

METRO WATER RECOVERY

Minutes of the Regular Meeting of the Board of Directors

March 21, 2023

The Board of Directors of Metro Water Recovery, in the Counties of Adams, Arapahoe, Douglas, Jefferson, and Weld, and the City and County of Denver, State of Colorado, met in regular session at 6450 York Street, Denver, Colorado, Tuesday, March 21, 2023 at 5:30 p.m. in the Boardroom.

Chair Johnston called the meeting to order.

1. ROLL CALL

Secretary Giddings called the roll.

Officers Present:

Andrew Johnston, Denver
Sarah Niyork, South Adams
Jo Ann Giddings, Aurora
Del Smith, Bancroft-Clover

Chair
Chair Pro Tem
Secretary
Treasurer

Directors Present:

Curt Aldstadt, Westminster
Greg Baker, Aurora
Nadine Caldwell, Aurora
John Chavez, Berkeley
David Councilman, Pleasant View
Deborah Crisp, East Lakewood
Clark Davenport, Northwest Lakewood
James DeHerrera, Aurora
Robert Duncanson, Denver
Joan Iler, Westridge*
Janet Kieler, Denver
Laura Kroeger, Lakewood
Doug Lazure, Denver*
Bob LeGare, Aurora
Charles Long, Thornton

Martin Majors, Fruitdale*
Charlie Miller, Fort Lupton*
Steve Pott, Applewood
Bill Ray, Arvada
Bob Roth, Aurora*
Kim Schoen, Brighton
Greg Sekera, Lakewood
Peter Spanberger, Denver*
Mary Beth Susman, Denver
Amerigo Svaldi, North Washington Street
Dennis Towndrow, North Pecos
Scott Twombly, Thornton
Jennifer Williams, Denver
Ronald Younger, Denver

Directors Absent:

Peter Baertlein, Denver
Phil Burgi, Wheat Ridge
Mary Gearhart, Denver

Craig Kocian, Arvada
Jamie Miller, North Table Mountain

Others Present:

Mickey Conway
Emily Jackson
Yvonne Kohlmeier
Lydia Nkem

Chief Executive Officer (CEO)
General Counsel
Senior Administrative Assistant
Executive Assistant

*Attended virtually

2. PUBLIC COMMENT

There was no comment.

3. APPROVAL OF MINUTES

3.a Minutes of the Board of Directors Meeting on February 21, 2023

Chair Johnston asked if there were any corrections, deletions, or additions to the minutes of the Regular Meeting of the Board of Directors held February 21, 2023.

Director Ray moved and Director Younger seconded the motion to approve the minutes of the Regular Meeting of the Board of Directors held February 21, 2023.

The motion carried unanimously.

4. PROGRESS AND PROJECTION REPORTS

4.a Report by CEO

CEO Conway reviewed his written report and said if anyone else is interested in scheduling a Connector presentation to reach out to Ms. Kedzior.

Mr. Conway and General Counsel Jackson answered questions regarding the quantity of wastewater spilled in the noted overflow, the status of the Northern Treatment Plant Effluent Temperature Project (PAR 1416), regarding why the Robert W. Hite Treatment Facility water quality discharge permit did not receive an extension of compliance schedule past 2033.

Mr. Conway answered questions concerning whether other areas of the transmission system are vulnerable to overflow.

Ms. Jackson answered questions about whether other states have adopted a wipes bill and who sponsored the bill.

4.b Report by General Counsel

Ms. Jackson provided an update concerning the U.S. Environmental Protection Agency's (EPA) announcement of a proposed National Primary Drinking Water Regulation issued pursuant to the Safe Drinking Water Act to establish legally enforceable levels, called Maximum Contaminant Levels (MCLs), for six per- and polyfluoroalkyl substances (PFAS) chemicals in drinking water.

CEO Conway responded to comments regarding EPA's water quality goals and expressed concern about water utilities being able to comply with mandates and permit limits relating to contaminants such as PFAS.

Ms. Jackson answered questions concerning the process for the federal rulemaking, how the rulemaking could potentially affect Metro Water Recovery in the future, how this action relates to other actions on PFAS, and the cost and associated agreement by Liberty Mutual to defend Metro in the Donald Temples litigation.

5. REPORTS OF OFFICERS AND COMMITTEES

5.a Strategic Planning Committee Update

Director Kroeger gave an update on the formation of the updated strategic plan and encouraged Directors to attend the Spring Workshop to discuss the draft plan.

5.b Meeting Minutes

There were no additions to the following meeting minutes:

Defined Benefit Plan Retirement Board	November 10, 2022
Defined Contribution Plan Retirement Board	November 10, 2022
Operations Committee	March 7, 2023
Finance Committee	March 9, 2023
Executive Committee	March 14, 2023

6. NEW BUSINESS

Consent Agenda

6.a **Consideration of Electrical Transmission-Level Service Substation Project (PAR 1265) Adams County 1041 Permit/Intergovernmental Agreement**

Director Kieler moved and Director Caldwell seconded the motion to adopt the following resolution:

WHEREAS, it is in the best interest of Metro Water Recovery, hereinafter referred to as “Metro,” to enter into an Intergovernmental Agreement (IGA) with Adams County associated with Electrical Transmission-Level Service Substation Project (PAR 1265) (Project); and

WHEREAS, Adams County has been delegated the power to supervise matters of state interest by the Colorado General Assembly through the Areas and Activities of State Interest (AASI or 1041) Act (HB 74-1041) as set forth in C.R.S. § 24-65.1-101, which include site selection and construction of major facilities of a public utility and major extensions of existing domestic water and wastewater treatment systems; and

WHEREAS, the Project is subject to the AASI Act; and

WHEREAS, Adams County has adopted regulations governing the AASI, specifically Chapter 6 of the Adams County Development Standards and Regulations; and

WHEREAS, pursuant to Section 6-16 of the Adams County’s Regulations, Metro and Adams County prefer and elect to enter into an IGA in lieu of a permit application to construct the Project; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to enter into an IGA with Adams County, substantially similar to the terms outlined in the IGA as currently written, in conjunction with Adams County issuing an Areas and Activities of State Interest (AASI or 1041) permit for the construction of the Project in Adams County; and

WHEREAS, the Executive Committee, after having reviewed the matter, concurs in the recommendation of the other committees;

NOW, THEREFORE, BE IT RESOLVED the Chief Executive Officer be and hereby is authorized to enter into an Intergovernmental Agreement (IGA) with Adams County, substantially similar to the terms outlined in the IGA as currently written, in conjunction with Adams County issuing an Areas and Activities of State Interest (AASI or 1041) permit for the construction of the Electrical Transmission-Level Service Substation (PAR 1265) Project in Adams County; and

BE IT FURTHER RESOLVED the Chief Executive Officer be and hereby is authorized to enter into additional amendments to the IGA which do not involve the transfer of land, require additional appropriations, or exceed the Chief Executive Officer's spending authority.

The motion carried unanimously.

6.b Consideration of 2023 Northern Treatment Plant Wastewater Utility Plan (PAR 1431) Professional Study Services Agreement and Appropriation

Director Kieler moved and Director Caldwell seconded the motion to adopt the following resolution:

WHEREAS, it is in the best interest of Metro Water Recovery, hereinafter referred to as "Metro," to enter into an Agreement for Study and Report Professional Services to provide study services for the 2023 Northern Treatment Plant (NTP) Wastewater Utility Plan (WUP) (PAR 1431) (Project); and

WHEREAS, a WUP for the NTP was previously prepared in 2010 prior to the final design and construction; and

WHEREAS, the purpose of the 2010 NTP WUP was to document NTP's potential impacts on the water quality of the receiving waters and outline Metro's plans for meeting environmental standards to support the local and state approval processes; and

WHEREAS, staff anticipates needing an updated NTP WUP in the future, which is required by both the Colorado Department of Public Health and Environment (CDPHE) and the North Front Range Water Quality Planning Association (NFRWQPA) as part of the site application process for new construction projects; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to enter into an Agreement

for Study and Report Professional Services with HDR, Inc. in the amount of \$682,000 to provide study services for the Project and appropriate funds for this purpose; and

WHEREAS, the Executive Committee, after having reviewed the matter, concurs in the recommendation of the other committees;

NOW, THEREFORE, BE IT RESOLVED the Chief Executive Officer be and hereby is authorized to enter into an Agreement for Study and Report Professional Services with HDR, Inc. in the amount of \$682,000 to provide study services for the 2023 Northern Treatment Plant Wastewater Utility Plan; and

BE IT FURTHER RESOLVED \$750,000 be appropriated for this purpose.

The motion carried unanimously.

6.c Consideration of Adoption of the Second Amended 2022 Annual Budget

Director Kieler moved and Director Caldwell seconded the motion to adopt the following resolution:

WHEREAS, the 2022 Budget of Metro Water Recovery, hereinafter referred to as “Metro,” was originally adopted by Metro’s Board of Directors in June 2021 Resolution 0621-B8.c and the First Amended 2022 Budget was adopted by the Board in June 2022 in Resolution 0622-B7.f; and

WHEREAS, in a situation where unanticipated expenditures required for the operation of Metro are encountered, the annual budget may be changed and a supplemental appropriation authorized under C.R.S. § 29-1-109; and

WHEREAS, inflationary economic conditions, supply chain issues, and operational conditions in December 2022 caused operational expenses to exceed the First Amended 2022 Operating Budget and associated appropriation; and

WHEREAS, the Second Amended 2022 Budget of Metro has been prepared by the Chief Executive Officer with the advice and counsel of the Finance Committee of Metro’s Board of Directors; and

WHEREAS, the Board duly published a notice concerning the Second Amended 2022 Budget as required under C.R.S. § 29-1-106, and held a public hearing pursuant to C.R.S. § 29-1-108 on February 21, 2023 on said Budget, as provided for in Section 901B of the 2009, 2012, 2019, and 2020 Bond Resolutions; and

WHEREAS, the Operations and Finance committees of Metro, after having reviewed the matter, recommend adopting a Second Amended Budget for the fiscal year 2022, all funds totaling \$153,600,503; and

WHEREAS, the Executive Committee, after having reviewed the matter, concurs in the recommendation of the other committees;

NOW, THEREFORE, BE IT RESOLVED the Second Amended Budget for fiscal year 2022 for all funds totaling \$153,600,503, as prepared by the Chief Executive Officer with the advice and counsel of the Finance Committee, be and hereby is adopted.

The motion carried unanimously.

Roll Call Agenda

6.d Consideration of Appropriation of Funds in Accordance with the Second Amended 2022 Annual Budget

Director Younger moved and Director Twombly seconded the motion to adopt the following resolution:

WHEREAS, the 2022 Budget of Metro Water Recovery, hereinafter referred to as "Metro," was originally adopted by Metro's Board of Directors in June 2021 in Resolution 0621-B8.c, the First Amended 2022 Budget was adopted by the Board in June 2022 in Resolution 0622-B7.f, and the appropriations associated with the 2022 Budget and First Amended 2022 Budget were adopted in Resolution 0622-B7.g; and

WHEREAS, in a situation where unanticipated expenditures are required for the operation of Metro, the annual budget may be changed, and a supplemental appropriation authorized under C.R.S. § 29-1-109; and

WHEREAS, inflationary economic conditions, supply chain issues, and operational conditions in December 2022 caused operational expenses to exceed the First Amended 2022 Operating Budget and associated appropriation; and

WHEREAS, the Second Amended 2022 Operating Budget of Metro has been prepared by the Chief Executive Officer with the advice and counsel of the Finance Committee of Metro's Board; and

WHEREAS, the Operations, Finance, and Executive committees recommend adoption of the Second Amended 2022 Annual Budget in Resolution 0323-B6.c; and

WHEREAS, it is incumbent upon the Board to appropriate the necessary amounts for the purposes set forth in the adopted Second Amended 2022 Annual Budget;

NOW, THEREFORE, BE IT RESOLVED \$1,400,000 be and hereby is appropriated as set forth in the Second Amended 2022 Annual Budget Appropriation Summary attached hereto and made a part hereof.

Chair Johnston called for a roll call vote which carried with 33 Directors voting Yes:

Curt Aldstadt
Greg Baker
Nadine Caldwell
John Chavez
David Councilman
Deborah Crisp

Andrew Johnston
Janet Kieler
Laura Kroeger
Doug Lazure
Bob LeGare
Charles Long

Bob Roth
Kim Schoen
Greg Sekera
Del Smith
Peter Spanberger
Mary Beth Susman

Clark Davenport
James DeHerrera
Robert Duncanson
Jo Ann Giddings
Joan Iler

Martin Majors
Charlie Miller
Sarah Niyork
Steve Pott
Bill Ray

Amerigo Svaldi
Dennis Towndrow
Scott Twombly
Jennifer Williams
Ronald Younger

7. INDIVIDUAL DIRECTOR COMMENTS

There was none.

8. OTHER INFORMATION

Chair Johnston reminded Directors of the Audit Committee meeting on April 6, 2023 following the Finance Committee meeting and the Spring Board Workshop on April 13, 2023 at the NTP.

9. ADJOURNMENT

Chair Johnston adjourned the meeting at 6:20 p.m.

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