

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
JULY 7, 2022

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

I. Roll Call

Present: Darnell Brown
Timothy DeGeeter
Ronald Sulik
Marjorie Chambers
Samuel Alai
Sharon Dumas

Absent: Jack Bacci

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

II. Approval of Minutes

MOTION – Mr. Sulik moved, and Ms. Dumas seconded to approve the Minutes of the June 16, 2022 Board Meeting. Without objection, the motion carried unanimously.

III. Election and Installation of Officers

Mr. Brown asked for the report on the election of officers for the 2022/2023 term.

MOTION – Ms. Dumas moved, and Mayor Alai seconded to appoint Mr. Brown as Board President, Mr. Sulik as Vice President, and Mayor DeGeeter as Secretary of the Board of Trustees. Without objection, the motion carried unanimously.

President Brown invited Eric Luckage, Chief Legal Officer, to administer the Oath of Office to the Board officers.

Mr. Luckage administered the Oath of Office to Mr. Brown, Mr. Sulik and Mayor DeGeeter.

President Brown expressed his appreciation to the Board members for their dedication and noted the importance of the work that they do to protect the Great Lakes, adding that the Board takes this work very seriously. President Brown expressed appreciation to Kyle Dreyfuss-Wells, Chief Executive Officer, senior staff, and all NEORSO employees for leadership and guidance.

President Brown added that the work performed by NEORSD is a public health and safety matter in many respects and offered the example that the Ohio Department of Health relies on NEORSD to provide information in order to make decisions regarding beach closures.

Additionally, NEORSD and the Board are working diligently to strike the balance of achieving affordability for its ratepayers in an area with high poverty and unemployment rates.

President Brown noted that the work continues and thanked the Board and staff for their diligence and dedication to carry on this work since 1972.

IV. Public Session

There were no items.

V. Chief Executive Officer's Report

Ms. Dreyfuss-Wells provided an update regarding NEORSD's ongoing COVID-19 pandemic response and informed the Board that NEORSD staff has 1 active COVID-19 case, and 1 employee with COVID-19-like symptoms. There has been a total of 221 employees with confirmed diagnoses since the beginning of the pandemic, 220 of whom have recovered and returned to work.

On June 8, U.S. EPA held a virtual public hearing regarding the City of Euclid's NPDES permit renewal for their wastewater treatment plant, the modification of which has potential implications for NEORSD. The issue pertains to a disagreement between the U.S. EPA and Ohio EPA regarding the monthly phosphorus limits Ohio EPA included in Euclid's draft permit. The Ohio EPA proposed to retain the current limit of 1 milligram per liter and the U.S. EPA has requested a much more restrictive limit of 0.00086 milligram per liter. NEORSD currently has 1 milligram per liter in its Westerly and Easterly WWTP permits, which could see similar restrictions if enacted in Euclid. The Cleveland Plain Dealer covered the story on July 3. The restrictions are intended to address nutrients in Lake Erie and harmful algae blooms. The concern is that the U.S. EPA's proposed limits are not supported by data for the Great Lakes overall or Lake Erie in particular, the limit is not technically achievable, and it would do nothing to address the algae blooms. Ohio is unified in opposition to the proposal with concerns voiced by the Ohio EPA, which provided a very detailed technical presentation, the City of Euclid, the Association of Ohio Metropolitan Wastewater Agencies, and NEORSD.

President Brown asked what impacts this potential change could have on NEORSD, noting that the Western basin of Lake Erie seems to have more of an issue than this region, possibly due to the depth of the lake. The limits that will impact one region of the lake may not provide the same benefit to another region. Frank Greenland, Director of Watershed Programs, agreed and advised that the Ohio EPA made specific mention to the significant issues in the Western basin of Lake Erie. There are large, episodic algae blooms that begin in the Western basin and end up in the Central

basin. Ohio EPA contends that any harmful issues are initiated in the Western basin. The City of Euclid's phosphorus load is inconsequential to Lake Erie. To enact a standard that is unachievable puts the community in a position to invest hundreds of millions of dollars for no gain. The Ohio EPA, NEORSD, and the National Association of Clean Water Agencies (NACWA) are supporting the City of Euclid and are concerned about the potential misguided environmental dollars to be spent.

Mr. Sulik asked if anyone has reached out to the Ohio Congressional Delegation. Ms. Dreyfuss-Wells and Danielle Giannantonio, Legislative Affairs Manager, explained that NEORSD and the City of Euclid have engaged Senator Brown and Congresswoman Brown. Because this is an issue that could set a precedent for the State, there was a unified response with Director Stevenson of the Ohio EPA participating in the public hearing as well.

Ms. Dumas asked what the appeal process to the U.S. EPA would be. Mr. Luckage explained that the permit could be taken over by the U.S. EPA and there is a federal EAB appeals process or potentially a lawsuit. Mr. Greenland added that Ohio is a delegated state, meaning that it is running its own permit program. The U.S. EPA would have to usurp that authority. Ms. Dreyfuss-Wells added that it is a very significant issue and NEORSD will be closely monitoring the situation.

Ms. Dreyfuss-Wells advised the Board that NEORSD has several employee resource groups (ERGs) and on June 8, the Sustainability and Young Professionals ERGs hosted NEORSD's first employee bike tour. It was a five-mile tour with Doug Lopata, Engineering and Construction Program Manager, and Chris Hartman, Stormwater Technical Specialist, to see the Superior Avenue Pump Station, other Project Clean Lake sites, and various green infrastructure sites.

Mr. Sulik asked, regarding positive COVID-19 cases, whether there are reports of the same employees being infected more than once. Denise Rice-Ali, Director of Human Resources, explained that she does not know but will find out, as all of the information is tracked.

VI. Action Items

Authorization to Advertise

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| Resolution No. 208-22 | Authorization to publish notice calling for bids, in accordance with Ohio Revised Code Section 6119.10, for liquid emulsion polymer solution at all Wastewater Treatment Plants with an anticipated expenditure of \$2,871,000.00. |
| Resolution No. 209-22 | Authorization to publish notice calling for bids, in accordance with Ohio Revised Code Section 6119.10, for a three-year requirement contract for industrial cleaning services at all Wastewater Treatment Plants with an anticipated expenditure of \$400,000.00. |

Resolution No. 210-22 Authorization to publish notice calling for bids, in accordance with Ohio Revised Code Section 6119.10, for a two-year requirement contract for tree maintenance services with an anticipated expenditure of \$200,000.00.

MOTION – Mayor Alai moved, and Ms. Chambers seconded to adopt Resolution Nos. 208-22 through 210-22. After the following discussion, without objection, the motion carried unanimously.

President Brown noted that, regarding Resolution No. 208-22, it appears that the option year amount is higher than what was agreed upon in the contract, which appears to have a cap of 2.5% versus this 33% increase and requested an explanation. Frank Foley, Director of Operation and Maintenance, explained that the contract calls for a maximum 2.5 percent increase in the contract price, over the base year, which was last year. The producer price index for plastic materials and resins has increased by about 33%, due to inflation. While NEORSD could have potentially argued to hold the contractor to that price, the 2.5% is a mutual option and this would be unreasonable given the 33% increase in the product and the market. President Brown and Ms. Dumas offered that the Board is not accustomed to this type of inflation.

Authorization to Issue Request for Proposals (RFP)

Resolution No. 211-22 Authorization to issue an RFP, in accordance with Ohio Revised Code Chapter 153, for the Mill Creek Restoration and Kerruish Basin Modifications project.

Resolution No. 212-22 Authorization to issue an RFP, in accordance with Ohio Revised Code Chapter 6119, for appraisal and appraisal review services to support the District's acquisition of property needed for construction and maintenance projects.

MOTION –Ms. Dumas moved, and Mr. Sulik seconded to adopt Resolution Nos. 211-22 through 212-22. Without objection, the motion carried unanimously.

Authorization to Purchase

Resolution No. 213-22 Authorization to purchase spare parts used on an as-needed basis from sole source vendor MSA Safety Sales, LLC, necessary to repair and maintain the District's Sierra Monitor Corporation gas detection and monitoring equipment, in an amount not-to-exceed \$150,000.00.

- Resolution No. 214-22 Authorization to purchase annual software licenses, maintenance, and support services from NEXGEN Asset Management for the District's NEXGEN AM software for the period July 1, 2022 through June 30, 2023, in an amount not-to-exceed \$159,000.00.
- Resolution No. 215-22 Authorization to purchase PC desktops, laptops, monitors, and accessories from Dell Marketing L.P. under the State of Ohio Cooperative Purchasing Program in an amount not-to-exceed \$331,522.00.

MOTION – Mr. Sulik moved, and Ms. Chambers seconded to adopt Resolution Nos. 213-22 through 215-22. Without objection, the motion carried unanimously.

Authorization to Enter Into Contract

- Resolution No. 216-22 Authorization to enter into a construction contract with Nerone & Sons, Inc. for the Euclid Creek Tunnel Shaft 1 Grit Removal project in an amount not-to-exceed \$103,488.00.
- Resolution No. 217-22 Authorization to enter into a construction contract with Nerone & Sons, Inc. for the Eastland/Holland Odor Control Facility Stone and Media Replacement project in an amount not-to-exceed \$144,020.80.
- Resolution No. 218-22 Authorization to enter into a construction contract with Eclipse Company for the Upper Ridgewood Basin Improvements project in an amount not-to-exceed \$3,333,010.27.
- Resolution No. 219-22 Authorization to enter into a construction contract with The Triad Engineering & Contracting Company for the Bear Creek Culvert Improvements project in an amount not-to-exceed \$1,260,605.00.

MOTION – Mayor Alai moved, and Ms. Dumas seconded to adopt Resolution Nos. 216-22 through 219-22. Without objection, the motion carried unanimously.

Authorization to Amend Agreement

- Resolution No. 220-22 Authorization to amend Agreement No. 18007038 with Nearmap US, Inc. for the Aerial Imagery Services project to extend the term of the agreement by an additional three-year period and to increase the agreement amount by \$370,800.00, thereby bringing the total agreement amount not-to-exceed \$850,800.00.

Resolution No. 221-22 Authorization to amend Design-Build Agreement No. 19005602A with Nerone & Sons, Inc. for the Dille Road/Barberton Creek Pump Stations Upgrades project to extend the term of the agreement by 150 non-compensable calendar days due to extended equipment delivery times, with no change in the total agreement amount.

MOTION –Ms. Chambers moved, and Mr. Sulik seconded to adopt Resolution Nos. 220-22 through 221-22. After the following discussion, without objection, the motion carried unanimously.

Regarding Resolution No. 220-22, President Brown noted that NEORSD entered into the agreement in 2018, took an extension for two years and is now looking to extend for three additional years and asked where the authority is for the extension. Mr. Luckage explained that this is a professional services contract and neither competitively bid nor a design project, meaning that it also does not follow the requirements of ORC Chapter 153. NEORSD would normally issue an RFP for this type of contract, however, due to the specialized nature of the services, staff chose to simply amend the existing agreement.

President Brown asked if there is something about the services provided by this vendor that is unique to them and is not offered by similar companies. Mr. Greenland explained that NEORSD has scope requirements for these services including the ability to fly twice per year across the 355 square mile service area and the ability to provide historical imagery. The historical imagery is of particular importance to the Stormwater program to assess changes to impervious surface area and stream erosion over time. In 2018, and today, there are no vendors in the area who have the ability to cover that large of an area and have the historical data available. After the requested three-year period, NEORSD may issue an RFP to see if there are new vendors. President Brown stated that he understands the uniqueness of this vendor, however, when the contract expires, he would prefer that NEORSD issue an RFP rather than a direct award.

Authorization of Contract Modification

Resolution No. 222-22 Authorizing final adjusting change order for Contract No. 21002417 with Cold Harbor Building Company for the Southerly Wastewater Treatment Center Tunnel Structural Repairs project by decreasing the contract amount by \$289,973.56, thereby bringing the total contract amount to \$1,053,047.44.

MOTION – Ms. Dumas moved, and Mr. Sulik seconded to adopt Resolution No. 222-22. Without objection, the motion carried unanimously.

Authorization to Amend Resolution

Resolution No. 191a-22 Authorization to Amend Resolution No. 191-22, adopted June 2, 2022, which authorized the acquisition of one parcel in fee simple known as PPN 761-16-012, located at 4238 Cricket Lane, in the City of Warrensville Heights, owned by Reven W. Gunn and necessary for the construction and maintenance of the Mill Creek Restoration Near Cricket Lane in Warrensville Heights project, to revise the escrow agent for the disbursement of funds from Ohio Real Title Agency, LLC to Innovative Title and Escrow Services, LLC.

MOTION – Mr. Sulik moved, and Ms. Chambers seconded to adopt Resolution No. 191a-22. Without objection, the motion carried unanimously.

Property Related Transactions

Resolution No. 223-22 Authorization to extinguish and release two permanent easements at the property known as PPN 522-25-021, located on East 71st Street, in the Village of Cuyahoga Heights and owned by the Village of Cuyahoga Heights, which are no longer necessary for the Mill Creek Interceptor nor other District purposes.

Resolution No. 224-22 Authorization to acquire one temporary easement at the property known as PPN 455-15-009, located on Royalview Drive, in the City of Parma, owned by the City of Parma, necessary for the construction of the Streambank Stabilization at Pecan Drive project with total consideration of \$1.00.

Resolution No. 225-22 Authorization to convey ownership of the fee simple parcel known as PPN 831-34-057, located at 6213 North Woodlane Drive, in the Village of Mayfield, to the Village of Mayfield, contingent upon the District's acceptance of a stormwater easement over the entirety of the parcel on behalf of the District, with total consideration of \$1.00.

Resolution No. 226-22 Authorization to appropriate one permanent stormwater easement at the property known as PPN 761-16-098, located at 19818 Cherrywood Lane, in the City of Warrensville Heights, owned by Carlene Burton, necessary for the construction and maintenance of the Mill Creek Bank Stabilization Warrensville Heights project, and to deposit \$5,580.00 with the Cuyahoga County Probate Court as consideration for the same.

- Resolution No. 227-22 Authorization to appropriate one parcel in fee simple known as PPN 761-16-014, located at 20005 Butternut Lane, in the City of Warrensville Heights, owned by Arwilda M. Franklin, necessary for the construction and maintenance of the Mill Creek Bank Stabilization Warrensville Heights project, and to deposit \$6,900.00 with the Cuyahoga County Probate Court as consideration for the same.
- Resolution No. 228-22 Authorization to appropriate one permanent stormwater easement at the property known as PPN 761-16-097, located at 19817 Cherrywood Lane, in the City of Warrensville Heights, owned by Allimet Properties, LLC, necessary for the construction and maintenance of the Mill Creek Bank Stabilization Warrensville Heights project, and to deposit \$9,470.00 with the Cuyahoga County Probate Court as consideration for the same.
- Resolution No. 229-22 Authorization to acquire one permanent stormwater easement at the property known as PPN 455-15-011, located at 8245 Royalview Drive, in the City of Parma, owned by David and Marie C. Modrak, necessary for the construction and maintenance of the Streambank Stabilization at Pecan Drive project with total consideration of \$1.00.
- Resolution No. 230-22 Authorization to acquire one permanent stormwater easement at the property known as PPN 455-24-006, located at 7913 Pleasant Valley Road, in the City of Parma, owned by Marian H. Gibbons, necessary for the construction and maintenance of the Big Creek Stream Restoration Upstream and Downstream of Ridge Road in Parma project with total consideration of \$40,894.00.
- Resolution No. 231-22 Authorization to acquire one permanent sewer easement at the property known as PPNs 105-04-021, 105-04-022, 105-04-023, 105-04-024, 105-04-025, 105-04-026, and 105-04-027, located at 5444 and 5456 Lake Court, in the City of Cleveland, owned by The Davis Salvage Co., also known as Davis Salvage Company, necessary for the construction and maintenance of the Shoreline Consolidation Sewer project with total consideration of \$7,000.00.

MOTION –Ms. Dumas moved, and Mr. Sulik seconded to adopt Resolution No. 224-22. Without objection, by roll-call vote, with all present members voting yes, and recusal from discussion and abstention from voting by Mayor DeGeeter, the motion carried.

MOTION – Mr. Sulik moved, and Mayor Alai seconded to adopt Resolution Nos. 223-22 and 225-22 through 231-22. Without objection, the motion carried unanimously.

Hearing Officer Findings and Recommendations

Resolution No. 232-22 Adopting the findings and recommendations of the Hearing Officer regarding the sewer account of Force Sports, Sewer District Hearing No. 22-007, that no further adjustments be made.

MOTION –Ms. Dumas moved, and Mr. Sulik seconded to adopt Resolution No. 232-22. Without objection, the motion carried unanimously.

VII. Information Items

Mr. Greenland provided an update regarding the Regional Stormwater Management Program (RSMP) beginning with Stormwater Inspection Maintenance (SWIM) activities. SWIM is performing inspections, though it has been a relatively dry year. Last year, SWIM performed approximately 1,380 inspections to mitigate problems across the service area. To date, maintenance spending and projects are down as there is less debris in the system, however, that could quickly change with wet weather.

Mr. Greenland provided photographs of some larger scale maintenance projects being performed, including one in Brecksville at Riverview Road to address sediment that is threatening to impede the roadway, and a proposed project to remove sediment near Milligan Avenue along the Chevy Branch of Big Creek.

Property acquisitions and demolitions are key to Stormwater Programs and the process is working very well.

Regarding technical support, the Master Plans are completed and have identified \$1.36 billion worth of projects in order to potentially achieve 100-year level of flood protection. It will not be possible to achieve that level of service in all areas. Each quadrant of the Master Planning area has significant need that NEORSD is working to prioritize in terms of the most urgent needs first.

With the completion of the Master Plan, advanced stormwater planning is underway. Many of the projects are very costly and require significant property acquisitions. The team is working to properly stage the projects within the time constraints and the budget process on an annual basis. NEORSD utilized this approach in the Combined Sewer Overflow Control Program to help provide more technical details to the project and potentials for phasing projects.

The next step in advanced planning is to take all of the Master Plan results and the advanced planning work and weave it into the construction program. Once of the major areas to be

addressed is in the Puritas Basin. There will be something of a mini-Master Plan to determine how to improve function in the area.

President Brown added that has been an area of concern for quite some time. Mr. Greenland explained that there is a long history of problems in that area that will require a detailed dive to understand and address.

President Brown offered that he recalls going door-to-door in the area with Mayor Michael White to discuss basement flooding with residents in the area and working to create a strategy with NEORSD to address the issues despite the cost. Mr. Greenland stated that there are downstream and basin issues. There are upstream flows feeding the basin. It is necessary to understand the dynamic flow of transfer. Although it has been a long time, it is in the advanced planning phase and projects will be executed in phases to address the problems.

Mr. Greenland moved on to the Ohio EPA's 319 Grant Program and explained that the watershed groups that NEORSD funds with watershed operating support grants are very savvy at obtaining these grants. The projects completed through the funding are within the service area and have been very successful. They require match funding, so when the project is located on the regional system and NEORSD feels it is favorable, it will match the funds. NEORSD is currently matching approximately \$1.5 million across 6 projects. Every year there is a new cycle of projects under the program.

Regarding the Water Resource Restoration Sponsor Program (WRRSP), NEORSD has participated in the program since 2005, with 62 sponsored projects for a total of \$77.5 million of investment coming through the WRRSP. NEORSD receives an interest reduction through the program. They have all been good projects, with many centered around stormwater management in the service area. The remaining projects have addressed Lake Erie issues, and only a couple have addressed the Ohio River drainage system. NEORSD is the leader in the state in these projects.

Under the Stormwater Program, NEORSD has been involved in multiple property acquisitions, with \$13 million in fee simple and over \$1 million in property easements. This number will grow as the projects get bigger.

As for professional services contracts, there is current a total of \$16.5 million in contracts. The bulk of the contracts awarded so far this year have been for design, and construction awards will follow. For construction projects, there was a total of \$6.6 million awarded at the end of the first quarter and the anticipated total for the year is \$35.8 million. There will be many more resolution requests for construction and proposals for design this year.

Mr. Greenland provided some highlights of projects that are going into the design phase beginning with the Mill Creek Restoration and Kerraish Basin Modifications project, which will involve

modifications to the basin, upstream modifications to arrest erosion and reduce maintenance needs. It is a \$3 million project currently.

The Baldwin Creek Dell Haven Basin Near York Road project in the City of Parma will create storage to alleviate flooding. It should increase the level of service from a 10-year to a 25-year level.

Mr. Greenland briefly provided photographs of other project areas including dam at Dugway Brook at Forest Hills Park. The dam at Forest Hills Park in the City of East Cleveland may be removed as it does not appear to serve a public purpose. President Brown asked where it is located, and Mr. Greenland explained that it is at Superior Road before Terrace Road. Most people do not know that it is there since it is in the woods and the stream is in a culvert.

Riverview has significant erosion and sediment issues, creating blockages and flooding roads. The Lakeview Dam rehabilitation has been largely completed. The Rocky River Stream Stabilization and Sewer Protection in North Royalton project is also nearly complete.

Regarding the Community Cost-Share Program, the total funding balance is \$34.7 million, with \$10 million assigned to executed project agreements and \$3.5 million currently being negotiated. This leaves almost \$21 million, \$9.5 million of which will be in allocation agreements for larger projects. No community has ever lost its money in the program, it is always spent. The program was slowed down due to COVID-19; however, large project requests are beginning to be received.

President Brown stated that based on the enormity of the program, the level of service, number of projects areas being addressed to mitigate flooding, and the changing rainfall patterns, he considers the Watershed Programs to be a tremendous success. President Brown further stated that maybe there should be more public discussion regarding the benefits that the RSMP has provided to the community. Mr. Greenland thanked President Brown and added that NEORSD has a great staff. When the program began, many of the communities were opposed to it and that has changed significantly.

Ms. Dreyfuss-Wells added that as part of NEORSD's 50th anniversary, July is the month that Constance Haqq, Chief Administrative Officer, and her team is highlighting the Stormwater Program.

VIII. Open Session

There were no items.

IX. Public Session (any subject matter)

There were no items.

X. Executive Session

Mr. Sulik, pursuant to Ohio Revised Code Section 121.22 (G)(1), moved, and Ms. Dumas seconded to enter an executive session to consider the appointment and employment of a public employee. By roll call vote, the Board voted unanimously to enter into executive session at 1:26 p.m.

The Board returned to open session at 1:45 p.m.

XI. Approval of Items from Executive Session

Resolution No. 233-22 Approval of the revised job description of the Chief Executive Officer, dated July 7, 2022, as presented, and affirming that the CEO has been representing the District and the District's interests on various Boards and Commissions and shall continue to do so.

MOTION – Mr. Sulik moved, and Ms. Chambers seconded to adopt Resolution No. 233-22. Without objection, the motion carried unanimously.

XII. Adjournment

MOTION – President Brown stated business having been concluded, he would entertain a motion to adjourn. Mr. Sulik moved, and Ms. Dumas seconded the motion to adjourn at 1:46 p.m. Without objection, the motion carried unanimously.



Timothy J. DeGeeter, Secretary
Board of Trustees
Northeast Ohio Regional Sewer District



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