a five-year capital plan. The District requested that Strongsville provide a five-year capital plan from their perspective.

Mayor Starr questioned if the District does purchase or acquire this property, would they be required to take over any debts. Mr. Bucci stated that that “we would be acquiring assets at a purchase price and then with the funds that they would receive, they would pay off their debt.” Water Pollution Control Loan Funds (hereinafter “WPCLF”) are more difficult to pay off since they have a 20-year life for repayment. Mr. Bucci believed that they are near the end of a WPCLF loan and close to being debt free in that regard.

Mayor Starr inquired if they would abandon the plants. Mr. Bucci replied that it would depend. If the District were to purchase the plants, then it would have to make a long-term decision regarding the east leg of the Southwest interceptor. The District would either continue running the plants, or decommission the plants after construction of an



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interceptor. The District already decommissioned the Strongsville A plant and that location was transformed into baseball fields.

Mayor Starr commented that Middleburgh Heights successfully went through this process 15 years ago. Mr. Bucci agreed.

Executive Director Ciaccia moved to the next report item regarding the SMP. He recognized the employees who have been involved with the SMP and stated that they have done a great job on their stormwater efforts. They have put in probably over 120,000 man hours on this job internally, attended 170 meetings with community officials, and held six community meetings. Executive Director Ciaccia stated that "they have been working very hard on getting this program to where it is today," and he described the SMP as a well-defined program that can be successfully managed and implemented in the community.

Executive Director Ciaccia believed that the District will be able to withstand any type of challenge brought forward, has the authority to implement the SMP program and exercised this authority over the years. From 2000 to 2004, the District spent \$7,695,384 for the Regional Intercommunity Drainage Evaluation (hereinafter "RIDE") Study, and there were no objections to the monies spent by the District to complete said study. The District also spent \$3,805,052 on the development of the SMP since 2008, and there were no objections to this expense either. So, over the past decade the District expended \$11 million for the development on of the SMP and has invested a lot in moving this program successfully forward.

Executive Director Ciaccia stated that the District will receive some challenges especially from Summit County. And although we are respectful of Summit County's arguments, which are somewhat based on state authority, they actually have to have a stormwater utility in order to exercise that authority.

Executive Director Ciaccia read aloud from a memorandum from the Summit County Engineer to the Summit County Executive dated November 13, 2009:

"As you know the County was unable to fund the Engineer's Office Stormwater Program in 2009. Due to the lack of funding, my office has not been able to respond to stormwater issues. At this point, we are requesting a \$25,000 emergency funding authorization and appropriation from the County's general fund for the Engineer to use to assist the Executive in responding to the pressing stormwater engineering concerns in northern Summit County."

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The District serves northern Summit County, and Executive Director Ciaccia stated that “it is all well and good to be challenging us on our authority and stating that you have the authority, but having the authority and not using it does not solve any problems.”

Executive Director Ciaccia speculated that the District anticipates receiving challenges from some communities situated in Cuyahoga County. Some communities have been proactive in handling stormwater issues and others allege being proactive, but are not. Executive Director Ciaccia questioned the meaning of being proactive. Does this mean that the drainage was moved out of one community to another? Executive Director Ciaccia explained that stormwater problems continue to affect downstream communities, for example, stormwater from the City of Lyndhurst flows into Euclid Creek and increases stormwater problems for Councilman Polensek’s district in the City of Cleveland.

Executive Director Ciaccia referred to a candy bar commercial which showed two guys sitting on a couch. One guy stated that he was hungry and the other gives him a candy bar. And he replies, “Wow, I’m not hungry anymore. I don’t know where my hunger went.” The next scene shows a man in Germany who is eating and is surrounded by stacks of plates, and that is where his hunger went, to Germany. Executive Director Ciaccia indicated that commercial to be a metaphor for what our region is facing.

Executive Director Ciaccia advised that there has been a lot of support for the SMP from the watershed groups and the media. Subsequent to the issues raised by Summit County, *The Akron Beacon Journal* supported the District’s position on stormwater. Executive Director Ciaccia also appreciated the support received from *The Plain Dealer* including the balanced articles and editorials supportive of the SMP.

Executive Director Ciaccia stressed that the time to act on the SMP is now, and that District staff recommends Board approval of the SMP at its January 7<sup>th</sup> meeting. We cannot delay this any longer. If you shelve an engineering design project and decide to take it off the shelf six months or one year later, then you have to redesign the project and end up spending more money.

Executive Director Ciaccia stated that “we think we are at the goal line and we want to cross it.” We are aware of the possible challenges and some those will be discussed during Executive Session. Executive Director Ciaccia wanted to make a strong pitch to the Board with regards to the recommendation of the SMP during the January 7<sup>th</sup> meeting.

Mayor Starr thanked Executive Director Ciaccia for his explanation, and he referred to the letters supporting the SMP and letters opposing the SMP, which were provided to the

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Board. Mayor Starr advised that there are significant letters of support from some regional bodies. Mayor Starr inquired about the letters received from communities such as Silver Lakes, Twinsburg and Glenwillow, and he questioned whether they are in the service area and if they are voting members of the Suburban Council of Governments (hereinafter "SCOG"). Executive Director Ciaccia replied that there were different interpretations as to whether the aforementioned communities were considered voting members, and in the past they were not. However, through new interpretation they are considered voting member communities. Director of Watershed Programs, Frank Greenland, clarified that Silver Lake is not part of the District and that the letter they provided was in response to Summit County Council's resolution.

Mayor Starr inquired if staff sifted through the comments made in the letters of opposition received by Summit County communities and the City of Lyndhurst regarding the engineering regulations and technical issues and whether staff responded to each of those letters. Mr. Greenland replied that we are responding to the comments, and a public meeting will be held on December 18<sup>th</sup> to discuss the proposed Title V of the District's *Code of Regulations* (hereinafter "Code"), the comments received and the SMP plan going forward.

Mayor Starr inquired about the number of rounds of community meetings held by the District. Mr. Greenland replied that in reference to the current RIDE study, the District made at least three rounds of community meetings.

Mr. Brown commented that the level of meetings and inquiries received was somewhat predictable given that we have gone through several levels of public education and outreach sessions during this process. We went from a concept to a recommended strategy for implementation and a proposed Code, and each of the steps during this process resulted in questions. We have questions and also continue to receive questions in reference to the clarification of the Code, and "those are the ones that really set in place the whole issue of our authority and how we intend to conduct business running this program." Providing clarity and increasing the understanding of the SMP's outcome, should it be adopted, is important. Mr. Brown stated that addressing the questions will be instructive to the member communities, and that at the end of the day, we want clarity.

Mayor Starr commented that he represented some of the member communities for 15 years, and he referred to the comments made by the City of Olmsted Falls. He indicated that their committee raised 30 to 45 points and inquired if the District addressed any of their comments. Mr. Greenland advised that some of the general questions and specific comments as it pertains to Title V were addressed. The District will have an opportunity to collectively respond to the comments received on the proposed SMP at the December 18<sup>th</sup> meeting. Mr. Greenland explained that comments will be arranged in groupings and in response to some of the comments, the Code will be modified.

Mayor Starr inquired if the District will respond to each comment received from the communities wherein Executive Director Ciaccia affirmed. Mayor Starr stated that as a representative of some of the member communities, he felt it a matter of courtesy to respond to their comments, and although it may be a tedious task, they are taxpayers and deserve a response. Executive Director Ciaccia agreed.

Mayor DePiero thanked the staff for engaging many of his constituents during the public forum held in his community, the City of Parma. Mayor DePiero supported Mayor Starr's suggestion to address the comments made by the individual member communities either in writing, on the telephone, or in a face-to-face meeting with the engineer. Mr. Greenland advised that at the December 18<sup>th</sup> meeting, they will inform the participants of the District's intent to respond to their comments in writing and offer the opportunity to meet individually to discuss any issues.

Executive Director Ciaccia advised that District staff will be judicious in their responses since one mayor has already threatened legal action if the SMP is adopted.

Mayor Longo commented that if the SMP is adopted, "we should go forward with this, all approvals are there, litigation's out of the way, it's not cast in concrete because there's a process in which the Code can be changed." It is common within the District for unforeseen issues to arise and "just because something takes place today doesn't mean we can't adapt and change." Executive Director Ciaccia affirmed.

Mr. Brown commented that holding many meetings with different municipalities and groups resulted in a greater insight which caused us to rethink the initial structure or approach of some of the language, which is now being revised in order to clarify issues not contemplated. Mr. Brown stated that this added value to the process.

Mr. Brown agreed that responding to the communities' comments will be instructive, and we owe our member communities the courtesy of a response. Many times we are trying to discern the intent, and a simple telephone call can bring clarity to an issue, a resolution, or even produce an alliance.

Executive Director Ciaccia commented that the Board raised really great issues, and he advised that staff will respond to the communities' comments. Furthermore, the vast majority of the communities we have dealt with and the majority of the comments received "were sticking to the issues, positive and let's get this done and be a part of the process."



Authorization to Enter Into Contract

- Resolution No. 289-09**                      **Contract with Cleveland Clinic Foundation for 2010 Executive Physical Program. Cost: Not to Exceed \$40,000.00.**
- Resolution No. 290-09**                      **Contract with Fort Dearborn Life Insurance Company for Short-Term Disability and Group Life Insurance. 2010 Projected Cost: \$786,448.00.**
- Resolution No. 291-09**                      **Contract Renewal with Kaiser Permanente for Medical Insurance Coverage. 2010 Projected Cost: \$1,300,000.00.**
- Resolution No. 292-09**                      **Contract Renewal with Medical Mutual of Ohio for Medical Insurance Coverage. 2010 Projected Cost: \$4,975,000.00.**
- Resolution No. 293-09**                      **One-Year Contract with St. Vincent Charity Hospital Occupational Medicine for Occupational Health Care Services. Cost: Not to Exceed \$50,000.00.**
- Resolution No. 294-09**                      **One-Year Requirement Contract with the Farley Company for Lubricants Product Class for Use at All Wastewater Treatment Plants and the Environmental and Maintenance Service Center. Cost: Not to Exceed \$52,388.42.**
- Resolution No. 295-09**                      **One-Year Requirement Contract with Polydyne, Inc. for 120,000 Pounds of Liquid Polymer for Use in the Sludge Dewatering Centrifuge Process at the Southerly Wastewater Treatment Plant. Cost: \$260,880.00.**

- Resolution No. 296-09**                      **Contract with DLZ Ohio, Inc. for Walworth Run Interceptor Realignment (WRIR). Cost: \$1,121,453.00.**
- Resolution No. 297-09**                      **Contract with the GPD Group, Inc. for Professional Services for the Stand-By Power Enhancement Study. Cost: \$409,830.00.**
- Resolution No. 298-09**                      **Contract with Nerone & Sons, Inc. for the Southerly and Westerly District Interceptors Service Agreement Contract (SWDISAC). Cost: \$3,689,000.00.**
- Resolution No. 299-09**                      **Contract with URS Corporation for General Engineering Consulting Services (GES). Cost: Not to Exceed \$3,000,000.00.**
- Resolution No. 300-09**                      **Contract with Mythics, Inc. for Purchase of the Oracle E-Procurement Software Licenses, Support and Maintenance. Cost: \$317,077.22.**
- Resolution No. 301-09**                      **Extend Contract No. 3352 with Safety National Casualty Corporation through May 1, 2010 for District Excess Worker's Compensation Coverage. Projected Cost: Not to Exceed \$30,000.00.**
- Resolution No. 302-09**                      **Contract Renewal with Traveler's Insurance Companies for District Liability and Property Insurance through May 1, 2010. Projected Cost: Not to Exceed \$115,000.00.**

**Resolution No. 303-09**

**Two-Year Contract with Marous Brothers Construction, Inc. for Maintenance Services at the District's Ten Combined Sewer Overflow Floatables Control Sites. Cost: \$485,020.00.**

Mayor DePiero inquired about the healthcare contract renewals with Medical Mutual of Ohio (hereinafter "Medical Mutual") and Kaiser Permanente (hereinafter "Kaiser"), and he questioned if the contracts will increase from 2009. Director of Human Resources, Douglas Dykes, informed the Board that said contracts will increase from 2009. The contract with Medical Mutual for 2009 was \$4,623,000. The contract with Kaiser for 2009 was approximately \$1,190,000.

Mayor DePiero inquired whether the employees' healthcare contributions will increase. Mr. Dykes affirmed and explained that we moved from flat rate employee/employer participation to a percentage rate, which increased each level of participation. The percentage rate will be adopted in 2010. There was an overall 6.1% increase for Medical Mutual and a 7.5% increase for Kaiser for the healthcare renewal.

Ms. Kelly inquired if the District can participate in a wellness program in order to qualify for a reduction in their healthcare premiums. Mr. Dykes explained that the District started a Wellness Program at the beginning of 2009. The original quote from Medical Mutual resulted in a 12.9% increase for 2010. After they examined our wellness program, the contract renewal increase was dropped to 6.1% and therefore the wellness program has impacted our renewal rates.

Ms. Kelly inquired if that information was reflected in those specific numbers. Mr. Dykes affirmed.

Executive Director Ciaccia wanted to provide an explanation, at this time, as to the add-on resolution which increases the appropriation for the Medical Mutual contract for 2009. This increase resulted from increased employee participation of the health benefits provided by the District.

Mr. Dykes added that there were several lifestyle changes for a number of employees in 2009. Most of those situations were qualifying events. Spouses of employees who held the healthcare benefits for their families lost their jobs, and the employees switched to the District's health insurance plan. Furthermore, the 2010 calculation includes retirements and anticipated positions that will be filled in 2010.



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Mayor Starr inquired whether the District has an opt-out provision for health insurance, and if so, what percentage of employees partake in this option. Mr. Dykes affirmed and explained that he did not have the actual percentage available but that the percentage is small. The opt-out amount will increase from \$125 per month to \$200 per month in 2010.

Mayor Starr was fascinated by how the contract renewal percentage was impacted due to the implementation of a wellness program, and he inquired as to the amount it costs to provide said program. Mr. Dykes did not have the exact amount available, but he indicated that this information will be provided to the Board. Mayor Starr inquired if it was a large or small amount wherein Mr. Dykes replied that it was a small amount.

**MOTION** – Ms. Kelly moved and Mayor Longo seconded to adopt Resolution Nos. 289-09 through 303-09. Without objection, the motion carried unanimously.

Authorization of Contract Modification

**Resolution No. 179-09a**

**Final Adjustment Deduct Order for Contract 09001787 with Marous Brothers Construction, Inc. for Southerly Ash Slurry Mains (AL-4). Cost: A Decrease in the Amount of \$73,655.17 Bringing the Total Contract Price to \$620,644.83.**

**Resolution No. 304-09**

**Final Adjustment Deduct Order for Contract 3408 with Shook Inc. Northern Division for the Southerly Second Stage Settling Tank Bridge Rehabilitation (BR-4). Cost: A Decrease in the Amount of \$921,712.54 Bringing the Total Contract Price to \$6,682,687.46.**

**Resolution No. 305-09**

**Final Adjustment Deduct Order for Contract 3413 with Kenmore Construction Co., Inc. for Final Clarifier and Aeration Rehabilitation (FCR-4). Cost: A Decrease in the Amount of \$489,247.27 Bringing the Total Contract Price to \$1,916,552.73.**

**Resolution No. 306-09**

**Final Adjustment Deduct Order for Contract 3437 with Minority Electric Co., Inc. for Primary Effluent Station/CSOTF Dewatering Pumps VFD Replacement (PEPS-1). Cost: A Decrease in the Amount of \$48,452.05 Bringing the Total Contract Price to \$578,547.95.**

Mayor Starr complimented Ms. Rotunno and her staff for their hard work in holding the line on contracts.

**MOTION** – Mayor Longo moved and Mayor Starr seconded to adopt Resolution Nos. 179-09a, 304-09 through 306-09. Without objection, the motion carried unanimously.

Authorization of Agreement Modification

**Resolution No. 307-09**

**Modify Agreement with Ciuni & Panichi, Inc., Resolution No. 270-06, for Auditing Services. Cost: An Increase in the Amount of \$6,600.00 Bringing the Total Five-Year Agreement Amount to \$259,575.00.**

**MOTION** – Mr. Sulik moved and Mr. O'Malley seconded to adopt Resolution No. 307-09. Without objection, the motion carried unanimously.

Authorization to Enter Into Settlement Agreement

**Resolution No. 308-09**

**Settlement Agreement with Sakeenah Bari-Harold and Don Harold. Settlement Amount: \$17,500.00.**

**MOTION** – Ms. Kelly moved and Mr. Sulik seconded to adopt Resolution No. 308-09. Without objection, the motion carried unanimously.

Sewer Use Code Matter

**Resolution No. 309-09**

**Adopting Hearing Examiner Findings with Regard to the Sewer Account of Helen Yeager, Northeast Ohio Regional Sewer District Case No. 09-007 in the amount of \$3,097.40.**

**MOTION** – Mayor Starr moved and Ms. Kelly seconded to adopt Resolution No. 309-09. Without objection, the motion carried unanimously.

Add-On

**Resolution No. 310-09**

**Authorization to ratify additional expenditures to Medical Mutual of Ohio for the employer contribution premium cost during calendar year 2009. Cost: additional amount of \$392,063.16, bringing the total contract amount to \$5,015,657.16.**

**MOTION** – Mayor Longo moved and Mr. O'Malley seconded to add and adopt Resolution No. 310-09. Without objection, the motion carried unanimously.

VI. Information Items

1. Outside Counsel Report as of September 2009.

Executive Director Ciaccia advised that the outside counsel status update was included in the Board packets for their review, and that staff would be willing to entertain any of their questions on this matter. There were no questions from the Board.

2. Program Management Status Report and Update – October 2009.

The Board chose to forego Ms. Rotunno's Program Management Status Report and Update in order to adjourn into Executive Session.

VII. Open Session

No items for discussion.

VIII. Public Session (any subject matter)

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

IX. Executive Session

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

**MOTION** – Mr. Sulik moved to enter into Executive Session to discuss litigation matters concerning the CSO LTCP, retention of outside counsel to assist with the implementation of the proposed SMP, and to consider potential legal strategies and actions relative to the SMP, and to specifically designate all matters discussed in Executive Session to be protected from public disclosure in accordance with Ohio Revised Code §121.22(g)(3) and attorney-client privilege. A roll call vote was taken and without objection, the motion carried unanimously.

The Board met in Executive Session from 1:37 p.m. to 2:10 p.m.

X. Approval of Items from Executive Session

Add-On

**Resolution No. 311-09**

**Engaging Calfee Halter & Griswold LLP as special counsel for legal support of the Stormwater Management Program.**

**Resolution No. 312-09**

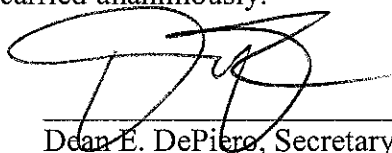
**Authorizing the District in the matter of Stormwater Management Program to file actions in the Cuyahoga County Court of Common Pleas for Declaratory Judgment and, if necessary, to petition the Court to modify the Court Order and plan for the operation of the District to implement the program, contingent upon Board approval of such program.**

**MOTION** – Mayor Longo moved and Mr. O'Malley seconded to add and adopt Resolution Nos. 311-09 and 312-09. Without objection, the motion carried unanimously.

Executive Director Ciaccia stated for the record that there were no discussions held during Executive Session regarding the CSO LTCP. Mr. Brown clarified that said issue will be deferred to a later date.

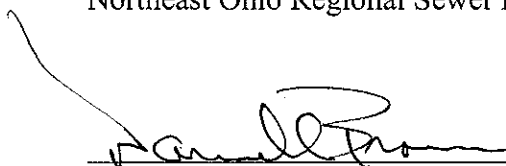
XI. Adjournment

**MOTION** – Mr. Brown stated business having been concluded, he would entertain a motion to adjourn. Ms. Kelly moved and Mr. Sulik seconded the motion to adjourn at 2:09 p.m. Without objection, the motion carried unanimously.



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Dean E. DePiero, Secretary  
Board of Trustees  
Northeast Ohio Regional Sewer District



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