

MINUTES
NORTHEAST OHIO REGIONAL SEWER DISTRICT
BOARD OF TRUSTEES MEETING
JUNE 20, 2024

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
Jack Bacci
Samuel Alai
Marjorie Chambers

Absent: Timothy DeGeeter
Sharon Dumas

The Acting 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 6, 2024, 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, advised the Board that on June 5th Nick Merchant-Wells, Process Engineer, presented at the Incineration Network Forum in Toronto. The Forum focuses on agencies such as NEORS with sewage sludge incinerators and the unique associated issues, as opposed to the majority in the industry that land apply their biosolids. Mr. Merchant-Wells presented NEORS’s Primary Heat Exchanger Study, which is investigating the performance of various materials in the heat exchanger, an essential part of the incinerator system. This work is important because this portion of the system is exposed to such high temperatures that it requires replacement every seven to ten years. The data that staff at the Renewable Energy Facility (REF) are gathering will help NEORS to maximize the useful life of the equipment and reduce costs.

On June 8th, NEORSD participated in the Brecksville-Broadview Heights second annual Pride Fest, held in Broadview Heights. Nearly 1,900 people attended, triple the attendance from last year. A dozen NEORSD staff were on hand to provide information regarding projects, cost savings programs, and answer water quality questions. Ms. Dreyfuss-Wells thanked Mayor Alai for hosting the event and for his recognition of NEORSD during his speech. NEORSD’s final Pride event will be Pride in the Park on June 29th at Cain Park in Cleveland Heights.

Ms. Dreyfuss-Wells congratulated Brian Flanagan for his promotion to Superintendent of the REF at the Southerly Wastewater Treatment Center. Mr. Flanagan earned his bachelor’s degree in business and accounting from Baldwin Wallace University and his master’s degree in business administration from Liberty University. Mr. Flanagan is a certified Ohio EPA Class IV Wastewater Plant Operator and joined NEORSD in 2007 as an Internal Auditor. Since transferring to Operation and Maintenance, Mr. Flanagan has worked as a Wastewater Plant Operator, Shift Supervisor, Unit Process Manager, and Assistant Superintendent of Plants.

Ms. Dreyfuss-Wells provided a video of the 207,000-pound cutter head for the tunnel boring machine being removed from the tunnel following the completion of the mining of the Shoreline Storage Tunnel on June 13th. Ms. Dreyfuss-Wells thanked Nicole Harvel, Communications Specialist, for her work on creating the video and advised that the boring machine will be transported 7.5 miles down East 55th Street to East 49th Street in Cuyahoga Heights, where it will be refreshed and relaunched for the mining of the Southerly Storage Tunnel under Project Clean Lake.

Action Items

Authorization to Advertise

- Resolution No. 157-24 Authorization to publish notice calling for bids, in accordance with Ohio Revised Code Section 6119.10, for a two-year requirement contract for centrifuge rebuilding services for the Southerly Wastewater Treatment Center with an estimated probable cost of \$430,000.00.

- Resolution No. 158-24 Authorization to publish notice calling for bids in accordance with Ohio Revised Code Section 6119.10, for a two-year requirement contract for spill remediation services with an estimated probable cost of \$300,000.00.

- Resolution No. 159-24 Authorization to publish notice calling for bids, in accordance with Ohio Revised Code Section 6119.10, for a public improvement contract to construct the Kinsman and East 149th Regulator and Relief Sewers project with estimated probable construction costs of \$5,500,000.00.

MOTION – Ms. Chambers moved, and Mr. Sulik seconded to adopt Resolution Nos. 157-24 through 159-24. After the following discussion, without objection, the motion carried unanimously.

President Brown recalled that Resolution No. 159-24 was affiliated with another project and asked if there are any concerns regarding completing the project. Doug Lopata, Project Manager of Plan and Design, explained that the project originated with the Kingsbury Run Consolidation Sewer project. As the design portion of that project was underway, there was a need to coordinate with the Jordan Community Center, as they are planning to install a Green Infrastructure feature and a new parking lot as they renovate their facility.

Authorization to Issue Request for Qualifications (RFQ)/Proposals (RFP)

Resolution No. 160-24 Authorization to issue an RFQ and subsequent RFP for a progressive design-build agreement, in accordance with Ohio Revised Code Chapter 153, for the EMSC Laboratory Air Handling Unit Replacement project.

MOTION –Mr. Sulik moved, and Mayor Bacci seconded to adopt Resolution No. 160-24. Without objection, the motion carried unanimously.

Authorization to Purchase

Resolution No. 161-24 Authorization to purchase fifty-one (51) Cisco network switches and related hardware, software licenses, and hardware maintenance from Logicalis, Inc. for the Network Infrastructure Edge Upgrade project, under the State of Ohio Cooperative Purchasing Program, in an amount not-to-exceed \$151,706.19.

MOTION – Mayor Bacci moved, and Ms. Chambers seconded to adopt Resolution No. 161-24. Without objection, the motion carried unanimously.

Authorization to Enter Into Agreement

Resolution No. 162-24 Authorization to establish a pool of investment banking firms for bond underwriting services with Jefferies; Bank of America Securities, Inc.; and Loop Capital Markets for role of senior manager or co-manager, and with Goldman Sachs; Truist Securities; Siebert Williams Shank & Co., LLC; Stifel; Raymond James; Huntington Bank; Piper Sandler; Blaylock Van; and Bancroft for co-manager role, and authorization to enter into agreements with select firms, as needed, for authorized transactions during a five year period.

- Resolution No. 163-24 Authorization to enter into agreements with AIG Group, CNA, Travelers Group, Berkley National Insurance Company, Arch Insurance Group, Inc., and Lloyd's of London for their respective portions of the District's operational insurance program for the period July 1, 2024 through June 30, 2025, as presented, in a total amount for all agreements combined not-to-exceed \$1,624,723.00, including allowance.
- Resolution No. 164-24 Authorization to enter into a professional services agreement with RoviSys Co. for as-needed Support Services for Automation Controls in an amount not-to-exceed \$600,000.00.
- Resolution No. 165-24 Authorization to enter into an Overflow Sewer Grant Program Grant Agreement with the Ohio Environmental Protection Agency to accept grant funding for partial construction costs related to the Hemlock Creek Bank Stabilization in Seven Hills Phase 1 project for a total amount up to \$1,000,000.00.

MOTION – Mr. Sulik moved, and Ms. Chambers seconded to adopt Resolution Nos. 162-24 through 165-24. After the following discussion, without objection, the motion carried unanimously.

President Brown noted that Resolution No. 162-24 appears to be related to creating a market strategy and requested additional information. Ken Duplay, Chief Financial Officer, reminded the Board that in April, there was discussion regarding the potential refunding and tender opportunities regarding NEORSD's 2010 Build America Bonds (BABS) bonds as well as the 2020 and 2021 taxable bonds. In anticipation of that potential transaction, NEORSD issued an RFP to establish an underwriting pool. The pool will be in place for a five-year period for that transaction and any other transactions that may arise in that timeframe, to allow for timely reactions to changing market conditions. There is no guarantee of participation in any transaction; the underwriters are available to provide expertise as needed. NEORSD selected Bank of America, Jefferies, and Loop Capital for the senior manager roles. Loop Capital is a minority-owned firm. There are nine co-manager firms that are a variety of national firms, minority-owned, veteran - owned, and local firms that provide varying expertise depending on the need.

President Brown asked if Resolution No. 163-24 is a renewal of insurance coverages. Mr. Duplay responded affirmatively and explained that this is the annual operational insurance renewal. NEORSD is pleased with this renewal as there is only one additional insurer for cyber, and all of the terms and coverages are otherwise materially unchanged from the last renewal. There was an 8.9% increase in cost, which is better than market and within budget.

Authorization to Enter Into Contract

Resolution No. 166-24 Authorization to enter into a public improvement contract with ABC Piping Co. for construction of the Southerly Primary Heat Exchanger Replacement project in an amount not-to-exceed \$8,195,000.00.

MOTION – Ms. Chambers moved, and Mayor Bacci seconded to adopt Resolution No. 166-24. Without objection, the motion carried unanimously.

Authorization to Amend Agreement

Resolution No. 167-24 Authorizing the Chief Executive Officer and the Chief Legal Officer to execute a *Fifth Amendment to Consent Decree* with the United States and the State of Ohio, substantially as presented, approving material modifications to the District’s Combined Sewer Overflow Consent Decree.

Resolution No. 168-24 Authorization to amend professional services Agreement No. 15003493 with Brown and Caldwell for the Easterly Chemically Enhanced High-Rate Treatment Facility project to increase the agreement amount by \$8,634,393.74 for changes in scope and escalation, thereby bringing the total agreement amount not-to-exceed \$26,034,393.74.

MOTION – Mr. Sulik moved, and Ms. Chambers seconded to adopt Resolution Nos. 167-24 through 168-24. After the following discussion, without objection, the motion carried unanimously.

President Brown requested an explanation of the amendment to the Consent Decree associated with Resolution No. 167-24. Eric Luckage, Chief Legal Officer, explained that this is the culmination of several years of negotiations with the U.S. EPA, Ohio EPA, and Department of Justice, for a variety of changes. This amendment is the last of the known material changes sought by the District and the government agencies have provided their pre-approval of the amendment. Mr. Luckage then introduced Robin Halperin, Deputy Director of Watershed Programs, to provide a summary.

Robin Halperin explained that the process began approximately seven years ago, wherein NEORS staff assessed what big changes were needed. This led to a major modification request which was submitted almost exactly six years ago to the day.

The various modifications have resulted in better solutions at each of the wastewater treatment plants (WWTPs) and six other control measures to better improve water quality and environmental benefits. There were seven Combined Sewer Overflows (CSOs) eliminated through these changes,

more than was required. Additionally, there was an overall \$115 million in savings as a result of all our modifications to the Consent Decree.

The Consent Decree was signed in 2011 as a 25-year, \$3 billion project to achieve compliance with the Clean Water Act. NEORSD will be at over 98% capture at the completion of Project Clean Lake. NEORSD has consistently been ahead of schedule in terms of meeting required milestones.

The Fifth Amendment has two key components: the Appendix III requirements for green infrastructure; and Control Measure 2 to address CSO-001, NEORSD's largest CSO by volume.

Appendix III requires NEORSD to build green infrastructure in the combined sewer area to reduce CSOs by an additional 44 million gallons annually and spend at least \$42 million in doing so by July of 2023. NEORSD constructed nine sites at a cost of \$54 million but did not achieve the 44 million gallons of reduction. In the Fifth Amendment, in exchange for more time to implement those corrective measures, NEORSD has agreed to increase the amount of captured CSO to 54 million gallons and to shorten the Consent Decree by one year, instead achieving completion in 2034. In order to increase CSO capture, NEORSD will upsize five of the storage tunnels for a projected total of 66 million gallons annually, with a 20% buffer.

As for CSO-001, which discharges approximately 742 million gallons in a Typical Year, NEORSD was required to build a chemically enhanced high-rate treatment (CEHRT) facility and reduce it to two overflows in a Typical Year. The District's optimized approach is to build a much smaller CEHRT, 175 MGD versus the original 400 MGD, and to build a connector to the Euclid Creek/Dugway Storage Tunnel system to use the available capacity in the tunnel. This is predicted to result in only one CSO overflow in a Typical Year. This modification for CSO 001 will result in an additional 52 million gallons receiving secondary treatment at the Easterly Wastewater Treatment Plant annually and \$24 million in capital savings.

The process of finalizing the amendment will include filing the agreement to the court, publishing it for public comment for a 30-day period, after which the EPA and DOJ will respond to any comments received, followed by entry of the amendment by the judge.

Ms. Halperin added that Resolution No. 168-24 to modify the contract with Brown and Caldwell is a direct result of downsizing the CEHRT, which will result in \$8 million more in design costs but \$24 million reduction in actual construction costs.

Authorization to Adopt 2025 Operating and Capital Budgets

Resolution No. 169-24 Adopting the operating and capital budgets for fiscal year 2025, as presented.

MOTION – Mr. Sulik moved, and Mayor Bacci seconded to adopt Resolution No. 169-24. Without objection, the motion carried unanimously.

V. Information Items

President Brown noted that the Chief Legal Officer's Report of Settlement and Release Agreements for the period January through June 2024 was contained in the meeting materials and any questions should be directed to Mr. Luckage.

Matt Scharver, Director of Watershed Programs, provided the Regional Stormwater Management Program (RSMP) update for May 2024, beginning with construction and design.

As of the end of May, \$14.7 million has been spent, which equates to 79% of planned expenditures. Based on current design and construction schedules, spending should reach 80% to 85% of planned by year's end, as there are 27 active projects in design and construction across 17 member communities, covering 14 sub-watersheds in the stormwater service area.

Mr. Scharver highlighted the Chippewa Creek Stream Bank Stabilization project in Broadview Heights near Broadview Road. This is a \$1.3 million project that has been completed for approximately one year. Mr. Scharver provided before and after photographs and explained that the project achieved a new meander pattern, created access to immediate floodplain, eliminated risk to the local sanitary sewer, and thwarted future issues with local access to a commercial establishment. Farther upstream, there were two culverts underneath the roadway that were creating an irregular plunge pool and not allowing for fish passage. The new culvert rectifies the issue, providing fish passage, better alignment of the stream, and a stabilized stream bank area. This is typical of the projects being performed under the RSMP.

Due to climate change, the RSMP is also based on risk management to control rainfall depth and anticipate greater intensities. Climate scientists agree that for each degree of warming globally, there is between 4-7% more moisture in the atmosphere, leading to larger rain events, more depth in the rain events, and increased intensity.

Watershed Programs relies on the National Oceanic Atmospheric Administration's (NOAA) Atlas 14 to design storm models and to factor into Stormwater Master Planning that is the foundation for project prioritization under the program. NOAA will be releasing Atlas 15 with updated data in 2026 and 2027 for modeling design storms.

Additionally, staff is working with several universities including Virginia Tech and the University of Cincinnati to perform additional climate modeling on the Big Creek Watershed. MIT is working with the Stormwater Strategic Support workgroup lead by George Remias, Manager of Stormwater Strategic Support, who has developed the probable annual risk analysis which helps to prioritize the design and construction projects. The Ohio State University has recently reached out to NEORS looking for modeling projects involving climate change. NEORS put them in contact with the City of Cleveland Division of Water Pollution Control to specifically address underpass flooding.

Property acquisition is a critical part of the program. There are 15 active acquisitions and \$3.8 million in projected capital spending this year. It is likely that 100% capital expenditure will be achieved.

Regarding maintenance on the regional system, so far this year there has been approximately 1,100 cubic yards of debris removed compared to 6,500 cubic yards at this time last year. This amount is largely determined by the storms received. Staff are working on a large woody debris jam in the Cuyahoga River which will result in an increase in debris removed.

The Community Cost-Share Program plays a large role in achieving Watershed Program goals. The current fund balance is \$41 million, \$27 million of which is committed to projects, and \$14 million has not yet been assigned, as communities are amassing funds for larger projects. In the history of the program, there has never been an instance of unutilized funds being returned to NEORS. All member communities continue to use all of their funds. There are 177 different active and allocation agreements wherein NEORS allows the communities to essentially implement projects ahead of receiving a reimbursement of their funds. The program is trending in a successful manner with 2019, 2021, and 2023 all reaching \$9 million in project funding. This year is also on track to be successful. Since the inception of the program in 2016, \$53 million has been spent in local communities for local stormwater projects.

Most communities have illicit or improper connections into the local storm sewer system, which make their way into the environment. Water Quality Industrial Surveillance (WQIS) works with member communities to remediate these connections and has facilitated the removal of approximately 350,000 gallons per day of illicit discharges annually on average. Each member community has an MS4 permit requirement with Ohio EPA. NEORS contracts under the Stormwater Program with local boards of health and prioritizes the outfalls to create a "Top 50" list. In continuing to incorporate environmental justice into the programming, recent data from the Centers for Disease Control regarding social vulnerability was incorporated into generating the list, which resulted in moving 18 outfalls that were previously lower in priority into the "Top 50" list. This provides a balanced approach and allows NEORS to better serve under-resourced communities in the service area.

Mr. Lopata provided the May Status Report for the Engineering and Construction Capital Improvement Program, beginning with cashflow, which is primarily driven by seven main projects. The Southerly Tunnel and Consolidation project is approximately three months behind schedule and spending due to a delayed Notice to Proceed so that the contractor could focus on the Shoreline Storage Tunnel and completing the mining process. Thus, the Shoreline Storage Tunnel is approximately \$5 million ahead in spending this year. The Westerly CEHRT is slightly behind schedule due to the contractor's optimistic Spring workload projection. Mr. Lopata provided images from each of these projects.

As for Key Performance Indicators (KPIs), the design of the Kingsbury Branch A Repair project was completed within 60 days of planned, meeting that KPI.

The featured presentation was the Stones Levee Pump Station Relocation project, also known as the SLPS. Mr. Lopata provided an image of the project area and explained that this is a large development project within the City of Cleveland along the riverfront. Bedrock Development will be performing the project in multiple phases with the assistance of NEORSD, Ohio Department of Transportation, and City of Cleveland Water Pollution Control. The intention is to move NEORSD's pump station that was built seven years ago.

The project area is in the midst of the Crooked River with different drainage areas going to the Stones Levee Pump Station, which feeds into the Canal Road Sewer, then to the Superior Avenue Pump Station, then to the Easterly WWTP.

There were originally four CSOs in this location and now there is only one remaining, CSO-090. NEORSD built the pump stations in order to complete Control Measures 9, 10, and 11 of the Consent Decree.

Bedrock Development wishes to relocate the pump station in order to create a water launch ramp for public access to the river as well as create a boardwalk and other amenities. The pump station will be relocated to an area underneath the Lorain Carnegie Bridge and upsized to include two 1 MGD pumps. Additionally, a sewer will be installed to direct flows to the new location and the force main will require revision.

NEORSD has confirmed with the EPA that the relocation project does not have any Consent Decree impacts and entered into an agreement with Bedrock Development, who will be paying for the project and the new pump station. NEORSD is reviewing Bedrock's final plans, and they are to install the sewer this summer. The new pump station will be constructed this fall, and it will be online to ensure that it is operational prior to the old pump station coming offline.

NEORSD is also engaged with Bedrock Development on their future development areas near Canal Road where they will be managing stormwater and offloading flow from the combined system and instead the flows will be directed to the river. Overall, these projects will provide improvements to the level of service in the area.

President Brown noted that the general function of a pump station is to take flows from a low-lying area and pump it to a location where it can flow by gravity, and asked if the new location creates additional risk or requires larger pumps. Mr. Lopata explained that the area is a little deeper because of the green sewer having to flow backwards to the new location. Bedrock has calculated two 1.0 MGD pumps to allow for new residential properties and facilities that will be built in the area. There is more flow coming to the facility that will require a larger wet well and larger pumps to drain the wet well and keep up with flows.

VI. Open Session

President Brown noted that July is when officers are elected for the upcoming year, and it will be necessary to appoint a nominating committee to perform the exercise. President Brown asked Mr. Sulik if he would lead the initiative along with Ms. Dumas and Ms. Chambers to nominate officers for election during the July 18, 2024, Board of Trustees meeting.

VII. Public Session (any subject matter)

There were no items.

VIII. Executive Session

Mayor Bacci, pursuant to Ohio Revised Code Section 121.22 (G)(3), moved, and Mr. Sulik seconded, to enter into executive session to consult with District legal counsel concerning disputes involving the District that are the subject of pending and/or imminent court action. By roll call vote, the Board voted unanimously to enter into executive session at 1:25 p.m.

The Board returned to open session at 1:39 p.m.

IX. Approval of Items from Executive Session


There were no items.

X. 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 1:40 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