

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
MARCH 3, 2022

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

I. Roll Call

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

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

II. Election and Installation of Officers

President Brown stated that the first official order of business was the installation and oath of the newly appointed and reappointed Board Members and invited Eric Luckage, Chief Legal Officer, to administer the Oath of Office.

Mr. Luckage administered the Oath of Office to Ms. Chambers (newly appointed), Mr. Sulik (reappointed) and Mayor DeGeeter (reappointed).

III. Approval of Minutes

MOTION – Mayor Bacci moved, and Ms. Dumas seconded to approve the Minutes of the February 17, 2022 Board Meeting. Without objection, the motion carried unanimously.

IV. Public Session

There were no items.

V. Chief Executive Officer's Report

Kyle Dreyfuss-Wells, Chief Executive Officer, provided an update regarding NEORSD's ongoing COVID-19 pandemic response and informed the Board that NEORSD staff has no active COVID-19 cases, and one employee with COVID-19-like symptoms awaiting test results. There are no employees remaining at home because a member of their household tested positive. There has been a total of 206 employees with confirmed diagnoses since the beginning of the pandemic, all of whom have recovered and returned to work.

With the continued decline in COVID-19 cases, NEORSD discontinued its face covering requirement on February 28; however, the District will continue its self-reporting requirements through the Human Resources Department for the near term.

Ms. Dreyfuss-Wells provided an update regarding federal funding from the Infrastructure Investments and Jobs Act. The legislation, signed November 15, 2021, provides \$1.2 trillion in infrastructure funding across the U.S. NEORSD has been working diligently to ensure that funding is available for District projects as well as those of member communities. NEORSD is awaiting guidance from U.S. EPA and Ohio EPA, as to how they will implement the funding over the next five years.

There is \$50 billion to be administered across drinking water, wastewater, and stormwater infrastructure improvements. The bulk of the funding, \$43 billion, will go through the state revolving funds (SRF) nationwide. There is \$11.7 billion each for clean water and drinking water, \$5 billion for emerging contaminants, and \$15 billion for lead service line replacements. In Ohio, those are the Water Pollution Control Loan Funds (WPCLF) that NEORSD uses to finance much of the Capital Improvement Program. NEORSD is focused on obtaining funding from that \$43 billion.

During President Biden's recent visit, there was much discussion around the Great Lakes Restoration Initiative, a program that will receive \$1 billion through the Infrastructure Investments and Jobs Act. This program is focused on protection projects and habitat restoration and is not available for the sewer and wastewater-type projects that NEORSD typically performs.

As for funding that will specifically be available in Ohio, the Ohio EPA is estimating \$624 million in additional funding to the clean water SRF over the next five years. The Ohio SRF will receive approximately \$100 million of additional funding from 2022 to 2026 and 49% of that funding is required to go through grants or principal forgiveness. The remaining funds will go through traditional loans of the SRF. The Biden administration has made it clear that they want communities to access the monies that have not previously received SRF funding, and they are very focused on disadvantaged communities.

The SRF is essential to the work that NEORSD does, which is evident in projects such as the Shoreline Storage Tunnel. NEORSD is focused on not only obtaining the funding for its own

projects, but also its member communities which historically have not utilized SRF funding. To that end, NEORSD has drafted a proposal, which was provided to the Board, for an enhanced Member Community Infrastructure Program (MCIP). NEORSD's MCIP has been in place since 2017 to support the repair and renewal of sewer infrastructure and reduce the impacts of sanitary sewer overflows, basement flooding, septic systems, common trench sewers, and illicit discharges.

Ms. Dreyfuss-Wells presented a map of the service area depicting the MCIP awards for 2022 as an example, which will address fundamental issues at the community level, impacting the quality of streams and Lake Erie.

It is known from the Rate Study that NEORSD will have \$15 million available from 2022 through 2026 to fund projects under the MCIP. However, through the Sewer System Evaluation Studies (SSES), it is known that there is over \$950 million in need at the local level. There is a significant gap between funding available and the needs of the member communities. Accordingly, NEORSD drafted the proposal to the U.S. EPA and Ohio EPA for \$100 million of this new funding over five years, to be divided into two categories; \$10 million per year to add to the MCIP to boost the grant projects, and \$10 million per year for NEORSD to implement in partnership with member communities. In order to efficiently utilize the funding in a short time period, it is necessary to move beyond the traditional project-by-project submission and approval process used by the state. NEORSD has a long history of implementing projects to allow regional entities to enter into cooperative agreements to complete the projects with a focus on the disadvantaged portions of NEORSD's service area, consistent with EPA guidance.

Historically, the definition of disadvantaged communities has excluded urban communities and instead focused on rural, low population communities in Ohio. This will need to be addressed in order to make funds available to the communities of Northeast Ohio. The state will also need to allow for cooperative agreements to speed project delivery and focus on grants versus loans to ensure a realistic implementation of those provisions. The new Build America, Buy America Act provisions have been expanded to include manufactured products as well as iron and steel, which will require additional consideration.

NEORSD has remained in contact with the U.S. EPA and Ohio EPA, submitting multiple presentations, proposals, and letters, providing a granular review of the issues and concerns as well as NEORSD's recommendations for what the guidance should include. It is anticipated that guidance will be received from the U.S. EPA in March, and the first wave of funding will follow in October. NEORSD will continue its outreach to the U.S. and Ohio EPA, both of which have been very receptive to NEORSD's proposal. The U.S. EPA will provide its guidance to the Ohio EPA, which will implement the state revolving fund.

President Brown noted that significant time and energy has been spent in identifying opportunities for improvements in areas such as over/under sewers and combined sewer overflows (CSO), which have been a focus for a long time. President Brown voiced his interest in different types of

programs. For example, there are line protection programs, but the responsibility is still on the property owner to pay for repairs. There could be an opportunity to advocate for the communities, particularly in large urban areas, with residents that are eligible for the Affordability Program at 250% of the federal poverty level, to fund infrastructure replacement for them, as opposed to putting them in a situation where they are being asked to fund repairs that they cannot afford. Addressing issues that have existed on properties historically could provide an opportunity to bring some equity to the community.

Frank Greenland, Director of Watershed Programs, explained that NEORSD can fund private property lateral replacement, but the community has to implement it. Mr. Greenland explained that if basement flooding is to be solved, there will have to be work performed on private property. There is likely not anything precluding the ability to fund those projects with infrastructure funding; it is likely the willingness of a community to make it happen. The subject will require additional research.

President Brown offered the example that years ago it cost \$1,500 to \$2,000 to dig at the curb and an additional \$10,000 to \$15,000 to replace a line. The average ratepayer does not have the funds for those types of repairs. Mr. Greenland added that there has been some movement in that regard locally.

President Brown added that if basement flooding is a primary quality of life issue to be addressed and a significant part of the problem is on private property, the only way to resolve it is to help mitigate the financial burden and create a program that allows people to address the issues. Such a program would assist NEORSD as well.

Ms. Dumas asked if the EPA has provided any reasoning as to why urban areas would be excluded and rural low population areas would be included, when the most significant problems of poverty exist in the urban areas. Ms. Dreyfuss-Wells indicated that the reasoning may be that there is an assumption that the population in the urban areas could fund the infrastructure. Ms. Dreyfuss-Wells invited Eric Luckage, Chief Legal Officer, to provide additional comment. Mr. Luckage agreed with Ms. Dreyfuss-Wells and indicated that the EPA has some flexibility to set the population levels for what is considered a disadvantaged community within the criteria defining affordability. It appears that the EPA's approach has been to focus on smaller communities with significant problems, smaller populations, and lower income that are not willing or able to address the problems.

Mr. Greenland added that the current climate is reminiscent of when there were construction grants in the 1970s, 1980s, and 1990s, and the larger communities, NEORSD included, capitalized on those programs to utilize the funding. The Division of Environmental and Financial Assistance (DEFA) established methods to allow smaller communities to also obtain funding.

President Brown added that NEORS D has data and information that would support the work; the problems have been identified, but there are not resources to perform the work. That puts NEORS D in a different position and it should advocate accordingly. Ms. Dreyfuss-Wells agreed and added that NEORS D has informed the U.S. EPA and Ohio EPA that the structure is set up at NEORS D to move the money out and help the communities.

VI. Action Items

Authorization to Advertise

Resolution No. 81-22 Authorization to publish notice calling for bids, in accordance with Ohio Revised Code Section 6119.10, for the Baldwin Creek Relief Culvert at Stormes Drive in Parma project with an anticipated expenditure of \$1,868,000.00.

Resolution No. 82-22 Authorization to publish notice calling for bids, in accordance with Ohio Revised Code Section 6119.10, for the Pepper Luce Creek Culvert Replacement/Rehabilitation at Gates Mills Blvd project with an anticipated expenditure of \$2,193,000.00.

MOTION – Mayor Alai moved, and Mr. Sulik seconded to adopt Resolution Nos. 81-22 through 82-22. After the following discussion, without objection, the motion carried unanimously.

President Brown noted that both of the projects associated with Resolution Nos. 81-22 and 82-22 appear to be intended to increase culvert capacity to reduce flooding and requested further explanation.

Mr. Greenland provided a photograph of the area and explained that the project associated with Resolution No. 81-22 is a relief culvert. There is an existing culvert that comes out of an existing stormwater basin, a detention basin. It is called the Bonnie Banks Basin and lacks capacity, leading to significant flooding. This was studied under the Stormwater Master Plans and the local sanitary sewer studies. The basin was previously dredged to increase capacity, and this project is the next step to increase the level of protection. There will be additional work required in the future.

Mr. Greenland provided a photograph of the site related to Resolution No. 82-22 and explained that the project involves the replacement of failing culverts, however, the detention basin runs along the roadway. The project will require an expansion of the basin, relocation of the outlet, replacement of a culvert and other structural repairs to allow flow to properly store and release in the area. The intention of the project is to get close to the 100-year level of protection.

President Brown asked, regarding both projects, if there is a specific reason why both of these basins require increased capacity. Mr. Greenland explained that increased rainfall is a factor and

there is always the desire to increase capacity as much as is reasonably practicable. The design standards when the basins were built were never sized for 100-year level of protection.

Authorization to Issue Request for Proposal and Enter Into Agreement

Resolution No. 83-22 Authorization to issue an RFP, in accordance with Ohio Revised Code Chapter 6119, for procurement of electricity for up to a two-year period, for the Southerly Wastewater Treatment Center, the George J. McMonagle Administration Building, and approximately fifty-nine outlying District facilities, and authorization for the Chief Executive Officer to enter into an agreement with the highest-ranked supplier and execute any documents necessary to secure electricity pricing favorable to the District without additional Board approval.

MOTION –Mayor Bacci moved, and Ms. Dumas seconded to adopt Resolution No. 83-22. After the following discussion, without objection, the motion carried unanimously.

President Brown asked whether the distribution carrier is First Energy. Ken Duplay, Chief Financial Officer, answered affirmatively and explained that the request is specifically for energy supply.

President Brown asked how this may factor into opportunities for renewable energy. Mr. Duplay explained that NEORSD is working with its energy consultant to factor that into the Request for Proposal (RFP) and is reviewing several options. NEORSD will request and evaluate bids for 1-year, 1.5-year, and 2-year potential agreements which incorporate different green energy components. Higher rates are anticipated than the previous agreement.

Authorization to Enter Into Agreement

Resolution No. 84-22 Authorization to enter into professional services agreements with Eileen Claman, Inc., United Training, and Tri-C Corporate College, collectively referred to as the Suite of Facilitators, for educational opportunities in a variety of development topics for District staff in a total amount not-to-exceed \$110,000.00 for all agreements combined.

Resolution No. 85-22 Authorization to enter into a loan agreement with the Ohio EPA and the Ohio Water Development Authority to accept WPCLF funding for construction costs related to the Westerly Chemically Enhanced High-Rate Treatment project for a total amount up to \$92,840,000.00.

- Resolution No. 86-22 Authorization to enter into a professional services agreement with Jacobs Engineering Group for support with the implementation of the Regional Stormwater Management Program's Stormwater Construction Plan, as needed, under the Advanced Stormwater Planning II project, in a total amount not-to-exceed \$3,000,000.00.
- Resolution No. 87-22 Authorization to enter into professional services agreements with Radcom, Eileen Claman Inc., and Six Red Marbles, collectively referred to as the Suite of Instructional Designers, to provide design and development of training courses for District staff in a total amount not-to-exceed \$285,000.00 for all agreements combined.
- Resolution No. 88-22 Authorization to enter into a professional services agreement with Be Well Solutions for Wellness Program services for calendar years 2022 through 2024, in an amount not-to-exceed \$79,000.00.
- Resolution No. 89-22 Authorization to enter into a professional services agreement with Tata Consultancy Services Limited for software upgrades and related services under the Oracle EBS Upgrade project in an amount not-to-exceed \$667,590.00.

MOTION – Mr. Sulik moved, and Ms. Dumas seconded to adopt Resolution Nos. 84-22 through 89-22. After the following discussion, without objection, the motion carried unanimously.

President Brown noted that Resolution No. 85-22 appears to be expedited to attempt to beat a timeline and requested an explanation. Mr. Duplay explained that the project will be affected by the Build America, Buy America Act provisions in the Infrastructure Act which increase requirements for new loans awarded May 15, 2022, or later. NEORS D has been working with Engineering and the Ohio Water Development Authority (OWDA) to get the project on their April agenda. The award amount represents the highest awardable amount, based on the engineer's estimate. The loan will be for the actual awarded amount. The bids will be received next week, and the final information will go on the April OWDA agenda in order to avoid potential future administrative issues at a minimum, if not costs and schedule issues as well, due to the new requirements.

President Brown requested additional information regarding the ways in which the Build America, Buy America Act may influence this and future projects. Devona Marshall, Director of Engineering and Construction, explained that NEORS D always intended to obtain loan funding for this project, and because the existing requirements for loan funding under Build America, Buy America was for iron and steel only, that was a design consideration in this instance. In some cases, American products come at an increased cost.

The new requirements for the loan funding are being extended to other materials. The project was not designed with that consideration. If for some reason the loan funding is not approved ahead of that deadline, at a minimum, there will likely be significant administrative work to obtain exceptions and waivers and if those efforts were unsuccessful, it would require the project to be redesigned, which would likely come at a considerable cost. Additionally, there are scheduling requirements under the Consent Decree that would then not be met.

Ms. Dreyfuss-Wells added that NEORSD has no problems with the Build America, Buy America Act provisions. This is strictly a timing issue related to these projects meeting Consent Decree deadlines, as they were already designed and in the pipeline.

President Brown asked for additional information regarding the bidding related to the project associated with Resolution No. 86-22, noting that he is interested in discussions regarding the companies that are bidding on projects and why the field seems to be narrowing in terms of the numbers of firms bidding. Mr. Greenland explained that there is significant work being performed in both wastewater and stormwater infrastructure, with a significant amount of civil engineering work ongoing. Mr. Greenland further explained that three of the four major consulting firms that NEORSD worked with in its Master Planning efforts are involved. One firm chosen as the lead, the other the subconsultant. Depending on the project, sometimes there may only be two firms proposing, and other times such as with general engineering services, there will be several proposals and it will be very competitive. In this instance there are only two but still have major engineering firms involved and many subconsultants.

Authorization to Enter Into Contract

- | | |
|----------------------|--|
| Resolution No. 90-22 | Authorization to enter into three one-year requirement contracts for Grounds Maintenance Services at all District facilities with ESK Landscaping, LLC in an amount not-to-exceed \$87,124.94 for Bid Groups 1, 2, and 3; BGB Grounds Maintenance, LLC in an amount not-to-exceed \$50,806.00 for Bid Group 4; and Henderson Contracting Company, Inc. in an amount not-to-exceed \$24,986.57 for Bid Group 5, for a total amount not-to-exceed \$162,917.51 for all bid groups. |
| Resolution No. 91-22 | Authorization to enter into a three-year requirement contract with Franzenburg, LLC for centrifuge rebuilding services at the Southerly and Westerly Wastewater Treatment Centers in an amount not-to-exceed \$738,774.96. |
| Resolution No. 92-22 | Authorization to enter into a construction contract with Herbst Electric Company for the Easterly PLC Replacement project in an amount not-to-exceed \$8,949,105.00. |

MOTION – Ms. Dumas moved, and Mayor Bacci seconded to adopt Resolution Nos. 90-22 through 92-22. After the following discussion, without objection, the motion carried unanimously.

President Brown noted that, regarding Resolution No. 92-22, the engineer's estimate was \$9.8 million, and the lowest and best bid was \$8.9 million, and there will be almost 40% MBE on the project. President Brown asked whether the Easterly Wastewater Treatment Plant (WWTP) will be the second plant to undergo this modernization. Ms. Marshall answered affirmatively and explained that the low bidder was approximately \$850,000 under the engineer's estimate and second lowest bidder was approximately \$100,000 over the engineer's estimate. There were two strong bids on the contract. Both of these contractors have done significant work for NEORSD in the past. Furthermore, one of the primary subcontractors is an MBE firm and will be performing the systems integration, which is a major component of the project.

The Easterly WWTP is the second plant to receive this upgrade, as the Westerly WWTP previously underwent automation upgrades. Later this year, NEORSD will seek Board approval to perform the upgrades at the Southerly WWTP as well.

Property Related Transactions

Resolution No. 93-22 Authorization to acquire one access easement at the property known as PPN 602-07-020, located at 10616 Glen Forest Trail, in the City of Brecksville, owned by James E. Berger, necessary for the construction and maintenance of the Picha Lake Dredging project with total consideration of \$1.00.

MOTION – Mr. Sulik moved, and Ms. Chambers seconded to adopt Resolution No. 93-22. Without objection, the motion carried unanimously.

Sewer Use Code Matters

Resolution No. 94-22 Adopting the findings of the Hearing Officer with regard to the sewer account of Byron Smith, Sewer District Hearing No. 21-016, that the customer's request be denied.

MOTION – Ms. Chambers moved, and Mayor Alai seconded to adopt Resolution No. 94-22. Without objection, the motion carried unanimously.

Authorization to Grant Credit

Resolution No. 95-22 Authorizing the District to issue a credit adjustment in the total amount of \$53,477.58 against sewer charges on the NEORS account ending in 0002 for Aircraft Hanger at 26460 Curtis Wright Parkway, Highland Heights.

MOTION – Mayor Bacci moved, and Ms. Dumas seconded to adopt Resolution No. 95-22. Without objection, the motion carried unanimously.

Authorization to Assign

Resolution No. 96-22 Authorization to assign the 2022 Green Infrastructure Grants for the Combined Sewer Area Program Agreement No. 22000582 with McGregor Independent Living, L.P. to McGregor Foundation for the McGregor Independent Living – Phase 2 project, with all current terms and conditions of the agreement to remain unchanged under the assignment.

MOTION –Mr. Sulik moved, and Ms. Chambers seconded to adopt Resolution No. 96-22. Without objection, the motion carried unanimously.

VII. Information Items

There were no items.

Open Session

There were no items.

VIII. Public Session (any subject matter)

There were no items.

IX. Executive Session

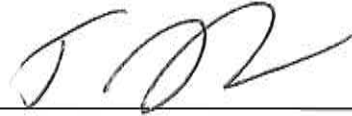
There were no items.

X. Approval of Items from Executive Session

There were no items.

XI. Adjournment

MOTION – President Brown stated business having been concluded, he would entertain a motion to adjourn. Mayor Bacci moved, and Mr. Sulik seconded the motion to adjourn at 1:16 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