

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
APRIL 20, 2023

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
Timothy DeGeeter
Jack Bacci
Sharon Dumas
Marjorie Chambers
Samuel Alai

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

II. Approval of Minutes

MOTION – Mayor Bacci moved, and Ms. Chambers seconded to approve the Minutes of the April 6, 2023 Board Meeting. Without objection, the motion carried unanimously.

III. Public Session

John Miceli of Miceli Dairy, provided the following comments to the Board:

“On behalf of Miceli Dairy Products, I want to thank the Board for this opportunity to make some comments today. My name is John Miceli. My family has been making fine Italian cheeses in the Cleveland area for more than 100 years, believe it or not. Sometimes I feel like I’m 100 years old. Some of you may remember that I also spoke to the Board in 2019.

And I’m here again to ask for your support of a mutually beneficial solution to an urgent problem facing my company. Since 1949, Miceli’s had a manufacturing plant located at 2721 East 90th Street in Cleveland that discharges wastewater to the District’s Easterly Wastewater Treatment Plant. Over the years, we have worked very hard and have been fortunate to grow our business. We currently employ more than 200 people, 35 percent of whom live in a historically underutilized business zone, a hub zone.

When constructing the opportunity corridor, we believe that the city placed it by our land, the bakery and the Miceli Deli, for a reason. We are the anchors in the Buckeye area. Miceli is also

proud to provide continuing support to the Cleveland community, including organizations such as the Cleveland Food Bank as well as various other churches, schools and civic groups and non-profits.

Like most food producers, Miceli's discharges wastewater with high concentrations of normal sewage components like total suspended solids and chemical-oxygen demand. I've been told by our consultants these are the same components that the Easterly Wastewater Treatment Plant has no difficulty treating and currently has excess available capacity to handle. Unfortunately, that reality is not being reflected in the rates billed to us by the District.

In 2021, Miceli was billed slightly more than \$1.6 million and more than \$135,000 a month by the District, a cost that only increased in 2022. About \$1 million of this total cost results from the high strength surcharge fees assessed to our plant. Our cost for a cubic foot of wastewater is approximately two and a half times higher than the District's other 25 largest customers.

Miceli's wastewater surcharge costs have gotten so high that they have reached the tipping point for our business. The ongoing cost is now a key consideration in our current business planning. We are really planning to try to expand at this point. We have to take action to both reduce the control of our wastewater costs moving forward to ensure the future of our business.

One of our first actions we took was to hire a consultant to conduct an evaluation of the cost effectiveness of Miceli building and operating an onsite wastewater treatment plant, which would eliminate all future District surcharge fees. This report and the underlying supporting documents were sent to the Board and the District the first week of April. We also met with the District representatives in person to discuss the reports and our options for a path forward.

As discussed in the report, our consultant indicates that building and operating an onsite treatment plant would not only eliminate all future surcharge costs, but also provide the company with positive energy, financial and environmental benefits.

Even with all the positives an onsite plant could bring to our business, it does not make sense that Miceli would need to build a plant when the infrastructure and capacity already exists at Easterly. Our consultant indicated that our plant's averaged daily wastewater flow ranges from only 0.031 percent to 0.231 percent of the average dry water daily flow into the Easterly plant.

When all is said, we just want Miceli's to be treated equitably by the District and to avoid what I believe is a duplicative effort. That is why I'm here to appeal to you one last time. With the District's support, Miceli's can make the most of our current business opportunity and funding to grow our plants by funding and growing our plant's production, which will in turn mean providing more local jobs and increase local economic growth. Without any supportive action that is, Miceli will be forced to build an onsite treatment plant, which will eliminate another large revenue stream to the District that is needed to cover the fixed capital and operating costs at the Easterly plant.

I sincerely believe an agreement and partnership between us is not only in the best interest of Miceli, but of the District and the District's customers. Speaking for everybody at Miceli's, we truly just want to focus on what we do best, making the finest Italian cheeses that we can and helping our local community by providing more jobs actually.

Running an onsite treatment plant is not a desired business function we want to add; however, we will do this if a fair and reasonable solution is not found. Please help us find the solution that is best for everybody in Northeastern Ohio. Thank you again. I'd be happy to take any questions you have for me."

President Brown thanked Mr. Miceli for his comments and expressed his appreciation for what Miceli Dairy has meant to the community over the years and added that it is a staple of economic ingenuity in a critical area in the city.

President Brown added that he recalls Mr. Miceli addressing the Board in 2019, and there was a similar discussion regarding fees for industrial waste and NEORSD was able to establish a fair and equitable rate for all customers in that class of operators. Additionally, Mr. Miceli met with NEORSD's senior staff and provided information which is under review and has not yet been provided to the Board for review. President Brown added NEORSD understands that it is in everyone's mutual interest to have fair and equitable rates for all of its ratepayers and NEORSD will be in contact with him soon.

Mr. Miceli thanked President Brown and added that the company is looking to continue its plan to go forward, as it is not leaving Cleveland.

IV. Chief Executive Officer's Report

Kyle Dreyfuss-Wells, Chief Executive Officer, advised the Board that on March 29, NEORSD hosted its third public meeting regarding the Hemlock Creek Stream Restoration Project in Seven Hills. The project will restore the riparian area and floodplain as well as replace and upsize failing crossings along 600 linear feet of Hemlock Creek. Ms. Dreyfuss-Wells provided photographs of the project area and explained that the current configuration is not sustainable. NEORSD has purchased eight properties, many of which have significant flooding and erosion issues, in order to complete the project.

Ms. Dreyfuss-Wells provided a rendering of Hemlock Creek after the completion of the restoration project, which will begin construction in the fall. Approximately forty people attended the meeting, which was staffed by members of the Watershed Programs and Customer Service Departments, who provided information regarding NEORSD's cost savings programs as well as the project.

On April 12, Ms. Dreyfuss-Wells, Constance Haqq, Chief Administrative Officer, and staff from the Government Affairs and Watershed Programs Departments met with Cleveland Councilman Danny

Kelly, of Ward 11. NEORSD staff provided Councilman Kelly with an introduction to NEORSD, and discussed Project Clean Lake, the Regional Stormwater Management Program, cost savings programs, and upcoming projects in Ward 11.

During two recent National Association of Clean Water Agencies (NACWA) meetings, colleagues from both Madison Wisconsin Metropolitan Sewage District and Evansville Illinois Water and Sewer asked to learn more about NEORSD's strategies related to affordability and customer assistance. Jacqueline Muhammad, Senior Manager of Government and Customer Relations, met with the General Manager of Madison Wisconsin Metropolitan Sewage District and the Executive Director of Evansville Illinois Water and Sewer to discuss NEORSD's strategies and invited them to attend a future Resource Fair Clinic.

Last month, John Gonzalez, Manager of Communications, was recognized by Government Technology for inclusion in their top 25 awards for 2023. Mr. Gonzalez was named one of the top Doers, Dreamers, and Drivers of 2023 in recognition of his efforts to use social media to reach out to customers in innovative and timely ways. Ms. Dreyfuss-Wells offered congratulations for the achievement.

President Brown thanked Ms. Dreyfuss-Wells for her presentation and added that the Board is always interested in conversations that NEORSD has with other utility providers as it relates to operations, customer service, and affordability. Having other entities looking to NEORSD for information and guidance on these types of issues strengthens NEORSD's position at the state and federal level when discussing issues regarding the benefit of providing quality water resources in an affordable and equitable manner. President Brown encouraged NEORSD staff to continue such discussions.

V. Action Items

Authorization to Issue Request for Proposal (RFP)

Resolution No. 111-23	Authorization to issue an RFP, in accordance with Ohio Revised Code Chapter 6119, for the Cuyahoga River North and South Spherical Imagery project.
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MOTION – Mr. Sulik moved, and Ms. Chambers seconded to adopt Resolution No. 111-23. After the following discussion, without objection, the motion carried unanimously.

President Brown requested an explanation of what the Spherical Imagery project entails. Frank Greenland, Director of Watershed Programs, explained that spherical imagery is the process of walking or boating the larger streams to get up-close 360-degree imagery of the area. NEORSD last performed this type of study in 2017 and 2018 while conducting the Stormwater Master Planning studies in the Cuyahoga River North and South areas. There are approximately 484 miles of

regional drainage, and this project will cover approximately 200 miles of that. NEORS D prefers to perform this project every five to six years, as it is valuable from the inspection and maintenance standpoint as well as capital improvement. Mr. Greenland provided a brief video demonstrating spherical imagery and explained how it is helpful to identify and monitor erosion and other problems. The imagery is added to NEORS D's geographic information systems (GIS) system, and it can be compared regularly.

Authorization to Reject and Rebid

Resolution No. 112-23 Authorization to reject all bids and re-bid, in accordance with Ohio Revised Code Section 6119.10, for a two-year requirement contract for fuel delivery and monitoring services at all District facilities with an anticipated expenditure of \$865,000.00.

Resolution No. 113-23 Authorization to reject all bids and rebid, in accordance with Ohio Revised Code Section 6119.10, for the Collections PLC Replacement project and to increase the anticipated expenditure from \$11,000,000.00 to \$12,300,000.00.

MOTION – Ms. Dumas moved, and Mayor Bacci seconded to adopt Resolution Nos. 112-23 through 113-23. After the following discussion, without objection, the motion carried unanimously.

President Brown requested additional information regarding Resolution No. 113-23. Devona Marshall, Director of Engineering and Construction, explained that there were two bids received for the project. Only one bid was within +10% of the engineer's estimate and unfortunately, the low bidder submitted the wrong bid form, which was considered a material defect and not awardable under Ohio Revised Code.

Because only one bid was received within +10% of the engineer's estimate and considering the electrical/instrumentation construction market is currently saturated and material costs are increasing, the engineer's estimate was reassessed. As a result, it is requested that the engineer's estimate be increased from \$11 million to \$12.3 million.

Authorization to Purchase

Resolution No. 114-23 Authorization to purchase laboratory chemicals and supplies from sole source supplier Idexx Laboratories, Inc., necessary for *E. coli* analysis, in an amount not-to-exceed \$200,000.00.

Resolution No. 115-23 Authorization of \$250,000.00 to purchase as-needed spare parts from sole source vendor Schwing Biojet, Inc. to repair and maintain Schwing Biojet material handling equipment at the Southerly and Westerly Wastewater Treatment Centers.

MOTION – Ms. Chambers moved, and Mayor Alai seconded to adopt Resolution Nos. 114-23 through 115-23. Without objection, the motion carried unanimously.

Authorization to Enter Into Contract

Resolution No. 116-23 Authorization to enter into a two-year requirement contract with Nerone & Sons, Inc. for CSO Floatables Control Sites Maintenance in an amount not-to-exceed \$636,300.28.

MOTION – Mayor Bacci moved, and Ms. Chambers seconded to adopt Resolution No. 116-23. Without objection, the motion carried unanimously.

Authorization to Enter Into Agreement

Resolution No. 117-23 Authorization to enter into a professional services agreement with GPD Group to provide design and construction administration/resident project representation for the Kingsbury Asset Renewal project in an amount not-to-exceed \$3,996,042.03.

MOTION – Mayor Alai moved, and Mr. Sulik seconded to adopt Resolution No. 117-23. Without objection, the motion carried unanimously.

Authorization to Amend Resolution

Resolution No. 118-23 Authorization to amend Resolution No. 372-22, adopted November 17, 2022, which authorized the 2023 Green Infrastructure Grant Program agreements, to clarify the legal names of the grantees, include the names of additional grantees as signatories of the grant agreements, enter into agreements with two additional grantees, specifically We Rise Development, LLC and Waterloo Arts, and increase the amount awarded for the 2023 Green Infrastructure Grant Program by \$25,000.00, for a revised total amount not-to-exceed \$2,525,000.00, all as presented.

MOTION – Mr. Sulik moved, and Ms. Dumas seconded to adopt Resolution No. 118-23. Without objection, the motion carried unanimously.

Ratification of Agreement Amendment and Right of Entry Agreement

Resolution No. 119-23 Ratification of an emergency amendment of Design-Build Agreement No. 20004846 with Nerone and Sons, Inc. for the Debris Racks and Access Road Improvements in Various Locations project to increase the agreement amount by \$200,000.00, thereby bringing the total agreement amount not-to-exceed \$4,014,623.25, and ratification of a right of entry agreement with Gates Mills Place DE, LLC for access to the property known as PPNs 862-29-006, 862-29-008, and 862-29-009, located at 6805-6811 Mayfield Road, in the City of Mayfield Heights, owned by Gates Mills Place DE, LLC, and including a reimbursement of up to \$30,000.00 to the District for paving restoration work, all as necessary for the emergency repair of a failed section of culvert along the Regional Stormwater System on an unnamed tributary to the Chagrin River.

MOTION – Mayor Bacci moved, and Mr. Sulik seconded to adopt Resolution No. 119-23. Without objection, the motion carried unanimously.

Property Related Transactions

Resolution No. 120-23 Authorization to enter into a right of entry agreement with seven Ohio State University students for access to certain Appendix 3 Green Infrastructure sites, owned by the District, necessary for the collection of insect and vegetation samples at no cost, as presented.

MOTION – Ms. Chambers moved, and Mayor Alai seconded to adopt Resolution No. 120-23. After the following discussion, without objection, the motion carried unanimously.

Ms. Dumas asked why the Board is required to approve the right of entry when NEORS D owns the property and intends to allow volunteer students to collect vegetation and insects. Eric Luckage, Chief Legal Officer, explained that NEORS D Bylaws contain language which suggests that the Board must approve any property rights transfers. Historically, these issues have been presented to the Board, however, the Bylaws are under review for potential revisions and this type of action may be simplified in those revisions.

VI. Information Items

President Brown noted that the first two information items on the agenda are Certification of Delinquent Sewer and Stormwater Accounts for Cuyahoga County Fiscal Officer for 2023 First Half Certification and the Certification of Direct Bill Delinquent Sewer and Stormwater Accounts to Cuyahoga and Lorain Counties Fiscal Officers, and asked Ken Duplay, Chief Financial Officer, if

there is anything specific that the Board should be aware of. Mr. Duplay explained that from a procedural standpoint, this is a standard certification for the first half and the total combined certified charges for sanitary sewer and stormwater is approximately \$7.8 million, across 7,500 accounts, which is similar to last year.

In terms of process, NEORS is utilizing a more sophisticated approach, which includes sending multiple letters to the account holders prior to certification, and Customer Service representatives investigating and removing accounts from the certification list when appropriate. NEORS continues its attempts to improve the process, help customers avoid certification, and work with the county to ensure that these certifications alone are not impacting people's homeownership.

Ms. Marshall provided the Capital Improvement Program update for March 2023, beginning with cashflow. Cashflow through the end of Q1 is tracking at 84% of planned, below the Key Performance Indicator (KPI) of 85%, for a total of \$49.5 million to-date.

As for performance level KPIs, the design of the Easterly Stockroom Relocation Project was not completed within 60 days of planned, missing that KPI.

The construction contract for the Southerly Second Stage Settling Improvements Project was closed with a final cost of \$33.2 million, within 95% of the original contract amount, meeting that KPI. The KPI for the Business Opportunity Program (BOP) goal was not met, primarily because the actual amount of concrete repair required was less than planned and de-scoped from the project. Total work orders by change categories as a percent of construction was 3.32%, equating to \$1.1 million, the majority of which fell under the categories of owner-requested changes and differing and unforeseen site conditions.

Ms. Marshall provided a construction update regarding the Pearl and Jennings Road Storage Tank and Pump Station Upgrades project, necessary in order to meet the requirements of Control Measure 23 of the Consent Decree, gaining control of two CSOs tributary to Big Creek. One of the CSOs activates 40-plus times per year and the other activates 20-plus times per year. The Consent Decree requires a reduction to 4 or less activations in a typical year, which will result in an annual reduction of 27 million gallons of CSO overflow.

The project has a \$21.7 million construction contract and includes a 1.1-million-gallon CSO storage tank measuring 45 feet in diameter and 110 feet in depth. The project also includes a large diversion structure on Jennings Road to divert flows from the existing sewer into the storage tank. From the storage tank, flows will be pumped through a new 18-inch diameter force main to the existing Jennings Road pump station. Much of the pump station will be updated to replace pumps and electrical equipment. From the pump station, flows will be pumped through an existing 10-inch force main to the gravity sewer and onto the WWTP for treatment.

Additionally, the Old Treadway Creek that currently flows into the combined system will be offloaded by constructing a new 24-inch combined sewer on Jennings that allows the full Treadway Creek flow to remain in the existing sewer, which is now a stormwater-only sewer. That flow will be diverted directly into the creek by the new sewer that is being constructed under the project.

Completed work on the project includes the storage tank excavation and approximately 95% of the final lining of the storage tank; construction of the new 18-inch force main from the storage tank to the pump station which included an aerial crossing of Big Creek; construction of the 24-inch and 30-inch sewers on Jennings Road; and cleaning of the existing Jennings Road sewer in the project area.

Ongoing work includes excavating a storage tank valve vault; cleaning and spot repairs of the existing 10-inch force main; and regulator modifications of the regulator structure outside the pump station.

There is critical upcoming work as it relates to maintenance of traffic (MOT) impacts, including a full closure of Jennings Road at Harvard for three months beginning mid-May. There will still be access to businesses in the area.

Additionally, there will be the construction of a large regulator structure on Pearl Road at I-71 scheduled to begin as early as this summer, however, NEORS is still working with the city to determine the MOT plan and would like to advance this portion of the project quickly as there is direct CSO control associated with this project.

Ms. Marshall reminded the Board that this project has been subjected to scheduling challenges due to supply chain delays on electrical equipment of up to 58 weeks from the time of ordering. Accordingly, the project will not achieve full operation in alignment with the December 2023 critical milestone of the Consent Decree. NEORS has provisions in the Consent Decree that it has invoked and has notified the U.S. EPA and the Department of Justice of these issues. Moving up some of the work not impacted by the supply chain delays will better ensure achievement of some of the required CSO capture ahead of the critical milestone. The revised substantial completion date is April 2024.

President Brown noted that he has perceived the problem in the Jennings Road area to be related to water quantity due to the topography of the area and asked how the project will help alleviate that. Ms. Marshall explained that it will not help that problem as it is specifically for CSO control, but it will not make it worse. The Old Treadway creek flows being offloaded from the combined system as part of this project already go into the creek via CSO in wet weather. The project will remove those flows from the combined system so that only stormwater is being discharged to the creek, not mixing with raw sewage.

Mr. Greenland added that this is an extremely complicated issue to resolve. It is a factor of the Cuyahoga River level, which influences the Big Creek level. This is the downstream portion of Big Creek, which is a watershed with a high percent of imperviousness in the stormwater service area. This area has been studied extensively and NEORS D has master planning results for the area.

VII. Open Session

There were no items.

VIII. Public Session (any subject matter)

There were no items.

IX. Executive Session

Mayor Bacci, pursuant to Ohio Revised Code Section 121.22 (G)(1) and (G)(3), moved, and Mr. Sulik seconded, to enter an executive session to consider the appointment, employment, promotion, and compensation of public employees and to consult with the District legal counsel concerning disputes involving the District that are subject to or are pending imminent court action. By roll call vote, the Board voted unanimously to enter into executive session at 1:19 p.m.


The Board returned to open session at 2:04 p.m.

X. Approval of Items from Executive Session

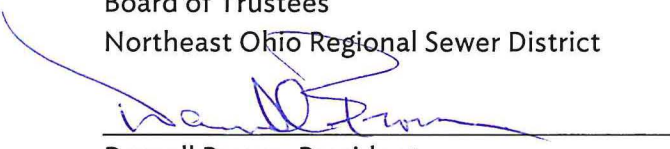
There were no items.

XI. Adjournment

MOTION – President Brown stated business having been concluded, he would entertain a motion to adjourn. Mayor Bacci moved, and Ms. Dumas seconded the motion to adjourn at 2:05. 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