

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
FEBRUARY 3, 2011

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

I. Roll Call

PRESENT: D. Brown
R. Sulik
D. DePiero
J. Bacci
S. Kelly
W. O'Malley
G. Starr

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

II. Approval of Minutes

MOTION – Mayor DePiero moved and Ms. Kelly seconded that the minutes of the January 20, 2010 Board meeting be approved. Without objection, the motion carried unanimously.

III. Public Session

Executive Director Ciaccia informed the Board that no members from the public registered to speak at Public Session.

IV. Executive Director's Report

Executive Director Ciaccia moved to the first report item and he advised that the public comment period on the consent decree closed on January 28, 2011. There may be more comments received through the United States Postal Service. At this point, 83 comments have been lodged with the court and they will begin reviewing and issuing responses to those.

Executive Director Ciaccia advised that a motion was filed by the Advisory Council on Historic Preservation requesting that the judge withhold moving forward on the consent

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order on the basis that this agreement will violate federal undertakings. Executive Director Ciaccia advised that the court will have to take this motion into consideration and that it is unlikely the first time that this type of motion has been filed regarding a consent order.

Executive Director Ciaccia moved to the next report item regarding the stormwater litigation. A hearing is scheduled in March and depositions will begin this month. The District will depose suburban officials including Mayor Gorden of the City of Beachwood and Mayor Alai of Broadview Heights. The communities in opposition to the Stormwater Management Program (hereinafter "SMP") will depose Executive Director Ciaccia, Director of Watershed Programs, Frank Greenland, former Executive Director, Erwin Odeal, as well as others.

Executive Director Ciaccia advised that he returned from the NACWA (National Association of Clean Water Agencies) conference. In addition to the CSO regulations, NACWA and the advocacy firms will be monitoring the new regulations forthcoming for sewer sludge incinerators. It is expected that the new rule would move District's incinerator ash to the solid waste category which will be more costly to dispose of and have stricter rules on air emissions under the Clean Air Act. Furthermore, this could result in additional capital costs to be incurred by the District for compliance. Executive Director Ciaccia advised that there are 100 wastewater utilities throughout the country that incinerate sludge.

In response to this issue, NACWA is considering litigation for the reason that they believe the proposed rules are flawed. Executive Director Ciaccia advised that the litigation is estimated to cost around \$450,000.00. NACWA is preparing a coalition of utilities that incinerate and will be requesting that each utility voluntarily fund this initiative. Executive Director Ciaccia believed that the District would be supportive of this effort. Staff will bring more information to the Board as it becomes available and request authorization to help fund this effort.

Executive Director Ciaccia advised that the utilities with multiple hearth incinerators will be impacted the greatest by this new development and that the District is luckily moving away from that type of incineration with the construction of the Renewable Energy Facility (hereinafter "REF") and more modern fluidized bed incinerators at the Southerly Wastewater Treatment Plan (hereinafter "WWTP"). The District however may still face additional capital and operating costs.

Executive Director Ciaccia advised that Congress is considering reauthorizing the Farm Bill and NACWA believes this will provide an opportunity for addressing the non-point source nutrients issue. The Environmental Protection Agency (hereinafter "EPA") is considering rules for nutrients. At this time they seem to be pointed at treatment facilities

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and not the agriculture industry. The EPA views the agriculture community as being "too tough to fight."

NACWA's strategies include becoming involved in the reauthorization of the Farm Bill to encourage some funding to be given to the agriculture community in effort for them to take steps toward adaptive or best management practices as it relates to water runoff. Otherwise, the government is considering regulating wastewater treatment facilities down to zero discharges, which will not solve the problem, or perhaps engage us in a system where we buy credits whereby the funds would go to the agriculture community for programs to reduce discharges. Executive Director Ciaccia indicated that he wanted to inform the Board of some of the major topics being discussed with the large national organizations. The District intends to be heavily involved in those discussions individually as well as through our federal advocates.

Mr. Brown referred to discussions held during the Cuyahoga Rap Phase wherein 42 hot spots were identified in the Great Lakes region and 14 of those lay in our area of concern. There was much dialog regarding the impacts of non-point source agricultural pollution and point source, which is how the District is regulated. Mr. Brown inquired as to the differential ratio between point-source and non-point source.

Mr. Greenland advised that although he did not have that information available, we can get those exact numbers. The District participated in the Lake Erie Phosphorus Task Force. WWTP discharges and phosphorus loading into Lake Erie is miniscule when compared to other sources. Non-point sources including agriculture and other areas contribute greatly to nitrogen and phosphorus issues.

Mr. Greenland advised that the regulations of point sources (WWTPs) have already driven nutrient levels of nitrogen and phosphorus down to relatively insignificant levels. The problem is determining how to effectively regulate non-point sources. Mr. Greenland advised that the District will continue to monitor this going forward.

Mr. Greenland explained that the Ohio Environmental Protection Agency (hereinafter "OEPA") examined streams and sources of impairment and have identified nutrients and bacteria. The OEPA will assign those source points through Phase II Stormwater, CSO regulations or WTTP permits. Mr. Greenland advised that we are not fully addressing watershed problems and we will need to strike a balance.

Mr. Brown commented that the focus seems to be on regulating us and our willingness to do our part in order to facilitate outcomes. However, if they do not address the other contributors, then we are spending a lot of time, effort and money for minimal impact. Those areas need to be discussed with our lobbyists and our delegation. We are continuing to pay and although there is some benefit there is not equity. We need a

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balanced approach and the consideration of other impairments. Mr. Brown was unsure as to the primary focus of NACWA or other agencies and he wanted to ensure that we are seriously considering the impacts and beneficial use of the water around us.

Mr. Greenland replied that we are watching this on a national and state level and that the OEPA will be addressing the nutrient issue at some point in the future. We will assess the costs and benefits in an effort to ensure that the science is behind the regulations.

V. Action Items

Authorization to Advertise

Resolution No. 25-11

Three (3) year requirement contract to supply industrial gases for use at the Wastewater Treatment Plants, Environmental & Maintenance Services Center, and the East Bank Pump Station located in the Flats. Anticipated expenditure: \$100,000.00.

MOTION – Mayor DePiero moved and Mr. O’Malley seconded to adopt Resolution No. 25-11. Without objection, the motion carried unanimously.

Authorization to Purchase

Resolution No. 26-11

(REMOVED)

Direct purchase from sole source vendor McLaughlin and Associates Company, Inc., replacement pump parts, on an as-needed basis, for the Allis Chalmers Pumps at all Wastewater Treatment Plants. Cost not to exceed \$50,000.00.

Mr. Brown advised that staff requested Resolution No. 26-11 be removed from the agenda.

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Authorization to Enter Into Agreement

Resolution No. 27-11

Ten (10) month agreement with Cuyahoga County for the District to contribute to the acquisition of new Digital Orthophotos (also known as Aerial Photography) for Cuyahoga County by providing cost-sharing support to Cuyahoga County. Cost: the District's cost-sharing portion of the agreement is not to exceed \$50,000.00.

MOTION – Ms. Kelly moved and Mayor Starr seconded to adopt Resolution No. 27-11. Without objection, the motion carried unanimously.

Authorization of Agreement Modification

Resolution No. 28-11

Modify agreement with the Lorain County Board of Commissioners for the inclusion of Columbia Township into the Northeast Ohio Regional Sewer District.

MOTION – Mayor Bacci moved and Mr. Sulik seconded to adopt Resolution No. 28-11. After discussion and without objection, the motion carried unanimously.

Mayor Starr requested discussion on Resolution No. 28-11.

Executive Director Ciaccia advised that the Lorain County Board of Commissioners (hereinafter "Lorain County") entered the District on behalf of Columbia Township (hereinafter "Township"). At that time, the entire Township was included in the District's service area; however, the District only served a small portion of the Township.

After SMP discussions began, it was determined that the District would have to bill everyone throughout the community for stormwater management for the reason that the entire area was contracted. Discussions to amend their contract began to ensure that there were no inconsistencies on how we apply the SMP. According to Executive Director Ciaccia, the Township wants to go beyond their actual service area and that the revised service area was included in the Board members' packets.

Mr. Greenland added that most of the residents in the Township have septic systems. In the upper northeast region there are a few developments connected to sewers. The western portion drains into the Black River, which is outside of the District's service

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area, and therefore the type of service the Black River residents would receive under the SMP became an issue.

Mr. Greenland advised that the map came from the Lorain County officials and that they proposed the shaded region be included under the District's facilities planning area. The remaining portion would fall under the Lorain County facilities planning area and they will handle those wastewater and stormwater issues.

Mayor Starr commented that he has represented this area under his Board seat of 25,000 and under for four terms and that he has had conversations through the years with various trustees. Mayor Starr estimated that approximately 99% of the area has septic tanks and he questioned whether the District was including this region into its service area for stormwater management.

Mr. Greenland explained that the area that will be included was outlined by Lorain County and that any sewers will be connected to District sewers either along Marks Road or Royalton Road. The District has interceptor sewers available and the capacity to accept their flow.

Mayor Starr questioned whether the Township trustees passed a resolution supporting this change.

Mr. Greenland advised that there is a draft agreement that will be finalized if this resolution is passed today and that they have initiated this request.

Authorization to Enter Into Contract

- | | |
|----------------------|--|
| Resolution No. 29-11 | Renewal with Automatic Data Processing, Inc. to continue payroll processing and technical services in 2011. Cost not to exceed \$71,400.00. |
| Resolution No. 30-11 | Contract with Brown & Caldwell for professional design services for the Easterly Facility Plan Improvements – Aerated Grit (EFPI-5) project. Contract fee: \$4,750,393.00. |
| Resolution No. 31-11 | Three (3) year contract with AT&T Global Services for high speed network services. Cost not-to-exceed \$527,301.00. |

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Resolution No. 32-11

One (1) year contract with MAGNET (Manufacturing Advocacy and Growth Network) for vocational training services. Cost not-to-exceed \$180,000.00.

MOTION – After discussion, Mr. Sulik moved and Mayor Bacci seconded to adopt Resolution Nos. 29-11 through 32-11. Without objection, the motion carried unanimously.

Mr. Brown inquired about the 20% Small Business Enterprise (hereinafter “SBE”) commitment on the Brown and Caldwell contract, Resolution No. 30-11. Executive Director Ciaccia affirmed.

Mr. Brown indicated that he would like clarification as to how the District monitors SBE compliance. He commented that it’s one thing set a reasonable goal but it’s another to achieve or exceed that goal. Mr. Brown thought it would be helpful that the Board be informed on the success of the program.

VI. Information Items

1. Program Management Status Report and Update – January 2011.

Deputy Director of Engineering, James Bunsey, presented the Board with the Program Management update for January 2011 on behalf of Director of Engineering and Construction, Kellie Rotunno.

Mr. Bunsey advised that engineering had a fairly good year in 2010 and that the District is building the pieces in order to achieve project delivery in 2011. He moved discussion to the Key Performance Indicators (hereinafter “KPIs”).

Mr. Bunsey advised that the KPIs for 2011 will be similar to those in 2010; however, we are raising the bar. KPI #1, which in 2010 was delivering 90% of the planned capital improvements, will be increased to 95% in 2011. The District’s goal will be to deliver 38 projects at a cost of \$200 million in 2011.

KPI #2 remains at 10% within the engineer’s estimate of probable construction cost.

KPI #3 remains at 85% of projects closing out within 105% of the base contract amount.

KPI #4 was added which is to deliver 80% of the projects achieving the SBE goal established for that specific project. Mr. Bunsey explained that each project has a

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specific SBE component and that the District plans awarding eight out of ten projects in 2011 achieving that specific SBE goal.

Mr. Bunsey advised that the presentation was modified to communicate the information more simplistically. He then referred to a graphic and explained that the information will be communicated as "dashboard type product" using "something more analog." Mr. Bunsey stated that in 95% of the 40 planned projects, you will see a sweeping gauge. The white numerals are percentages. If we are successful at the end of the year, then the dial indicator will be placed at 95%, which means that 38 projects were delivered in 2011.

Mr. Bunsey advised that the District is currently ahead of schedule since one project was awarded and therefore we have achieved 2.5% of our goal. Mr. Bunsey advised that the triangles represent milestones at the end of each quarter. Towards the left side of the graphic end of the first quarter is represented which is at 23%.

Quarter two is 50% through 2011 and the District plans awarding 60% of its projects by that time. Some projects were backlogged in 2010 whereas in 2011 our goal is to advance some projects earlier in the year.

Mr. Bunsey referred to a graphic, which was similar to KPI representation in the past, and he advised that the District plans moving away from bar charts and using more of an analog display.

Mr. Bunsey advised that January through June represents 50% of the year. The District intends to front-end load its project awards in an effort to ensure that 38 projects are delivered by year end.

Mr. Bunsey referred to the first quarter and he advised that three design projects are in the process of being awarded by the end of January. In March, staff plans bringing project awards and authorizations to issue requests for proposals (hereinafter "RFPs") to the Board for consideration. Near the end of March, staff will bring three additional design projects to the Board for consideration.

Mr. Bunsey advised that six construction projects are in the process of being awarded during the first quarter. The District intends bringing those to the Board for consideration in March as well as authorizations to issue RFPs.

Mr. Bunsey advised that the District is on target for KPI #2 and did not have any projects bid at the end of January.

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Mr. Bunsey referred to a graphic and stated that anytime we are in the green zone means that we are within our 10% goal. If we fall into the yellow zone, then we are being too conservative. If we fall into the red zone, then we are over budget.

Mr. Bunsey moved discussion to KPI #3, which is delivering 85% of the projects within 105% of the base contract amount, and he advised that no projects were closed out in January. However, the pending projects are all within the 105% of the base contract amount and therefore we anticipate meeting that KPI goal.

Mr. Bunsey explained that in order to control project costs, we must peel back the layers of the onion and examine each project level more specifically as well as the work authorizations. Thirteen work authorizations were approved in January which cost \$174,000.00, which was slightly over 1% of the \$15 million cash flow spent. We are at 20% of that KPI and therefore we are maintaining our work authorization levels. Mr. Bunsey explained that the majority of the work authorizations were for differing site conditions and that 75% of those were issued for construction at the WTPs where the majority of our construction cash flow is currently.

Mr. Bunsey moved discussion to KPI #4, which is meeting 80% of SBE participation goals on District projects. The District awarded one project with SBE participation at 25%. The contractor missed that goal by having 23.5% SBE participation. Mr. Bunsey advised that there has been increased SBE participation in construction over the last three months and that the District averaged around 20% in January.

Mr. Bunsey moved discussion to the consent decree compliance and he advised that the District submitted work plans in December for chemically enhanced high rate treatment processes, which will be bid later in 2011. A compliance report is due July 31, 2011 and the green infrastructure report is due in December. Mr. Bunsey stated that the District wants to ensure that internal organization, responsibilities under the matrix and milestone delivery schedules are understood.

The District is improving its processes and staff has been educated. We now must move forward with implementation. Automated workflows will improve our processes including the ability for documentation and the capacity for existing staff to increase its work load. This will also provide the District with a benchmark to better understand which components may be holding up the process, which Mr. Bunsey described to be a tremendous tool to improve the process.

Mr. Bunsey concluded by stating that he joined the District nine months ago and appreciates being part of this team. He has noticed a sense of urgency increasing within the staff, momentum building, and people being excited. Mr. Bunsey stated that it is great for this utility to have a department that is looking forward to the future.

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Mr. Sulik referred to the inclusion of KPI #4 and he was pleased to see a KPI established for SBE participation. He questioned as to why the goal was set at 80% instead of 90% or 95%.

Mr. Bunsey stated that we have the ability to negotiate our professional services contracts and if that comprises half of our awarded contracts, then we are able to negotiate 50%. Construction contracts differ since we are required to award the contract to the lowest and best bidder. Although the contractors make a tremendous commitment, we have discovered that nearly half of the time they are near the goal but do not achieve it, which equates to half of that contracting community or 25%. By adding the 50% for professional services contracts and 25% for construction contracts brings us to a total of 75% achievement on SBE participation. The District decided to increase that KPI slightly to 80%.

Mr. Sulik commented that a significant amount of time, money and effort was placed into the development of the SBE program and therefore he believed the KPI for SBE participation should be a little higher.

Executive Director Ciaccia indicated that the District was trying to be conservative since this is the first time establishing this type of KPI. Additionally, this goal will be modified to include Minority Business Enterprise (hereinafter "MBE") and Women's Business Enterprise (hereinafter "WBE") components into the program. Executive Director Ciaccia noted that the SBE community is much larger than the MBE/WBE community, which makes it easier to achieve SBE goals, and as we move into the MBE/WBE portion, it is unknown how successfully we will meet those numbers.

Mr. Sulik emphasized that we should strive for a higher percentage for the SBE participation KPI. Mr. Bunsey indicated that his request will be taken into consideration.

Mr. Brown indicated that his concern was the type of message being conveyed to the contracting community and whether they believe that the District finds it acceptable to only meet 80% of the SBE participation goals.

Mr. Brown's second concern was our ability to monitor the program. Often times we find ourselves waiting until the latter part of the contract and then there is not enough money in the contract to meet our goal. Mr. Brown suggested the establishment of benchmarks to improve our ability to monitor the SBE goals on District projects. We must increase our ability to monitor the schedules as to when particular trades become involved and therefore we can address any problems with the contractor and try to recover so that we meet our goals.

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Mr. Brown stated that there is a management issue that is the District's responsibility and that the contractors should also be held accountable. If we can reach middle ground, then we can succeed at reaching 90%, 95% or 100% of the goal. Mr. Brown concluded by stating that he was concerned about starting with a lowered goal.

Mr. Bunsey clarified that KPI #4 was 80% at the time contract was awarded and that the District strives to ensure that the contractor maintains their proposed goals. Before the job begins, the District identifies all SBE firms. They are cost loaded into a schedule and when their time to conduct the work arrives, our construction supervisor is there to ensure that happens and that the work is not contracted out to another company.

VII. Open Session

VIII. Public Session (any subject matter)

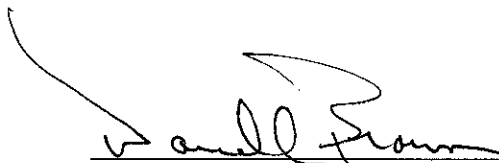
No members from the public registered to speak at Public Session.

IX. Adjournment

MOTION – Mr. Brown 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 1:05 p.m. Without objection, the motion carried unanimously.



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



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