



NORTHEAST OHIO AREAWIDE COORDINATING AGENCY

MEMORANDUM

TO: NOACA Board of Directors

FROM: Grace Gallucci, Executive Director

DATE: September 2, 2016

RE: **Resolution 2016-030 – Code of Regulations Amendment – Board of Directors Composition**

ACTION REQUESTED

The Board of Directors is asked to approve revisions developed by the Governance Committee to NOACA's Board composition. Specifically, this item would provide an additional two seats to the City of Cleveland and adopt a methodology for identifying seats after the next Census.

PREVIOUS ACTION

This item has been discussed for over one year by the Governance Committee. The Governance Committee recommends the solution presented.

BACKGROUND/JUSTIFICATION FOR CURRENT ACTION

Over the course of more than a year, the Governance Committee (Committee) has explored the question of membership requirements in response to queries from members and citizens. At its May 2015 meeting, the Committee discussed proportional Board compositions based on total and urbanized area populations. Subsequent to this meeting, the City of Cleveland sent a letter noting that the current Board composition appeared to conflict with the Code of Regulations requirement to assure "to the area's citizens an approximation of equal representation by population." The letter requested that the City receive two additional seats.

Using the base of 45 members, honoring the City's request would result in Cleveland gaining two additional seats on the Board while two other jurisdictions would lose seats. It is important to note that Cleveland's request asked for the addition of two seats to the Board but did not request the elimination of any seats. As a result, the request could be construed to suggest a 47 member Board.

Cleveland's request was discussed extensively at the June 2015 Board meeting during Commissioner Kalo's Governance Committee summary. Conversation focused on whether or not NOACA's Board representation was in compliance with the Code of Regulations. During the discussion, Mayor Hunter made a motion, which was seconded by Mayor Sutherland, for adjustments to be made to Board representation to be in compliance with the bylaws relative to the population issue. After further discussion, this motion was passed by the Board. It did not alter Board composition directly. It directed staff to explore how to bring the Board's composition into compliance. Outside legal counsel was engaged to assist with this effort.

One troubling aspect of this issue is that the language of Section 4.2 and the membership list subsequent to it are in conflict with each other as the membership list does not approximate equal representation. At its August 2015 meeting, the Committee discussed the following four options for resolving the conflict:

Option 1: Language in Section 4.2 prior to the membership list defines membership

If, as noted in Cleveland's letter, the "approximation of equal representation by population" language dictates Board membership, then one interpretation would be that changes to the list may not require ratification as the list simply documents the results of carrying out the section's demands.

If this option were applied literally, Cleveland would gain two seats and two seats would be lost by other jurisdictions in order to keep membership at 45 members. Furthermore, one of the counties would no longer have the historically allocated minimum of three seats. Those jurisdictions which lost seats would likely contest this approach.

Option 2: The list in Section 4.2 is the approved composition for the Board regardless of the approximation language

This approach suggests that the Board can adopt and ratify a membership structure which is at odds with a literal reading as well as the intent of the section's language. If this is the case, then any changes to the list would require ratification by all five counties.

If this option were taken, it is possible that no changes would occur to the list in responses to Cleveland's letter. It is likely that Cleveland would contest that approach.

Option 3: The conflict between Section 4.2's language and the list must be addressed through a correction to the Code of Regulations to ensure that both reflect the intent of the Board

This would require the Board to edit the section in such a way as to eliminate the conflict. One approach would be to arrive at a compromise solution such as:

Each County could be ensured no less than three representatives in addition to seeking proportional representation. Cleveland would be awarded two additional seats. This would result in a 47 member Board in which all current seats would remain intact.

This option may present the best fit to the Board's directive of adjusting its composition to be in compliance with the Code of Regulations.

Option 4: Seek the aid of a federal mediator

If the Board is unable to come to a satisfactory resolution of this issue, the agency could ask a federal mediator to assist it in coming to an agreement.

After much discussion, the Committee moved to have the options forwarded for discussion at the September Board meeting.

Subsequently, the Board discussed the issues at length at its September meeting. In addition to discussing the four previously supplied options, they discussed a recommendation made by Congressman Joyce to have a minimum of four members from each county, which includes three commissioners and adds the county engineer on the Board. Other Board members recommended compromise solutions such as providing only one additional member to Cleveland, or providing Cleveland with two members and providing a seat for Geauga County's engineer. None of the discussed options were agreeable to all members and would not successfully pass ratification. The Board concluded that two representatives from each County would be convened to develop a solution that all the counties would agree to ratify. Thus, the Governance Committee opted to hold a special Committee meeting at which the additional county representatives were invited to participate.

This meeting was held on January 22nd at 10:30 a.m. The meeting did not result in a resolution to the issue that all parties indicated a willingness to ratify. Thus, the issue was deferred and discussed again at May 13th Governance Committee. At that meeting, after considerable discussion, the Committee agreed conceptually with an approach that would add two seats for Cleveland but keep all other seats intact using

population as a basis, but ensuring each county is guaranteed a minimum of three seats. The committee also tasked staff with documenting explicitly how Board membership would be determined following the 2020 Census. Thus, the Code of Regulations has been updated clarify the issue of population based membership of the NOACA Board, which includes a mathematical formula to perform the calculation in the future. The action will add two seats for Cleveland while maintaining the existing Board's seats intact.

The Governance Committee reviewed the proposed methodology at its August meeting and concluded that the Counties should be willing to ratify the proposal.

FINANCIAL IMPACT

There is no financial impact for this decision.

CONCLUSION/NEXT STEPS

With Board approval, the Code of Regulations will be updated to reflect the attachment to the resolution and sent out for ratification by the Counties. Pending successful ratification, Cleveland will receive two additional seats and a precise methodology for assigning seats after future censuses will be in place.

GG/bd/2925c

ARTICLE IV

BOARD OF DIRECTORS

Section 4.2 Composition; Alternates; Term; Process for Apportioning Board Seats. The Board of Directors shall consist of representatives from the five-county area. The goal for representation is to bring to the Board's discussions and decision-making the principal elected officials and regional administrators of the NOACA area concerned with transportation and environmental planning, while assuring to the area's citizens an approximation of substantially equal representation by population as reported in each decennial census subject to the requirement that each county shall have not less than three Board representatives. Board positions shall be granted apportioned among the five counties and the City of Cleveland based on population to arrive at a Board of 457 total members as detailed in the Appendix to this Code, which number shall not include any representatives of the Ohio Department of Transportation or the Ohio EPA. However, if, based on this apportionment any county would have less than three (3) representatives on the Board of Directors, such county or counties would be awarded additional representation to ensure a minimum of three (3) representatives at all times. If such an adjustment is required, the number of seats awarded to the county with the greatest population would be reduced to maintain total Board membership of 45 members. Requirements of this section and individual Board members shall be specified annually at the first meeting. Each County and the City of Cleveland shall be responsible for assuring appropriate representation according to this section, recognizing the goal for representation, dues procedures and compliance within each County jurisdiction's and the Agency's mission. Each member of the Board shall be entitled to vote on all matters submitted to the Board for a vote.

To apportion Board seats under this section, within 180 days following the publication of each decennial census, the Board shall calculate and determine such changes to Board composition as shall be necessary to conform to the requirements of this section. Such changes may be made by resolution of the Board of Directors and shall not require ratification by the five counties under Article IX.

~~Notwithstanding~~Notwithstanding the foregoing, by adoption of these amendments to Article IV, the City of Cleveland shall be awarded two (2) additional seats on the Board, commencing January 1, 2017, and effective until the publication of the next decennial census. This adjustment to representation will temporarily increase the total number of seats on the Board to 47 until the next apportionment is made as required by the provisions of this section.

	<u>Votes</u>
(a) Cuyahoga County	
(i) County Government	
(A) County Executive	1
(B) Director of Public Works	1
(C) County Executive Appointee	1
(D) County Council Member	1
(ii) Regional Authorities	
(A) Northeast Ohio Regional Sewer District	1
(B) Greater Cleveland Regional Transit Authority (President of the Board of Trustees or General Manager, as the President of the	

Board of Trustees may designate)	1
(C) Cleveland-Cuyahoga Port Authority	1
TOTAL	7
 (iii) Cuyahoga Suburban Regions	
(A) West Shore Region.....	1
(B) Southwest Region.....	1
(C) South/Central Region	1
(D) Cuyahoga Region	1
(E) Chagrin/Southeast Region.....	1
(F) Heights Region	1
(G) Hillcrest Region.....	1
(H) City of Cleveland Heights	1
(I) City of Euclid	1
(J) City of Lakewood	1
(K) City of Parma	1
TOTAL	11
 (iv) City of Cleveland	
(A) Mayor (Chief of Government Affairs).....	1
(B) Director of Capital Projects.....	1
(C) Council Member.....	1
(D) Council Member.....	1
(E) Council Member.....	1
(F) City Planning Director	1
(G) Additional member	1
(F)(H)	1
ditional member	1
TOTAL	86
 (b) Geauga County	
(i) County Commissioner	1
(ii) County Commissioner	1
(iii) County Commissioner	1
TOTAL	3
 (c) Lake County	
(i) County Commissioner	1
(ii) County Commissioner	1
(iii) County Commissioner	1
(iv) County Engineer	1
(v) Laketran	1
TOTAL	5
 (d) Lorain County	
(i) County Commissioner	1
(ii) County Commissioner	1
(iii) County Commissioner (County Engineer).....	1
(iv) City of Lorain	1
(v) City of Elyria.....	1
(vi) Municipal Representative	1

Formatted: No underline

Formatted: No underline

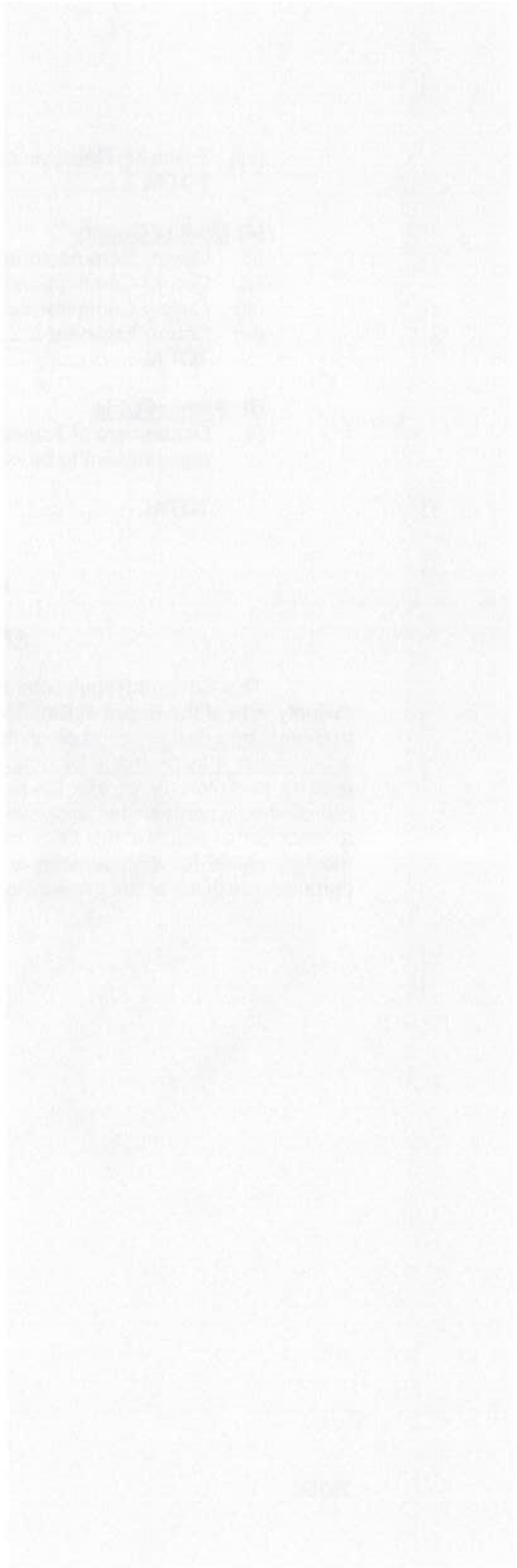
(vii) Township Representative	1
TOTAL	7
(e) Medina County	
(i) County Commissioner	1
(ii) County Commissioner (Municipal Representative).....	1
(iii) County Commissioner (Township Representative).....	1
(iv) County Engineer	1
TOTAL	4
(f) State of Ohio	
(i) Department of Transportation.....	1
(appointment to be made by ODOT Director)	
 TOTAL	 464

ARTICLE IX

AMENDMENTS

This Code of Regulations may be altered, amended or repealed only by a majority vote of the Board of Directors. However, with the exception of adjustments to Board composition based on shifts in population as set forth in Section 4.2, which adjustments may be made by majority vote of the Board of Directors, any matters relating to Article IV of this Code of Regulations shall be altered, amended or repealed only upon written approval of each County of the NOACA area. Alteration, amendment or repeal of this Code may be initiated by the Board either after a special meeting called for that purpose or at any regular meeting where notice of such purpose was given at the immediately preceding regular meeting.

DRAFT



APPENDIX

Method of Seating NOACA Board of Directors Membership

At the January organizational meeting in the calendar year following the release of each Decennial Census, Board of Directors' Membership will be reconstituted based on the following method that is predicated on the Code of Regulations, which guarantees each County at least three seats on the Board of Directors.

- 1) Number of members for each County will be initially determined by the results of this formula (rounded to two decimal places), which ensures that each jurisdiction will have no fewer than three seats. The formula is implemented via an Excel spreadsheet.

$$M_i = \text{Max} \left(M_t \times \frac{P_i}{P_t}, 3 \right) \text{ for } i = 1, \dots, 6$$

Subject to

$$\sum_{i=1}^6 M_i \leq M_t$$

Where:

M_t = Desired voting membership total for the Counties

M_i = Desired voting membership for County i

P_t = Total Census population for the five Counties

P_i = Census Population for County i in progression

- 2) The results from step 1 are rounded to zero decimal places and summed. If the sum is greater or less than the desired total, proceed to step 3.
- 3) The necessary reduction or addition will be made by the greatest mantissa method. The mantissa is the remainder of a decimal number. In the greatest mantissa method, the largest remainder receives an extra unit, followed by the next largest and so on until the desired resulting total is reached. The three seat minimum would be maintained for each county.

DRAFT

RESOLUTION OF THE BOARD OF DIRECTORS
OF THE
NORTHEAST OHIO AREAWIDE COORDINATING AGENCY

WHEREAS, the Northeast Ohio Areawide Coordinating Agency (NOACA) is the Metropolitan Planning Organization (MPO) for the counties of Cuyahoga, Geauga, Lake, Lorain and Medina, and the areawide water quality management agency for the same region; and

WHEREAS, the Code of Regulations was last amended via Resolution 2015-024 to revise Transportation Subcommittee structure; and

WHEREAS, NOACA continued discussions of Board Composition relative to proportional representation throughout 2015 and 2016; and

WHEREAS, the NOACA Code of Regulations provides for the organization and operation of NOACA, its officers, its committees, and the Board of Directors itself; and

WHEREAS, the NOACA Governance Committee has recommended that improved Board proportionality be accomplished by providing an additional two seats to the City of Cleveland, bringing total Board membership to 47 through the 2020 Decennial Census; and

WHEREAS, the NOACA Governance Committee also recommended a methodology to accomplish the reassignment of Board of Director seats following the 2020 Decennial Census; and

WHEREAS, the NOACA Governance Committee also recommended the necessary Code of Regulations changes to effect these changes;

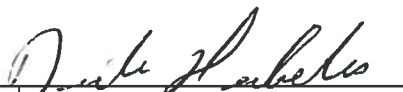
NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Northeast Ohio Areawide Coordinating Agency, consisting of 45 principal officials serving general purpose local governments throughout and within the counties of Cuyahoga, Geauga, Lake, Lorain, and Medina that:

Section 1. Articles IV and IX of the Code are amended with the changes summarized in the attachment. These changes require the approval of the five counties of Cuyahoga, Geauga, Lake, Lorain, and Medina, from whom ratification is sought prior to the next regularly scheduled Governance Committee meeting on November 4, 2016. If written concurrence is not received by that date, the Governance Committee will consider if an extension to the ratification period is warranted, otherwise the changes contained in Article IV and Article IX will be void and of no effect.

Section 2. The Code of Regulations attachment identifying how Board seats will be assigned following the 2020 Decennial Census is approved.

Section 3. The Executive Director is authorized to transmit certified copies of this resolution to the appropriate federal, state, and local agencies.

Certified to be a true copy of a Resolution of the
Board of Directors of the Northeast Ohio Areawide
Coordinating Agency adopted this 9th day of September
2016.

Secretary: 

Date Signed: SEPT 9, 2016

