

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
APRIL 21, 2022

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

I. Roll Call

Present: Ronald Sulik
Jack Bacci
Marjorie Chambers
Samuel Alai

Absent: Darnell Brown
Timothy DeGeeter
Sharon Dumas

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

II. Approval of Minutes

MOTION – Mayor Bacci moved, and Mayor Alai seconded to approve the Minutes of the April 7, 2022 Board Meeting. Without objection, the motion carried unanimously.

III. Public Session

There were no items.

IV. 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 209 employees with confirmed diagnoses since the beginning of the pandemic, 209 of whom have recovered and returned to work.

Each year, NEORSD supports the annual State of the Great Lakes Forum at the City Club. For the first time this year, the forum hosted U.S. EPA Administrator Michael Regan. Administrator Regan began his day at the Great Lakes Science Center, where he met with Congresswoman Brown, Secretary Fudge, and Mayor Bibb to discuss lead issues with impacted families and health professionals.

At the City Club, Administrator Regan engaged on a wide range of topics with City Club CEO Dan Moulthrop and took questions from the audience.

Mr. Regan was joined by Region 5 Administrator Debra Shore, and Ms. Dreyfuss-Wells was able to speak with Ms. Shore regarding NEORSD's proposal for additional funding under the Infrastructure Investment and Jobs Act.

Ms. Dreyfuss-Wells expressed her appreciation to staff for their efforts on a successful event.

Ms. Dreyfuss-Wells advised the Board that they had been provided with this year's edition of *Clean Water Works*, NEORSD's journal. This year, the journal focused on the skilled tradespeople working across the Sewer District. The journal was distributed internally as well as externally to the 2,900 people who have signed up to receive it. Ms. Dreyfuss-Wells expressed her appreciation to Constance Haqq, Chief Administrative Officer and Michael Uva, Senior Communications Specialist, for their efforts in creating and distributing the journal.

V. Action Items

Authorization to Advertise

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| Resolution No. 133-22 | Authorization to publish notice calling for bids, in accordance with Ohio Revised Code Section 6119.10, for the Bear Creek Culvert Improvements project with an anticipated expenditure of \$1,214,000.00. |
| Resolution No. 134-22 | Authorization to publish notice calling for bids, in accordance with Ohio Revised Code Section 6119.10, for the Upper Ridgewood Basin Improvements project with an anticipated expenditure of \$3,900,000.00. |
| Resolution No. 135-22 | Authorization to publish notice calling for bids, in accordance with Ohio Revised Code Section 6119.10, for the purchase of twenty Hewlett Packard Enterprise Gen10 Plus Servers for the business (IT) and control (OT) networks. |

MOTION – Ms. Chambers moved, and Mayor Bacci seconded to adopt Resolution Nos. 133-22 through 135-22. After the following discussion, without objection, the motion carried unanimously.

Mr. Sulik requested additional information regarding Resolution No. 135-22. Mohan Kurup, Director of Information Technology, explained that the request is to purchase physical servers. Just as NEORS D replaces older workstations and laptops, it is necessary to refresh the servers that support the back end of the networks. These servers host things like file shares and other back-end functions. NEORS D replaces approximately 20% of the workstations and laptops in a given year, and it is now time to replace some aging hardware in the data centers.

Mr. Sulik asked how long the servers last. Mr. Kurup explained that they generally last for more than five years.

Authorization to Reject and Re-Bid

Resolution No. 136-22 Authorization to reject all bids and re-bid the Rooftop Fall Prevention project, with an anticipated expenditure of \$200,000.00.

MOTION – Mayor Bacci moved, and Ms. Chambers seconded to adopt Resolution No. 136-22. Without objection, the motion carried unanimously.

Authorization to Purchase

Resolution No. 137-22 Authorization to purchase laboratory chemicals and supplies from sole source supplier Idexx Laboratories, Inc., necessary for *E. coli* analysis for all wastewater treatment plants, in an amount not-to-exceed \$200,000.00.

MOTION – Ms. Chambers moved, and Mayor Alai seconded to adopt Resolution No. 137-22. Without objection, the motion carried unanimously.

Authorization to Enter Into Agreement

Resolution No. 138-22 Authorization to enter into a professional services agreement with Crane Certification Solutions, LLC for Crane Operator Qualification Training in an amount not-to-exceed \$228,990.00.

Resolution No. 139-22 Authorization to enter into an agreement with the City of Middleburg Heights to provide funding for the acquisition of PPNs 372-06-002, 372-06-003, 372-06-004, 372-06-026, 372-06-027, 372-06-028, and 372-06-029, in an amount not-to-exceed \$260,000.00, for the

future construction of a stormwater detention basin in the City of Middleburg Heights.

Resolution No. 140-22 Authorization to enter into a professional services agreement with HDR Engineering, Inc. for the CSO/Culvert Outfall Inspection and Repair-1 project in an amount not-to-exceed \$2,964,956.03.

MOTION – Mayor Bacci moved, and Ms. Chambers seconded to adopt Resolution Nos. 138-22 through 140-22. Without objection, the motion carried unanimously.

Mr. Sulik requested background information regarding Resolution No. 139-22. Frank Greenland, Director of Watershed Programs, explained that this is a purchase of several properties which will allow NEORS D to construct a stormwater detention basin to alleviate significant flooding along Abram Creek in Middleburg Heights and Brook Park.

Under the Stormwater Master Plan, a stormwater retention basin was recommended to address the flooding. These parcels became available and through the advanced planning contract it was determined that the purchase would be advantageous. The purchase will be followed by design efforts and then construction to alleviate road flooding and increase the level of service from its current ten-year level.

Mr. Sulik asked what the timeframe for the completion of the project will be. Mr. Greenland explained that the exact schedule is still unknown; however, the project will likely move into the design phase within the next year or so, which typically lasts about one year, and then it will go into construction.

Mr. Sulik requested additional information regarding the project associated with Resolution No. 140-22. Devona Marshall, Director of Engineering and Construction, explained that this is the first of many rehabilitation and repair projects that will be occurring in the collection system over the next several years. This project is driven by previous inspection projects and field investigations performed by the Operation and Maintenance.

With this contract specifically, there will be a sewer inspection, condition assessment and design of repairs of approximately 18,600 linear feet. They will primarily be structural repairs, which are anticipated to result in improved system conveyance. Ms. Marshall provided a photograph of a major structural defect in the area.

Additionally, there will be inspections and condition assessments of approximately 26,000 linear feet. These areas are downstream of NEORS D regulator structures, and NEORS D has little to no information about the area. With this professional services contract, the consultant will provide recommendations that will be carried out in a future design and construction project.

Authorization of Contract Modification

Resolution No. 141-22 Authorizing the final adjusting change order for Contract No. 20007786 with RiverReach Construction for the Hemlock Creek Streambank Stabilization project by decreasing the contract amount by \$4,125.01, thereby bringing the total contract amount to \$56,766.59.

MOTION – Ms. Chambers moved, and Mayor Bacci seconded to adopt Resolution No. 141-22. Without objection, the motion carried unanimously.

Authorization to Amend Agreement

Resolution No. 142-22 Authorization to amend Agreement No. 21007678 with LAND Studio for Public Engagement of the Doan Brook Restoration at Horseshoe Lake Park Project to extend the term of the agreement to run concurrently through the 12-month pre-design phase of the Project and to increase the agreement amount by \$177,061.50, thereby bringing the total agreement amount to \$225,311.50

Resolution No. 143-22 Authorization to enter into the second amendment to design-build Agreement No. 20002508 with Nerone & Sons, Inc. for the Debris Racks & Access Road Improvements at Various Locations project to incorporate a guaranteed maximum price of \$2,309,500.00 necessary for the construction of the next portion of the project, thereby bringing the total agreement amount to \$3,814,623.25.

Resolution No. 144-22 Authorization to amend Agreement No. 19007579 with RSM, Agreement No. 19007934 with Protiviti, Inc., and Agreement No. 19006915 with Jefferson Wells for Professional Audit Services by extending the terms of the agreements for an additional one-year period with no change in the total agreement amounts.

MOTION – Mayor Bacci moved, and Mayor Alai seconded to adopt Resolution Nos. 142-22 through 144-22. After the following discussion, without objection, the motion carried unanimously.

Mr. Sulik asked if Resolution No. 142-22 is a continuation of the project with the dam. Mr. Greenland answered affirmatively and explained that this agreement is for the continuation of the public engagement facilitation role for the project. NEORS D engaged the services of LAND Studio during the request for proposals phase to facilitate the selection of the consultant between NEORS D staff and external members of the selection committee, which included representatives from Shaker Heights and Cleveland Heights, and a number of observers from the communities.

It was a very successful process with healthy public engagement during the consultant selection process. NEORSD wishes to engage their services again to continue to facilitate public engagement regarding this project during the predesign phase.

Mr. Sulik asked for confirmation as to whether both Cleveland Heights and Shaker Heights are involved in the process. Mr. Greenland explained that both cities, as well as the City of Cleveland, multiple stakeholders, and the general public, are and will continue to be involved in the public engagement process.

Property Related Transactions

- Resolution No. 145-22 Authorization to acquire one permanent stormwater easement at the property known as PPN 761-16-012, located at 4238 Cricket Lane, in the City of Warrensville Heights, owned by Reven W. Gunn, necessary for the construction and maintenance of the Mill Creek Restoration near Cricket Lane in the City of Warrensville Heights project with total consideration of \$900.00.
- Resolution No. 146-22 Authorization to acquire two parcels in fee simple at the property known as PPNs 020-10-150 and 020-10-151, located at 12508 Erwin Avenue, in the City of Cleveland, owned by Designosity, LLC and Bar 17, LLC, necessary for the construction and maintenance of the Big Creek West Branch Problem Area 10, to enter into an Assignment and Assumption Agreement with the Western Reserve Land Conservancy, and to allow for the entirety of the payment to be disbursed to Ohio Real Title Agency, LLC, with total consideration of \$88,000.00 plus closing costs.
- Resolution No. 147-22 Authorization to acquire one permanent stormwater easement and one temporary easement at the property known as PPNs 472-17-014, 472-17-015, and 472-17-016, located at 6575 Olde York Road, in the City of Parma Heights, owned by Frank B. Spencer, Trustee of the Frank B. Spencer Trust Dated February 14, 2017, necessary for the construction and maintenance of the Big Creek Bank Stabilization near York Road in Parma Heights project with total consideration of \$1.00.

MOTION – Ms. Chambers moved, and Mayor Bacci seconded to adopt Resolution Nos. 145-22 through 147-22. Without objection, the motion carried unanimously.

Hearing Officer Findings and Recommendations

Resolution No. 148-22 Adopting the findings of the Hearing Officer with regard to the sewer account of Eric Barbee, Sewer District Hearing No. 22-004, that the customer's request be denied.

Resolution No. 149-22 Adopting the findings of the Hearing Officer with regard to the stormwater account of Michelle Wareham, Sewer District Hearing No. 22-002, that the customer's request be denied.

MOTION – Mayor Alai moved, and Mayor Bacci seconded to adopt Resolution Nos. 148-22 through 149-22. Without objection, the motion carried unanimously.

Authorization to Adopt

Resolution No. 150-22 Adopting revisions to Title I of the District's Code of Regulations (Sewer Use Code), as presented.

MOTION – Mayor Alai moved, and Ms. Chambers seconded to adopt Resolution No. 150-22. Without objection, the motion carried unanimously.

Authorization to Implement

Resolution No. 132-22 Authorization to implement the 2023 Member Community Infrastructure Program (MCIP) through the release of the 2023 MCIP Request for Proposals.

MOTION – Mayor Bacci moved, and Ms. Chambers seconded to adopt Resolution No. 151-22. After the following discussion, without objection, the motion carried unanimously.

Mr. Sulik requested additional information regarding Resolution No. 132-22. Mr. Greenland advised that it is a request to begin the process for the 2023 Member Community Infrastructure Program (MCIP) project selection. After approval, NEORSD will issue the request for proposals (RFP), and meet with the member communities in pre-proposal meetings, followed by a review process in June and July, and presenting the selected projects to the Board in August.

The 2023 MCIP budget is \$15 million, and NEORSD will leverage community funds to complete infrastructure projects to remediate basement flooding, reduce impacts on overflows from sewer systems, remove inefficient treatment plants, eliminate failing septic systems, and rehabilitate old pipes with new construction.

Authorization to Modify Policy

Resolution No. 151-22 Authorization to modify the Member Community Infrastructure Program (MCIP) Policy, Process, and Procedures, as presented.

MOTION – Mayor Bacci moved, and Ms. Chambers seconded to adopt Resolution No. 151-22. After the following discussion, without objection, the motion carried unanimously.

Mr. Sulik requested additional information regarding Resolution No. 151-22. Mr. Greenland invited Matthew Scharver, Deputy Director of Watershed Programs, to discuss the proposed modification to the policy.

Mr. Scharver thanked the Board for their support of the program over the years, noting that it has enabled NEORS D to leverage significant funds for local projects and is very important to the member communities.

Each year, NEORS D staff reviews the terms and conditions of the program for potential improvements for implementation. This year, staff realized that there are potential inequities in terms of match scoring criteria.

For context, the MCIP funds up to a 75% reimbursement back to the awarded applicants. Applicants are required to provide a 25% local match and if they can provide a 50% of match, they can gain an additional 10 points on their application, which can be very important to project scoring in this competitive funding.

Most of the program applicants, historically 24 of 27 entities funded, have been member communities, and most of those communities do not have the same local match funding capabilities. The goal of modifying the program is to provide equity to the match scoring criteria. NEORS D has created an equity investment focus area category, using affordability census data tracking information, to generate information that would qualify a census track area for this new equity focus area category. Under this proposal, those areas would still be required to provide a 25% match, and while they could provide additional match funds should they choose to, it would not gain additional points towards their application scoring.

Mr. Scharver provided a map of the service area and pointed out the areas that are the new equity investment focus areas and explained that those applicants will be competing against each other. Similarly, the non-equity investment focus areas, which are generally better resourced communities, will only be competing against each other and not the equity investment focus area communities. This is important because 22% of the 418,000 households in the District's service area, roughly 92,000 households, earn less than \$25,000 annually. The goal is to ensure that the District has provided enough equity in the MCIP to allow those communities to gain competitive awards under the program.

Mr. Sulik requested that the Board be provided with an update as to how the changes are impacting the program in the future. Mr. Greenland agreed and added that NEORSO changed the program a few years ago to allow MCIP awards for design efforts and in some areas, that is important.

Ms. Dreyfuss-Wells added that the Watershed Programs department continue to address the issues that are presented within the MCIP, based on member community feedback. This is another example of tailoring the program to best address the needs of the communities.

VI. Information Items

Mr. Sulik advised the Board that the Industrial Program Legal Notice was contained in the meeting materials for their review and Board Members should direct any questions to Mr. Greenland.

Ms. Marshall provided the March 2022 update on the Capital Improvement Project, beginning with cashflow, which ended at 68% of planned, well below the key performance indicator (KPI) of 85% or more. This is primarily due to projects that continue to have late billing submissions and major differing site conditions at the Westerly Storage Tunnel project site. As for actual dollars paid out, there was approximately \$15.6 million spent in March for a year-to-date total of just under \$50 million.

There were two construction contracts awarded in March, the Easterly PLC Replacement project for \$8.9 million and the Westerly Chemically Enhanced High-Rate Treatment (CEHRT) project for \$79.9 million. Both of these projects met the KPIs of being awarded within 60 days of planned and the average of the three lowest bids coming in within 10% of the engineer's estimates.

The construction contract for the Easterly/Southerly Fiber Replacement project was closed in March. This was a design-build contract with a total value amount of \$3.7 million, which closed within 95% of the original contract amount, meeting that KPI. The Business Opportunity Program (BOP) goal for the project was set at 10% MBE/WBE and the projected actuals are 82.95%, as the prime contractor was an MBE/WBE firm. The projected SBE participation is 15.17%. The work orders by change categories as a percent of the construction came in at 4.3%, equating to \$159,000, all of which are under the category of owner requested changes.

Moving on to construction highlights, Ms. Marshall provided an overview of the Southerly Second Stage Settling Improvements project.

Ms. Marshall provided images demonstrating where the second stage settling tanks are located within the Southerly Wastewater Treatment Plant (WWTP) and explained that this is at the end of the treatment process where flow from the second stage aeration tanks discharges into the 10 settling tanks. Each of the settling tanks has 3 bays: Bays A, B, and C. During dry weather, when flow leaves the settling tanks, approximately 50% will go through effluent filters and the rest directly into the Cuyahoga River, and during disinfection season, the flow is disinfected.

With this project, NEORSD will repair and replace the aging infrastructure and equipment within the settling tanks, as well as perform repairs to the tanks and other associated infrastructure. The project supports Control Measure 5 of the Consent Decree, wherein NEORSD is required to increase the overall capacity in the second stage at the Southerly WWTP from 400 million gallons per day (MGD) to 480 MGD.

The project is a \$38.4 million construction contract and includes rehabilitation of the circular sludge collection units in Bays A and B, as well as the replacement of sludge collection systems in Bay C of each of the tanks. Bay C of each tank currently has old traveling bridge technology for collecting sludge within the tanks. The equipment is very maintenance-intensive resulting tanks to be out of operation, impacting the overall capacity of the plant. The traveling bridges will be replaced with circular sludge collection units similar to those in Bays A and B. The current concrete launders in Bay C will also be replaced with stainless steel launders in each tank. Additional upgrades will include skimming collections equipment, air blowers associated with the channel between second stage aeration and the settling tanks, and sludge and dewatering pumps.

As for completed work on the project, all equipment replacement and rehabilitation has been completed in tanks 1 through 8, recladding of the return sludge pump building is complete, sludge and dewatering pumps have been replaced, and the air blowers have been replaced.

Remaining and ongoing work includes: the sludge collectors in Bay C of Tanks 9 and 10, rehabilitation of the sludge collector system in Bays A and B of Tank 10, and the skimming collection equipment in Tank 10. The project is scheduled to achieve substantial completion in May of 2022.

Ms. Marshall provided several photographs of the worksite and settling tanks and explained where the different components are and how they function within the system.

Mr. Sulik asked if any of NEORSD's contractors are encountering supply chain problems for Sewer District projects. Ms. Marshall answered affirmatively and explained that there will likely be requests coming to the Board for contract extensions. NEORSD has the ability to extend contracts by up to 179 days without the requirement for Board approval and is working through those contracts. These are non-compensable time extensions. NEORSD continues to receive good bids for its projects, which is a result of the District's ability to work through these types of issues with contractors. The inclusion of a general allowance within contracts is helpful in this regard.

Mr. Sulik indicated that if a supply chain issue were to impact the timetable for a project with a compliance deadline, presumably the EPA would be notified that the District had encountered a delay outside of its control. Ms. Dreyfuss-Wells answered affirmatively, and Ms. Marshall added that the Consent Decree contains a *force majeure* clause, so that if there was a delay in meeting a milestone due to supply chain issues, the Legal Department would become involved and put the EPA and Department of Justice on notice. Fortunately, it has not come to that.

VII. Public Session (any subject matter)

There were no items.

VIII. Executive Session

Mayor Bacci, pursuant to Ohio Revised Code Section 121.22 (G)(6), moved, and Ms. Chambers seconded to enter an executive session to discuss details relative to District security agreements and emergency response protocols, the disclosure of which could reasonably be expected to jeopardize District security. By roll call vote, the Board voted unanimously to enter into executive session at 1:12 p.m.

The Board returned to open session at 1:26 p.m.

IX. Approval of Items from Executive Session

Resolution No. 152-22 Authorization to amend professional services Agreement for the Managed Security Services Project #326, with the consultant name presented in Executive Session, by extending the term of the agreement by one year and by increasing the agreement amount by \$375,000.00 for continued services, thereby bringing the total agreement amount not-to-exceed \$763,240.00.


MOTION – Mayor Bacci moved, and Ms. Chambers seconded to adopt Resolution No. 152-22. Without objection, the motion carried unanimously.

X. Adjournment

MOTION – Mr. Sulik stated business having been concluded, he would entertain a motion to adjourn. Mayor Bacci moved, and Ms. Chambers seconded the motion to adjourn at 1:27 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