

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
JULY 15, 2021

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

I. Roll Call

Present: Darnell Brown
Ronald Sulik
Samuel Alai
Terence Joyce
Jack Bacci
Timothy DeGeeter
Sharon Dumas

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

II. Approval of Minutes

MOTION – Mayor Bacci moved, and Mr. Sulik seconded to approve the Minutes of the June 17, 2021, 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 2020/2021 term.

MOTION – Mayor Bacci 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.

IV. Public Session

There were no items.

V. Chief Executive Officer's Report

Kyle Dreyfuss-Wells, Chief Executive Officer, thanked President Brown and the members of the Board for their leadership throughout the pandemic, noting that their leadership has been very helpful to all members of senior staff.

Ms. Dreyfuss-Wells provided an update regarding NEORSD's ongoing COVID-19 pandemic response and informed the Board that NEORSD staff continues to have no active COVID-19 cases. There has been a total of ninety-one employees with confirmed diagnoses since the beginning of the pandemic, all of whom have recovered and returned to work.

All NEORSD facilities are fully reconstituted. The vaccination leave policies and several other COVID-19-related policies remain in place to ensure that symptomatic staff is able to remain at home. NEORSD continues to encourage staff to be vaccinated. Any staff who choose to continue to wear face coverings can do so.

NEORSD has been named a Top Workplace winner for 2021. The recognition is based on staff's feedback to the Energage Top Workplace Survey, which covers employee engagement, leadership, pay, benefits, flexibility, and training. NEORSD scored among the top employers compared to other organizations of a similar size based on its employees' responses to the survey and was last recognized in 2017. Ms. Dreyfuss-Wells attributed the recognition to Sewer District staff, managers, and supervisors.

Ms. Dreyfuss-Wells advised the Board that the member community review period for the proposed rate increase for 2022 through 2026 ended June 21, and the accompanying revised Titles for the Code of Regulations were on the agenda for the Board's consideration.

Ms. Dreyfuss-Wells invited Ken Duplay, Chief Financial Officer, and Constance Haqq, Chief Administrative Officer, to provide additional information regarding the comments received during the comment period and the planned implementation of the Affordability Program enhancements.

Mr. Duplay reminded the Board that NEORSD's outreach for proposed rate changes began in late April, following the first special working meeting with the Board. There were virtual public meetings held on April 23, April 24, and May 3, all of which are available to watch online. A video of this presentation has also been airing on TV 20 in Cleveland since May 15.

NEORSD held meetings with industrial users about the proposed rate changes associated with user surcharges in December 2020, followed by a second meeting in April.

On May 21, the proposed Code changes were released to member communities in accordance with Bylaws requirements. A comment letter which was previously emailed to the Board was received from the Alliance for the Great Lakes, recognizing the potential impact of the rate increases on

customers in need and acknowledging the efforts to address those issues through the proposed changes to the Affordability Program.

NEORSD received a comment from the City of Brecksville which stated:

The City of Brecksville is in receipt of the proposed NEORSD Code of Regulation changes and offers no comments with the exception of, we do not support any fee increases on our residents and/or our businesses. That being said, this is NEORSD's Code of Regulations, and the ultimate decision is up to NEORSD.

If you should have any questions, please do not hesitate to contact City of Brecksville Law Director Matty to discuss.

NEORSD received a comment from the City of Cleveland that was essentially a thank you. There was no comment received from the City's Division of Water Pollution Control.

Mr. Duplay invited Ms. Haqq to provide additional detail regarding the cost saving programs.

Ms. Haqq reminded the Board that NEORSD currently has a number of cost saving programs: the Homestead Program, Affordability Program, Crisis Assistance, Summer Sprinkling, Plumbing and Sewer Repair Assistance, and Stormwater Fee Credits. Of those programs, the Crisis Assistance Program is the only one that is currently available to eligible renters. It is administered by CHN Housing Partners and has been in existence for ten years.

The changes proposed as a result of the rate study apply to the Affordability Program to increase the eligibility threshold from 200% of the Federal Poverty Level (FPL) to 250% of the FPL. For reference, a family of four at 200% of the FPL would need to make no more than \$51,500 per year. This would increase to \$64,375 per year at 250% of the FPL. The second proposed change would allow eligible renters who pay their sewer and stormwater bill to participate in the program.

There are approximately 19,300 customers currently eligible for the Affordability Program. The proposed changes will make an additional 40,000 customers eligible. Finding and enrolling those customers will require significant outreach. One way that NEORSD intends to focus on this outreach is by way of working with its partners like CHN Housing Partners, Step Forward, and Cuyahoga County Department of Job and Family Services, all of which have direct access to the customers who will be eligible for the programs.

NEORSD will also perform geographic outreach, utilizing the granular information obtained during the rate study to focus on the areas where residents are most in need. Additionally, NEORSD intends to utilize its proven outreach techniques to ensure that its touchpoints are strategic and successful.

The enrollment process will be handled by CHN Housing Partners, and they will receive and vet the applications. If necessary, NEORSD will assign one of its Customer Service Representatives to assist customers in completing the applications.

The entire process will be subject to regular audits, which will allow for the program to be refined as needed. Ms. Haqq advised that her team is working with the Audit Department in this regard.

President Brown thanked Ms. Haqq for the information and added that this is a major step in the direction in which NEORSD has been heading for some time.

President Brown indicated that it would be helpful to the Board to receive updates regularly, possibly quarterly, to assess how the targeted outreach efforts are performing and whether some types of outreaches are more effective than others.

President Brown added that NEORSD is doing well in terms of understanding the different situations of people in the community and meeting them where they are. It will be important to understand the impact of enrolling customers in these programs, as well as to identify and remove the challenges and barriers that they may face in applying for the assistance.

Ms. Haqq indicated that her team could provide the Board with status updates on a quarterly basis and advised that they have recently instituted a survey in Customer Service which asks customers inquiring about affordability options how they heard about the program. The majority of respondents have indicated that they heard through friends, neighbors, and family members. This has informed NEORSD of the importance of face-to-face outreach efforts. The survey will be ongoing to chronicle the process.

President Brown noted that because CHN Housing Partners are excellent at what they do, most local organizations tend to utilize their services for these types of programs. It is important to ensure that they have the capacity to assist NEORSD and other organizations using them as a resource. Accordingly, an audit allowing for the ability to understand the various facets of the process, the volume, the time required to get customers processed, and the challenges of the process, would be helpful to the Board. Ms. Haqq explained that her team is meeting with them regularly and increasing the frequency of those meetings and will continue to monitor the progress going forward.

VI. Action Items

Authorization to Advertise

Resolution No. 203-21

Authorization to publish notice calling for bids, in accordance with Ohio Revised Code Chapter 6119.10, for a 1-year requirement contract for the delivery of up to 719,000 pounds of liquid emulsion

polymer solution to all wastewater treatment plants, with an option to renew the contract for up to two additional one-year periods with an anticipated expenditure of \$1,837,000.00.

Resolution No. 204-21 Authorization to publish notice calling for bids, in accordance with Ohio Revised Code 6119.10, for up to two six-month requirement contracts for snow removal services at the George J. McMonagle Administration Building, Environmental and Maintenance Services Center facility, pump stations, and outlying sites, with a total anticipated expenditure of \$84,000.00.

Resolution No. 205-21 Authorization to publish notice calling for bids, in accordance with Ohio Revised Code Chapter 6119.10, for the purchase of four Hewlett Packard Enterprise (HPE) Gen10 servers for the business (IT) and control (OT) networks.

MOTION – Mr. Joyce moved, and Mayor Alai seconded to adopt Resolution Nos. 203-21 through 205-21. After the following discussion, without objection, the motion carried unanimously.

President Brown asked, regarding Resolution No. 205-21, why it reads more like a direct reward and if there is a reason to seek out this specific product versus something else.

Scott Horvath, IT Infrastructure and Security Senior Manager, explained that all of the servers to be replaced are HP brand servers. There are several resellers who could bid, meaning that it is not sole source. HP is the standard server platform for compatibility in both the IT and OT networks, and has been for many years; because they perform very well, there has not been a need to look for a different platform.

Authorization to Issue Request for Proposal (RFP)

Resolution No. 206-21 Authorization to issue an RFP, in accordance with Ohio Revised Code Chapter 153, for design and construction administration/resident project representation (CA/RPR) services for the Mill Creek Restoration near Cricket Lane in Warrensville Heights project.

MOTION – Mayor Bacci moved, and Ms. Dumas seconded to adopt Resolution No. 206-21. Without objection, the motion carried unanimously.

Authorization to Purchase

- Resolution No. 207-21 Authorization to purchase laboratory chemicals and supplies from sole source supplier Idexx Laboratories, Inc., necessary for *E. coli* analyses for all wastewater treatment plants in an amount not-to-exceed \$150,000.00.
- Resolution No. 208-21 Authorization to purchase Beamex instrumentation calibrators and software user licenses from sole source supplier Beamex, Inc., necessary for the centralization of storage and calibration of instrumentation data, in an amount not-to-exceed \$96,946.06.
- Resolution No. 209-21 Authorization to purchase software maintenance and support services from StarTex Software, LLC for the District's Health & Safety application, EHS Insight, for the period beginning July 23, 2021 through July 22, 2022, in an amount not-to-exceed \$78,528.00.
- Resolution No. 210-21 Authorization to purchase PC desktops, laptops, monitors, and accessories from Dell Marketing, L.P. under the State of Ohio Cooperative Purchasing Program, necessary for the replacement of older systems and to fulfill new hardware requests, in an amount not-to-exceed \$322,940.42.

MOTION – Mr. Sulik moved, and Mayor Alai seconded to adopt Resolution Nos. 207-21 through 210-21. Without objection, the motion carried unanimously.

Authorization to Enter Into Agreement

- Resolution No. 211-21 Authorization to enter into a professional services agreement with Mott MacDonald for the Southerly Tunnel and Consolidation project in an amount not-to-exceed \$19,949,672.17.

MOTION – Mr. Sulik moved, and Mayor Alai seconded to adopt Resolution No. 211-21. After the following discussion, without objection, the motion carried unanimously.

President Brown and Mr. Sulik inquired as to why there were only two proposals received for such a large project.

Devona Marshall, Director of Engineering and Construction, advised that it is typical to receive very few proposals on a project this size, as consultants will frequently compile joint proposals to strengthen their teams and the resources available to them. Although there were only two proposals received, each proposal included teams comprised of multiple national, regional, and

local consultants. Because it is an almost \$20 million design effort, it will require a lot of resources and expertise.

President Brown asked what the estimated construction cost will be for the project. Ms. Marshall advised that construction is currently estimated to cost \$325 million, however, it is anticipated that there will be some cost reduction via value engineering.

Authorization to Enter Into Contract

Resolution No. 212-21 Authorization to enter into a three-year requirement contract with Western Reserve Pure Water for the lease, preventive maintenance, and regular replacement of the Southerly Renewable Energy Facility's reverse osmosis and portable de-ionization tanks for the water purification system in an amount not-to-exceed \$229,320.00.

Resolution No. 213-21 Authorization to enter into a contract with ACL Services, LTD, doing business as Galvanize, for the purchase of software and professional services under the Risk and Audit Management Software Acquisition and Implementation project in an amount not-to-exceed \$171,000.00.

MOTION – Mr. Sulik moved, and Mayor Alai seconded to adopt Resolution Nos. 212-21 through 213-21. Without objection, the motion carried unanimously.

Authorization of Contract Modification

Resolution No. 214-21 Authorizing final adjusting change order for Contract No. 20003325 with Marra Services, Inc. for the Westerly Grating and CSOTF Washdown Replacement project by decreasing the contract amount by \$143,240.00, thereby bringing the total contract amount to \$943,156.40.

MOTION – Mr. Joyce moved, and Ms. Dumas seconded to adopt Resolution No. 214-21. Without objection, the motion carried unanimously.

Property Related Transaction

Resolution No. 215-21 Authorization to acquire two permanent stormwater easements at the properties known as PPN 581-08-057 and PPN 581-08-063, located on Twin Oaks Drive in the City of Broadview Heights, owned by the City of Broadview Heights, necessary for the construction and

maintenance of the Chippewa Creek Flood Reduction Project Near Echo Lane with total consideration of \$1.00.

Resolution No. 216-21 Authorization to acquire one permanent stormwater easement and one temporary easement at the property known as PPN 581-31-009, located at 8621 Broadview Road, in the City of Broadview Heights, owned by Nadine M. and Gregory Macasek, necessary for the construction and maintenance of the Chippewa Creek Stream Stabilization Near Broadview Road project with total consideration of \$12,900.00.

Resolution No. 217-21 Authorization to acquire one waterline easement at the property known as PPN 601-35-003, located at 8803 Brecksville Road, in the City of Brecksville, owned by Millside Shopping Center, LLC, necessary for the construction and maintenance of the Chippewa Creek Bank Stabilization Route 21 Brecksville project with total consideration of \$1.00.

Resolution No. 218-21 Authorization to acquire one waterline easement at the property known as PPN 601-35-027, located at 8865 Brecksville Road, in the City of Brecksville, owned by TRC Brecksville Investors, Ltd., necessary for the construction and maintenance of the Chippewa Creek Bank Stabilization Route 21 Brecksville project with total consideration of \$1.00.

Resolution No. 219-21
WITHDRAWN Authorization to appropriate two permanent sewer easements and one temporary easement at the property known as PPN 009-08-001, located at 4002 Jennings Road, in the City of Cleveland, owned by ICB 1, Inc., necessary for the construction and maintenance of the Pearl & Jennings Road Storage Tanks and Pump Station Upgrades project and to deposit \$106,300.00 with the Cuyahoga County Probate Court as consideration for the same.

MOTION – Ms. Dumas moved, and Mayor Bacci seconded to adopt Resolution No. 215-21. Without objection, by roll call vote, the motion carried with all present members voting yes and recusal from discussion and abstention from voting by Mayor Alai.

MOTION – Mr. Sulik moved, and Ms. Dumas seconded to adopt Resolution Nos. 216-21 through 218-21. Without objection, the motion carried unanimously.

Sewer Use Code Matters

Resolution No. 220-21 Adopting the findings of the Hearing Officer with regard to the sewer account of Edward Trusnik, Sewer District Hearing No. 21-003, that the customer receive a Sewer Use Charge Adjustment in the total amount of \$2,259.32.

MOTION – Mayor Bacci moved, and Mr. Sulik seconded to adopt Resolution No. 220-21. Without objection, the motion carried unanimously.

Authorization to Adopt

Resolution No. 221-21 Adopting revisions to Titles I, II and V of the District's *Code of Regulations*, including sewer and stormwater rate adjustments for years 2022-2026, as reflected in Titles I and V, respectively, and several other changes to Titles I and II unrelated to rates, all as presented.

MOTION – Mr. Sulik moved, and Mayor Alai seconded to adopt Resolution No. 221-21. After the following discussion, without objection, the motion carried unanimously.

Ms. Dreyfuss-Wells indicated that NEORSD's comments were provided during her Board Report and staff would be happy to answer any questions.

President Brown commented that it has been a long process, and the rate structure was initially much higher. NEORSD was able to reduce the rate increase to the point of being able to perform day-to-day operations of the utility in a way that allows it to carry out programming and maintain compliance with the federal government in terms of the Combined Sewer Overflow (CSO) Long-Term Control Program (LTCP). Additionally, significant efforts went into evaluating industrial service and compliance issues and included discussions with the business community to evaluate their recommendations and appropriately address their concerns. There was an assessment of stormwater management, affordability, and how these issues translate to the community and ensuring that NEORSD is maintaining services in an equitable way to also benefit those in the community facing challenges.

President Brown expressed his appreciation to the staff and consultants for their due diligence in addressing the questions and concerns presented by the Board and determining the best way to move forward while providing the community with a high level of service under an equitable rate structure.

Ms. Dreyfuss-Wells thanked President Brown for his comments and offered her appreciation to the Board for their leadership and working so closely with Mr. Duplay, the staff, and herself, in

completing the rate study. Ms. Dreyfuss-Wells added that NEORSD appreciates the rigor with which the Board worked through the process and the questions that they posed. NEORSD is very pleased with the outcome of achieving a 4.2% increase rather than the 9.6% initially projected.

President Brown added that staff has risen to the challenge of finding efficiencies and cost savings. He anticipates that this will continue through the next five-year rate period and that NEORSD will be well postured to get through the rating strategy in the future.

Authorization to Ratify

Resolution No. 222-21 Ratification of the purchase of annual software maintenance and support services from UKG (Ultimate Kronos Group) for the District's Integrated Human Resources Information System (HRIS) and Payroll and Timekeeping software for the two-year term beginning July 2, 2021 through July 1, 2023, in an amount not-to-exceed \$708,526.80.

MOTION – Mayor Alai moved, and Ms. Dumas seconded to adopt Resolution No. 222-21. Without objection, the motion carried unanimously.

Authorization to Nominate

Resolution No. 223-21 Affirming the nomination of Kyle Dreyfuss-Wells as an Environmental Representative of the District One Natural Resources Assistance Council (NRAC), for a three-year term beginning October 15, 2021 and ending October 14, 2024.

MOTION – Mayor Bacci moved, and Mr. Sulik seconded to adopt Resolution No. 223-21. After the following discussion, without objection, the motion carried unanimously.

Mayor DeGeeter asked why it is necessary for the Board to authorize this Resolution. Eric Luckage, Chief Legal Officer, explained that NRAC requested a nomination from the organization, and in an abundance of caution, "organization" was interpreted to mean the Board of Trustees, thereby requiring a formal Board action.

Ms. Dumas voiced her support of Ms. Dreyfuss-Wells joining the Council and inquired as to whether there will be a need to have future Board nominations when members of the organization serve on other Boards. Ms. Dreyfuss-Wells advised that the phrasing from the Clean Ohio legislation was such that it requested the body to make the recommendation and it was decided that it was best for President Brown to not do that without the support of the Board. Mr. Luckage added that the request for the organization's nomination was not NEORSD's requirement.

Authorization to Amend the Consent Decree

Resolution No. 224-21 Authorizing the Chief Executive Officer to execute an *Agreed Third Amendment to Consent Decree* with the United States and the State of Ohio, as presented, approving a non-material modification to the District's Combined Sewer Overflow Consent Decree.

MOTION – Mayor Bacci moved, and Mr. Sulik seconded to adopt Resolution No. 223-21. After the following discussion, without objection, the motion carried unanimously.

President Brown requested a more detailed explanation of this modification involving the Department of Justice, U.S. EPA, and the State of Ohio, noting that it appears to address timelines related to green infrastructure requirements.

Ms. Marshall explained that this is a non-material modification to Appendix 3 of the Consent Decree, which has a requirement that NEORSD achieve 44 million gallons of CSO control through green infrastructure at a cost of at least \$42 million.

This modification is specific to a reporting requirement and has no impact on the deadline to achieve the environmental benefit or what that benefit will be. This extension was requested in order to obtain better flow monitoring information. As the gray infrastructure comes online, it impacts how the green infrastructure performs.

The modification provides a six-month delay in submitting the performance report with no impact on any of the subsequent milestones associated with Appendix 3. NEORSD will submit that performance report in early January 2022, and at the same time, using the information from the performance report, will submit the corrective action plan and all other items will remain on schedule.

VII. Information Items

Ms. Marshall provided the mid-year update regarding the Capital Improvement Program (CIP) for 2021 beginning with contract management.

There are currently 97 active contracts with a total value of \$1,272,000,000. Most of those contracts are in the construction phase at \$938 million, followed by \$304 million in design level contracts, and \$30 million in planning level contracts.

The majority of those projects are focused on the collection system at a cost of \$968 million, largely due to Project Clean Lake; \$180 million is associated with projects focused on Wastewater Treatment Plants (WWTPs); and the remaining \$124 million falls under the category of District-Wide.

In the first half of 2021, NEORSD issued two requests for proposals for professional services and had one professional services award for \$3.2 million, as well as six construction awards totaling \$223.9 million. Of note, the construction contract for the Shoreline Storage Tunnel Project was awarded for \$201.6 million, and the Notice to Proceed on the construction is scheduled for July 19, 2021. There were also five construction contracts closed in the first half of the year.

Regarding upcoming items in the second half of 2021, there are two requests for proposals planned. There are four professional services awards anticipated with an estimated total award of \$38.2 million, which includes the Resolution that was approved today for the design of the Southerly Tunnel Project. There are five construction awards planned with an estimated total estimated cost of \$50.7 million. Additionally, there are ten construction projects expected to close.

Ms. Marshall provided a graphic demonstrating all of the Key Performance Indicators (KPI) regarding management and delivery of the CIP. As for cashflow, the month of June closed at 73% of planned, below the goal rate of 85%. This is an improvement from the two prior months which closed at 70% of planned.

The Business Opportunity Program (BOP) goal is set around any construction contract that closes in a given year. In the first half of 2021, there were five construction contracts closed with a total value of \$45.48 million, with \$9.65 million going to BOP firms for their work on those projects. This equates to 21.21% which exceeded the goals for those five projects of 13.94% overall. Regarding cashflow as it relates to BOP, the planned amount was \$16.5 million through the midyear, and the actual was \$20.8 million of the total \$59.3 spent overall in the CIP this year to date.

As for Value Engineering (VE) savings, the KPI for 2021 is \$8 million and at the halfway point, is tracking at \$4 million, including \$3 million in savings on the Shoreline Consolidation and Relief Sewer project. During the design of that project, rather than adding 1,600 feet of new sewer, the existing sewer will be realigned. In addition to the cost savings, this will avoid the risk of utility conflicts associated with underground construction and reduce the impacts to traffic during the construction.

Of note regarding VE is the Pearl and Jennings Road Storage Tanks and Pump Station Upgrades Project. This was a design optimization utilizing existing force mains which resulted in \$1 million in savings by reducing the total length of new force main needed by 2,300 linear feet.

Regarding Project Clean Lake, to date, 36 of 79 planned projects are complete and another 30 projects are active. The 79 projects comprise the 25 control measures that are specifically identified in the Consent Decree, and of those 25 control measures, 9 have reached full operation.

As for dollars spent or awarded to date, the total is \$1.53 billion, which equates to \$1.24 billion in 2009 dollars for comparison to the estimated \$3 billion total cost when the Consent Decree was

entered into. Current value engineering savings on Consent Decree projects is \$465 million in 2009 dollars.

Since entering into the Consent Decree, NEORS D has reduced approximately 1.5 billion gallons of CSO, and there will be an additional 535 million gallons of reduction that will occur over the next three years, including 230 million gallons in the next couple weeks as the Doan Valley Tunnel is fully activated.

Highlights from the first half of 2021 include the completion of the mining operation of the Westerly Tunnel; there was a major modification to the Consent Decree approved which saved approximately \$90 million in future capital costs without impacting the environmental or CSO benefits.

In the second half of 2021, construction of the Shoreline Storage Tunnel will begin, and the Doan Valley Tunnel will be fully activated within the coming weeks.

Control Measure 8, which includes the Doan Valley Tunnel, will achieve full operation by the end of the year. There is one smaller project associated with Control Measure 8 that will be completed in the next couple months, bringing the total to 10 of 25 Control Measures complete within the Consent Decree.

President Brown asked for clarification regarding the number of gallons of CSO achieved thus far. Ms. Marshall confirmed that 1.5 billion gallons of CSO control has been achieved to date with an additional 230 million gallons in the next few weeks and the program period is approximately halfway through, meaning that NEORS D is on schedule in this regard.

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 Ms. Dumas seconded the motion to adjourn at 1:30 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