

METRO WASTEWATER RECLAMATION DISTRICT

Minutes of the Regular Meeting of the Board of Directors

December 15, 2020

The Board of Directors of the Metro Wastewater Reclamation District, in the Counties of Adams, Arapahoe, Douglas, Jefferson, and Weld, and the City and County of Denver, State of Colorado, met in regular session via a GoToMeeting at 6450 York Street, Denver, Colorado, Tuesday, December 15, 2020 at 5:30 p.m. in the Metro District Environmental Services A conference room.

Chairman Twombly called the meeting to order.

1. ROLL CALL

Secretary Caldwell called the roll.

Officers Present:

Scott Twombly, Thornton
Andrew Johnston, Denver
Nadine Caldwell, Aurora

Chairman
Chairman Pro Tem
Secretary

Directors Present:

Peter Baertlein, Denver
Phil Burgi, Wheat Ridge
John Chavez, Berkeley
David Councilman, Pleasant View
Deborah Crisp, East Lakewood
John Dingess, Aurora
Robert Duncanson, Denver
Jo Ann Giddings, City of Aurora
Joan Iler, Westridge
Kathryn Jensen, North Table Mountain
Janet Kieler, Denver
Craig Kocian, Arvada
Laura Kroeger, Lakewood
Bob LeGare, Aurora
Charles Long, Thornton
Martin Majors, Fruitdale

Dan Mikesell, Aurora
Sarah Niyork, South Adams
Christopher Pacheco, Denver
Steve Pott, Applewood
Barbara Puls, Denver
Bill Ray, Arvada
Ronald Sanchez, Crestview
Kim Schoen, Brighton
Greg Sekera, Lakewood
Del Smith, Bancroft-Clover
Peter Spanberger, Denver
Mary Beth Susman, Denver
Amerigo Svaldi, North Washington Street
Dennis Towndrow, North Pecos
Ronald Younger, Denver

Directors Absent:

Stephen Gay, Westminster
Michael Sapp, Denver

Others Present:

Mickey Conway
Robert Thomas
Martin Alvis
Dawn Ambrosio
Liam Cavanaugh
Mitch Costanzo

District Manager
Deputy District Manager/Director Environmental Services
Director of Operations
Director of Strategy and Communications
Senior Director of Coordinated Operations
Director of Engineering

Colleen Dempsey
Perry Holland
Emily Jackson
Ruth Kedzior
Molly Kostelecky *
Jennifer Robinett
Pat Stanley
Orren West
Blair Wisdom
Norma Arnwine
Isaac Avila
Greg Budzynski
Korey Caulkins
Laura Cook
Brandy DeLange
Chenzi Diczno
Dan Dopler
Phillippe Flechas
Caleb Frandsen
Dan Freedman
Patrick Gehlhoff
Joe Greer
Brian Haggerty
James Halliwell
Jack Hennes
David Jackson
George Kelley
Yvonne Kohlmeier
Viktoria Kosinska
Corey Kreifels
Jim Mallore
Kelley Merritt
Jim Nickolette
Lydia Nkem
Rienna Nuber
Patrick Maes
Brian O'Malley
Kisha Ortiz
Miracle Ott
Orin Padgett
Sherman Papke
Renee Paplow
Paul Parodi
Brittany Peshek
Craig Simmonds
Edyta Stec-Uddin
Theresa Stone
Gene Taylor
Craig Thomas
Ronnie Victor
Sharon Weakland

Director of Human Resources
Director of Comprehensive Planning
General Counsel
Assistant to the District Manager
Director of Administrative Services
Director of Environmental Services
Director of Resource, Recovery and Reuse
Director of Maintenance
Director of Technology and Innovation
Benefits Administrator
Staff Engineer
Control Systems Analyst
Plant Operator II
Budget Officer
Governmental Affairs Liaison
Plant Operator I
Plant Manager (RWHTF)
Plant Operator I
Plant Operator – Lead
Senior Engineer
BIM/CAD Administrator
Operations Supervisor
Compensation and Benefits Officer
Collections System Operator Lead
Communications Specialist
Plant Operator I
Chief Procurement Officer
Administrative Assistant
Plant Operator – Lead
Operations Supervisor
Engineer Division Head Transmission System
Public Information and Education Officer
Operations Work Planner Senior
Executive Assistant
Organization Communications Manager
Collections System Operator II
Environmental Health and Safety Officer
Resource Recovery and Reuse Work Planner
HRIS and Compensation Analyst
Engineer Division Head QC
Engineer Division Head Treatment Plant
Senior Engineer
Accounting Officer
Administrative Analyst
Real Property Adm/QC Coordinator
Senior Engineer
Communications Specialist
Operations Work Planner Senior
Transmission Supervisor
Plant Operation I
Maintenance Superintendent

Lance Wenholz
July White
Jon Wicke

Transmission Supervisor
Payroll Administrator
Senior Engineer

2. PUBLIC COMMENT

There was no comment.

3. RECOGNITION OF METRO DISTRICT STAFF REPRESENTATIVES

District Manager Conway recognized and thanked Metro District staff for their accomplishments and variety of roles, remarking on the combined efforts of those working on site and those working from home from all the departments which have made it possible to keep the District running, especially during the COVID-19 pandemic.

Chairman Twombly stated his appreciation, thanking all Metro District staff for their great work during the past year.

4. RECOGNITION OF THE 2020 CHAIRMAN'S AWARD WINNER

Chairman Twombly explained the history and selection process for the Metro District's Chairman's Award, noting all District staff stepped it up this year and how it was a difficult decision to pick just one winner from the nominations submitted.

Chairman Twombly announced this year's recipient is Brian O'Malley, the District's Health and Safety Officer. He then acknowledged Mr. O'Malley's challenges and accomplishments made throughout the past year, especially in regard to his work on the Metro District's COVID-19 response.

Ms. Dempsey noted, besides today being Mr. O'Malley's birthday, his efforts this past year impacted many at Metro District and his work was recognized and applauded from almost every department across the District. Mr. Cavanaugh noted Mr. O'Malley's complete lack of selflessness. General Counsel Jackson remarked on Mr. O'Malley's positive attitude in handling the challenges presented by the pandemic and leading the Metro District through this difficult time. District Manager Conway stated Mr. O'Malley went "above and beyond the call of duty" and this is a well-earned honor. Mr. O'Malley was presented with a commemorative trophy and \$500. His name has also been added to the Chairman's Award plaque which hangs in the Administration Building of the Robert W. Hite Treatment Facility (RWHTF).

Mr. O'Malley remarked this was the best birthday present. He stated how crazy the year has been, from the beginning of the pandemic when it was not known if COVID-19 could be transmitted through wastewater to all the proactive steps taken by the Metro District for "doing the right thing." Mr. O'Malley thanked everyone for their kind words.

Chairman Twombly closed by again congratulating Mr. O'Malley on a well-deserved recognition and wishing him a happy birthday before turning to regular meeting business.

5. APPROVAL OF MINUTES

5.a Minutes of the Board of Directors Meeting on November 17, 2020

Chairman Twombly appointed Director Baertlein to make motions and Director Ray to make seconds throughout the Board of Directors meeting.

Chairman Twombly asked if there were any corrections, deletions, or additions to the minutes of the Regular Meeting of the Board of Directors held November 17, 2020.

Director Baertlein moved and Director Ray seconded the motion to approve the minutes of the Regular Meeting of the Board of Directors held November 17, 2020.

The motion carried unanimously.

Chairman Twombly referenced the statements and allegations made by Director Sanchez reflected in the minutes of the November 2020 Board of Directors meeting as being very serious. He then asked General Counsel Jackson to respond to Director Sanchez's request for counsel to inform the Board if the District submitted improper information to the SEC (Securities Exchange Commission) legal counsel and to confirm if the debt is real and refute the comment [he] heard.

General Counsel Jackson stated, "Thank you, Mr. Chairman. I am going to provide background and then I will respond to Director Sanchez's questions. There is a legally operable concept associated with pension plans – articulated by two terms that are used interchangeably and mean the same thing – unfunded liability or net pension liability. These terms come from the Generally Acceptable Accounting Principles or GAAP. These terms refer to an actuarially determined number. According to our actuary, "it is the difference between the actuarial liability and the market value of assets and is the amount the District carries on its balance sheet for the pension plan." Put in simpler terms - At a particular point in time, the Defined Benefit pension plan may have insufficient funds to pay projected future retirement benefits to all the beneficiaries in the District's closed plan. To calculate the net pension liability, the actuary uses nationally recognized and endorsed GAAP standards and requirements as well as federal guidelines combined with Defined Benefit Plan Retirement Board approved assumptions such as the mortality rate, future contributions, and assumed rate of return.

The District uses the actuary's net pension liability calculations to properly record and disclose Defined Benefit pension plan information in the District's financial statements, including proper footnotes and disclosure of the net pension liability. The District also uses actuary's net pension liability calculations to determine the District's annual contribution to the Defined Benefit pension plan consistent with a 15-year amortization period. This annual contribution amount is reviewed, discussed, and ratified every June by the Board of Directors at the time the budget for the upcoming year is approved. The District's net pension liability is not a debt. Words matter – especially when talking about legal concepts. The District has various long-term monetary obligations; however, we must use the correct word to properly describe each obligation. There is a difference between a debt and a monetary liability. According to the dictionary by Merriam-Webster: A debt is defined – a state of being under an

obligation to pay or repay someone or something in return for something received. A monetary liability is defined – a pecuniary obligation.

Let me explain the difference in layman's terms: Many people with kids have both a mortgage on their house in addition to the need to save money to pay for college. A mortgage is a secured and collateralized debt on a particular type of asset: a house. In exchange for receiving a house, a homeowner agrees to repay the principle with interest until the end of the loan term. This can be distinguished from savings gathered to fund a child's college education, which is a long-term pecuniary obligation. Here's a hypothetical example, when a child is born, let's say the parents anticipate college will cost 100K total when the child begins college in 18 years. When the child is 10, if the parents have only saved 75K, the shortfall of 25K can be categorized as a net college liability. Put simply, 25k is the amount of funding that the parents anticipate needing to save over the next 8 years to be ready to pay for college when the child reaches the age of 18. This is not a debt because the parents have not received anything. In both examples – these are items that must be paid; however, just because something must be paid does not make it a debt.

To directly answer Director Sanchez's questions: With respect to his first question: to ensure that the District properly executes all of its obligations associated with issuing the 2020 bonds - the District retained several experts including the auditors, actuary, outside benefits counsel, outside bond and disclosure counsel, underwriters, and municipal advisors. None of these experts raised any concerns about the District's 2019 audited financial statements, including the net pension liability number. All experts supported the financial statements of the District and related disclosure of the District's financial statements as part of the 2020 Bond issuance. Based on my review of the documents associated with the 2020 bond issuance, as well as counsel I received from these outside experts, the District did not submit improper information with respect to the net pension liability as part of the 2020 Bond issuance

With respect to his second question: the net pension liability is not a debt. As explained numerous times, the net pension liability is a number calculated by the District's actuary based on numerous assumptions that represents the amount of additional funding that the District anticipates is necessary to eventually reach full funding of the District's closed Defined Benefit Plan, which is subject to a 15-year amortization period, scheduled to end in 2028. The net pension liability is a pecuniary obligation that must be paid overtime to the pensionaries. Similar to the college funding example, the District has an obligation to pay the pensionaries the full amount of pension each pensioner is due at the time the pensioner reaches certain milestones, which will occur in the future. The District does not have enough money in the bank today to pay all of these future obligations. As of November 2020, the market value of the Defined Benefit plan - essentially the amount of District has saved - was approximately \$107M. In August 2020, using a 7.0% market rate of return in addition to several other assumptions, the actuary estimated that the District had a net pension liability of \$44M, which is the amount of money that the District will need to raise over the next seven years to reach full-funding.

Director Sanchez has been provided detailed information explaining the net pension liability several times, including correcting his improper use of the term debt, by me, the District Manager, several past Chairmen, the Defined Benefit Plan Retirement

Board, the District's auditors, and actuary. His on-going misuse of this term "debt" to refer to the net pension liability is at best negligent and at worst willful. What is more concerning is in November he made unfounded allegations about staff concerning corruption, lying, and breaking the law with respect to the 2020 bond issuance based on his misrepresentations.

As General Counsel for the District, I need the Board to hear that I am extremely concerned."

District Manager Conway remarked Director Sanchez's statements that the Metro District staff, or consultants may have willfully submitted improper information were entirely without basis and offensive. He noted District staff always adheres to the highest standards.

Chairman Twombly shared the concerns of the General Counsel and District Manager, noting these concerns had been expressed at the December 8, 2020 Executive Committee meeting, will be shared with the Crestview Water and Sanitation District, and if appropriate will be brought back again to the Board in January 2021.

6. PROGRESS AND PROJECTION REPORTS

6.a Report by District Manager

District Manager Conway reviewed his written report, thanking Bob Thomas for his many years and dedication to the Metro District. He congratulated Jennifer Robinett as succeeding Mr. Thomas as Director of Environmental Services and Director of Engineering Mitch Costanzo on his appointment as Deputy District Manager.

6.b Report by General Counsel

General Counsel Jackson reported there are no new litigation issues. She provided an implementation update on the recently passed Equal Pay for Equal Work Act and Healthy Families and Workplaces Act.

7. REPORTS OF OFFICERS AND COMMITTEES

7.a Meeting Minutes

There were no additions to the following meeting minutes:

Operations Committee	December 1, 2020
Finance Committee	December 3, 2020
Executive Committee	December 8, 2020

8. NEW BUSINESS

Consent Agenda

8.a Consideration of Rescinding Unexpended Capital Appropriations

Director Baertlein moved and Director Ray seconded the motion to adopt the following resolution:

WHEREAS, a number of projects of the Metro Wastewater Reclamation District, hereinafter referred to as the "Metro District," have been completed and it is now necessary certain unexpended appropriations be rescinded; and

WHEREAS, the total of the unexpended appropriations is as follows:

General Fund Capital Project Account	\$ 130.43
Fixed Asset Replacement Fund	1,105,896.17
Total Unexpended Appropriations	<u>\$1,106,026.60</u> ; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend such appropriations be rescinded; and

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

NOW, THEREFORE, BE IT RESOLVED the unexpended balances of the appropriations set forth in the attached Schedule of Appropriations To Be Rescinded—December 2020 be and hereby are rescinded.

The motion carried unanimously.

8.b Consideration of SMARTnet Maintenance Agreement

Director Baertlein moved and Director Ray seconded the motion to adopt the following resolution:

WHEREAS, it is in the best interest of the Metro Wastewater Reclamation District, hereinafter referred to as the "Metro District," to enter into a maintenance and support agreement with Flair Data Systems to provide SMARTnet maintenance and support for the Metro District's Cisco networking equipment; and

WHEREAS, the Metro District has been using Cisco manufactured networking for over 15 years, allowing the Metro District to be connected via data and voice throughout the Metro District's campuses; and

WHEREAS, the Metro District's current SMARTnet maintenance and support agreement expires December 31, 2020; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the District Manager to enter into a one-year

maintenance and support agreement with Flair Data Systems, to provide SMARTnet maintenance and support for the Metro District's Cisco networking equipment, and authorize the District Manager to enter into additional contract periods, not-to-exceed a total five-year term, at an estimated five-year cost of \$427,870; and

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

NOW, THEREFORE, BE IT RESOLVED the District Manager be and hereby is authorized to enter into a one-year maintenance and support agreement with Flair Data Systems, to provide SMARTnet maintenance and support for the Metro District's Cisco networking equipment; and

BE IT FURTHER RESOLVED the District Manager be and hereby is authorized to enter into additional contract periods, not-to-exceed a total five-year term, if it is determined to be in the continued best interest of the Metro District.

The motion carried unanimously.

8.c Consideration of Microsoft Office 365 and Azure Software License Subscriptions Agreement

Director Baertlein moved and Director Ray seconded the motion to adopt the following resolution:

WHEREAS, it is in the best interest of the Metro Wastewater Reclamation District, hereinafter referred to as the "Metro District," to enter into software license agreement with Corus 360 to provide software license subscriptions for Microsoft Office 365 and Azure; and

WHEREAS, the Metro District has successfully used Microsoft Office products since the 1990s as its business productivity suite of products, and as needed, the Metro District has upgraded to more recent versions to benefit from the latest technology to ensure support by Microsoft is maintained; and

WHEREAS, the Metro District also evaluated Microsoft Azure, an online cloud computing service, which will be used to move certain services to the cloud; and

WHEREAS, pursuant to the Metro District's *Purchasing and Contracting Policies*, Metro District staff determined Corus 360 provided the best value pricing to provide the software license subscriptions needed; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the District Manager to enter into a three-year agreement with Corus 360 to provide software license subscriptions for Microsoft Office 365 and Azure, and authorize the District Manager to enter into additional contract periods, not-to-exceed a total five-year term, at an estimated five-year cost of \$890,640; and

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

NOW, THEREFORE, BE IT RESOLVED the District Manager be and hereby is authorized to enter into a three-year agreement with Corus 360 to provide software license subscriptions for Microsoft Office 365 and Azure; and

BE IT FURTHER RESOLVED the District Manager be and hereby is authorized to enter into additional contract periods, not-to-exceed a total five-year term, if it is determined to be in the continued best interest of the Metro District.

The motion carried unanimously.

Roll Call Agenda

8.d Consideration of Transmission System Structure Rehabilitation Project (PAR 1325) Construction Contract, Engineering Amendment, and Funding Appropriation

Director Baertlein moved and Director Ray seconded the motion to adopt the following resolution:

WHEREAS, it is in the best interest of the Metro Wastewater Reclamation District, hereinafter referred to as the "Metro District," to enter into a construction contract for the Transmission System Structure Rehabilitation Project (Project); and

WHEREAS, the Metro District operates and maintains underground structures throughout the Transmission System; and

WHEREAS, this Project was initiated in July 2017 as a Small Project study phase to evaluate the condition of structures with grating in the Transmission System; and

WHEREAS, through a standard consultant selection process, the Metro District entered into an Agreement for Professional Study Services with Mott MacDonald on March 28, 2018; and

WHEREAS, Mott MacDonald completed the Diversion Structure and Metering Facility Grating Condition Assessment (Final Study Report) in October 2018 which included condition ranking, rating product alternatives, and recommendations for replacement of structure grating; and

WHEREAS, based on the Final Study Report, Metro District staff identified several structures within the Transmission System where the structural supports and grating need to be replaced in the near term; and

WHEREAS, in addition to the items identified in the Final Study Report, under the Metro District's Transmission System Condition Assessment Program, Metro District staff identified several additional structures in need of rehabilitation; and

WHEREAS, completing both the replacement of structural supports and grating as well as the additional structure rehabilitation work under the Project is more efficient and cost-effective for the Metro District; and

WHEREAS, Metro District staff negotiated a fee of \$284,125 for Mott MacDonald to provide structural engineering design services for grating components of the Project, with Metro District Engineering Department staff performing the remaining design engineering services for the Project; and

WHEREAS, pursuant to the bid process in Metro District's *Purchasing and Contracting Policies*, an invitation to bid was posted in October 2020, and Iron Woman Construction and Environmental Services, LLC (Iron Woman) was the only bid received and it was determined to be a responsible bidder and its bid was responsive; and

WHEREAS, Metro District staff recommends amending the Professional Services Agreement with Mott MacDonald in the amount of \$90,216 to provide construction phase engineering services for the Project; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the District Manager to enter into a construction contract with Iron Woman in the amount of \$3,158,600 to provide construction services, and authorize the District Manager to amend the Professional Services Agreement with Mott MacDonald in the amount of \$90,216 to provide construction phase engineering services for the Project; and

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

NOW, THEREFORE, BE IT RESOLVED the District Manager be and hereby is authorized to enter into a construction contract with Iron Woman Construction and Environmental Services, LLC in the amount of \$3,158,600 for construction of the Transmission System Structure Rehabilitation Project (Project); and

BE IT FURTHER RESOLVED the District Manager be and hereby is authorized to amend the Professional Services Agreement with Mott MacDonald in the amount of \$90,216 to provide construction phase engineering services for this Project; and

BE IT FURTHER RESOLVED the sum of \$3,568,816 (100 percent) be and hereby is appropriated from the Fixed Asset Replacement Fund for these purposes.

Chairman Twombly called for a roll call vote which carried with 32 Directors voting Yes:

Peter Baertlein
Phil Burgi
Nadine Caldwell
David Councilman
Deborah Crisp
John Dingess
Robert Duncanson
Jo Ann Giddings
Joan Iler
Kathryn Jensen
Andrew Johnston

Janet Kieler
Craig Kocian
Laura Kroeger
Bob LeGare
Charles Long
Martin Majors
Dan Mikesell
Sarah Niyork
Steve Pott
Barbara Puls
Bill Ray

Ronald Sanchez
Kim Schoen
Greg Sekera
Del Smith
Peter Spanberger
Mary Beth Susman
Amerigo Svaldi
Dennis Towndrow
Scott Twombly
Ronald Younger

9. INDIVIDUAL DIRECTOR COMMENTS

Directors congratulated Mr. Thomas on his retirement; noting how his work was always of the best quality, in a cordial and professional manner which exemplified the highest of standards; Directors also thanked Mr. Thomas for all his years of service, perspective, and everything he has done for the District and the guidance he has given through his tenure.

General Counsel Jackson stated Mr. Thomas is her mentor, friend, and someone who will be dearly missed.

District Manager Conway noted Mr. Thomas is one of the smartest people he has worked with in his entire career, very grounded in approaching problems, and most of all exemplified care and concern about the Metro District. Mr. Conway stated it has been a genuine pleasure to work with Mr. Thomas.

Chairman Twombly expressed appreciation to Mr. Thomas for everything he has done for the District and wished him a wonderful retirement.

Mr. Thomas said it has been his pleasure to work with the Metro District for over 30 years.

10. OTHER INFORMATION

There was none.

Chairman Twombly wished everyone a happy and safe holiday season.

11. ADJOURNMENT

Chairman Twombly adjourned the meeting at 6:25 p.m.

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