

# METRO WATER RECOVERY

## Minutes of the Regular Meeting of the Board of Directors

August 16, 2022

The Board of Directors of the 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, August 16, 2022 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  
Peter Baertlein, Denver  
Greg Baker, Aurora  
Phil Burgi, Wheat Ridge  
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  
Craig Kocian, Arvada  
Laura Kroeger, Lakewood

Kathy Laurienti, Crestview  
Doug Lazure, Denver\*  
Bob LeGare, Aurora  
Charles Long, Thornton  
Steve Pott, Applewood\*  
Bill Ray, Arvada  
Bob Roth, Aurora\*  
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:

Marv Falconburg, Brighton  
Martin Majors, Fruitdale

Jamie Miller, North Table Mountain

#### Others Present:

Mickey Conway  
Emily Jackson  
Liam Cavanaugh  
Ruth Kedzior  
Molly Kostelecky

Chief Executive Officer (CEO)  
General Counsel  
Deputy CEO/Chief Operating Officer (COO)  
Assistant to the CEO  
Chief Financial Officer

Yvonne Kohlmeier  
Lydia Nkem  
Charlie Miller\*  
\*Attended virtually

Senior Administrative Assistant  
Executive Assistant  
City of Fort Lupton

## **2. PUBLIC COMMENT**

There was no comment.

## **3. APPROVAL OF MINUTES**

### **4.a Minutes of the Board of Directors Meeting on July 19, 2022**

Chair Johnston asked if there were any corrections, deletions, or additions to the minutes of the Regular Meeting of the Board of Directors held July 19, 2022.

Director Baertlein moved and Director Susman seconded the motion to approve the minutes of the Regular Meeting of the Board of Directors held July 19, 2022.

The motion carried unanimously.

## **4. PROGRESS AND PROJECTION REPORTS**

### **4.a Report by CEO**

CEO Conway reviewed his written report, highlighting Metro Water Recovery's sponsorship at the August 4, 2022 Greenway Foundation Reception on the River where he and Director Kroeger spoke bringing awareness to the importance of the roles of Metro Water Recovery and the Mile High Flood District and the critical community benefits provided by the two organizations, gave an update on the METROGRO Farm harvest, reminded everyone of the upcoming August 29, 2022 New Director Orientation which is open to all Directors, and noted this year's Fall Workshop will be held on October 27 at the Northern Treatment Plant.

### **4.b Report by General Counsel**

General Counsel Jackson provided an update on the recent litigation developments commenting, due to a backlog in the courts, a trial date for the Farmers Reservoir and Irrigation Company, Burlington Ditch Reservoir and Land Company, and Henrylyn Irrigation District has been scheduled for the end of 2023. Ms. Jackson mentioned Metro Water Recovery's attendance at the National Association of Clean Water Agencies (NACWA) 2022 Utility Leadership Conference and 52nd annual meeting where she was the co-chair of the Legal Affairs Committee and facilitated the Next 50 Years of Clean Water Through the Legal and Legislative Lens panel, and also gave an update on Denver Water's Lead Reduction Program.

## **5. REPORTS OF OFFICERS AND COMMITTEES**

### **6.a Meeting Minutes**

There were no additions to the following meeting minutes:

Operations Committee	August 2, 2022
Finance Committee	August 4, 2022
Executive Committee	August 9, 2022

Chair Johnston reminded Directors of the Strategic Planning Committee meeting scheduled for August 23, 2022.

## 6. NEW BUSINESS

### Consent Agenda

#### 6.a Consideration of Revisions to the Estimated 2022 Annual Charges for Service

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

WHEREAS, it is desirable to adjust and revise the Estimated Annual Charges for Service for 2022 of Metro Water Recovery, hereinafter referred to as "Metro;" and

WHEREAS, in 1980 the Board of Directors of Metro adopted a procedure to allow, but not require, the adjustment of Annual Charges for Service mid-year to reduce the impact of normal variability in estimating such charges; and

WHEREAS, the Chief Executive Officer and staff of Metro have prepared the 2022 Annual Charges for Service Revised Estimate based largely on the actual 2021 flows and loadings; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend approving and certifying the Revised Estimated Annual Charges for Service for 2022; and

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

NOW, THEREFORE, BE IT RESOLVED these revisions and adjustments, as contained in the 2022 Annual Charges for Service Connector Flows, Loadings and Charges – Revised Estimate (Attachment A) and the 2022 Annual Charges for Service Calculation of Unit Charges – Revised Estimate (Attachment B) be and hereby are approved; and

BE IT FURTHER RESOLVED the Chief Executive Officer be and hereby is authorized to certify and deliver to each Member Municipality, Special Connector, and Special Corporate Connector, on or before September 1, 2022, the Revised Estimate for 2022 Annual Charges for Service as provided in Attachment A.

The motion carried unanimously.

**6.b Consideration of the Estimated 2023 Annual Charges for Service**

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

WHEREAS, Article VI, Section 602, of the *Sewage Treatment and Disposal Agreement* (Service Contract) and the Special Connectors Agreement provide that on or before the first day of September next preceding each fiscal year, Metro Water Recovery, hereinafter referred to as "Metro," shall make and deliver to each Member Municipality, Special Connector, and Special Corporate Connector subject to payment to Metro of any service charge or any annual charge fixed thereby for such fiscal year, Metro's Certificate stating the estimated amount of the charge; and

WHEREAS, the Chief Executive Officer and staff of Metro have prepared such an estimate of Annual Charges for Service for 2023; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend adopting and certifying the 2023 Estimated Annual Charges for Service; and

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

NOW, THEREFORE, BE IT RESOLVED the 2023 Annual Charges for Service Connector Flows, Loadings, and Charges – Certified Estimate (Attachment A), the 2023 Annual Charges for Service Calculation of Unit Charges – Certified Estimate (Attachment B), and 2023 Annual Charges for Service: 2023 Net Payments (Attachment C) be and hereby are adopted and certified; and

BE IT FURTHER RESOLVED the Chief Executive Officer be and hereby is authorized and instructed to deliver on or before September 1, 2022 to each Member Municipality, Special Connector, and Special Corporate Connector subject to payment to Metro of any service charge or annual charge, the Certified Estimate of 2023 Annual Charges for Service as provided in Attachment A.

The motion carried unanimously.

**6.c Consideration of 2022 Information Technology Customer Experience Grouped Project**

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

WHEREAS, it is necessary Metro Water Recovery, hereinafter referred to as "Metro," appropriate \$500,000 from the Fixed Asset Replacement Fund for the 2022 Information Technology Customer Experience Grouped Project (Project); and

WHEREAS, the Project is part of a reoccurring annual program which provides a systematic approach to replacing and, where appropriate, enhancing existing business software, audiovisual systems, and user devices to run the business processes of Metro efficiently and safely; and

WHEREAS, the 2022 areas of focus for this Project are Teams Conference Rooms, Remote Work Enhancements, and Intranet Migration to Azure; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer appropriate \$500,000 from the Fixed Asset Replacement Fund 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 sum of \$500,000 (100 percent) be and hereby is appropriated from the Fixed Asset Replacement Fund for the 2022 Information Technology Customer Experience Grouped Project.

The motion carried unanimously.

**6.d Consideration of Chemical Contracts – Sodium Hypochlorite Solution**

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

WHEREAS, it is necessary Metro Water Recovery, hereinafter referred to as “Metro,” purchase a supply of sodium hypochlorite solution, used for the internal plant water system to protect piping, nozzles, and filters from biological fouling at the Robert W. Hite Treatment Facility (RWHTF); and

WHEREAS, a Request for Bids for the supply of sodium hypochlorite solution was posted on the Rocky Mountain E-Purchasing site (*BidNet*); and

WHEREAS, 162 firms received the Request for Quotes, 20 of which downloaded the bid documents, and two bids were received and opened on June 22, 2022; and

WHEREAS, DPC Industries, Inc. submitted the only responsive bid to supply sodium hypochlorite solution at a price of \$3.08 per gallon, with a total estimated one-year price of \$104,000; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend entering into a one-year contract from October 1, 2022 through September 30, 2023 for the supply of sodium hypochlorite solution with DPC Industries, Inc. at a price of \$3.08 per gallon; 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 a one-year contract from October 1, 2022 through September 30, 2023 for the supply of sodium hypochlorite solution with DPC Industries, Inc. at a price of \$3.08 per gallon; and

BE IT FURTHER RESOLVED the Chief Executive Officer be and hereby is authorized to enter into additional contract periods for the aforementioned contract, not exceeding a total of five years, with potentially new unit prices, if such extensions are deemed to be in the best interest of Metro.

The motion carried unanimously.

**6.e Consideration of Annual Fixed Asset Replacement Priorities Project (PAR 1379) - 2022 Scope (Year 3) – Job Order Contracting Services Agreement Amendment and Funding Appropriation**

Director Younger moved and Director Iler 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 replace fixed assets at the Robert W. Hite Treatment Facility which have reached the end of their useful life to ensure reliable process treatment; and

WHEREAS, in 2020, Metro staff recommended Metro enter into Job Order Contracting (JOC) Service Agreements with Moltz Construction, Inc. (Moltz) and Sturgeon Electric Company, Inc. (Sturgeon) to provide on-call civil/mechanical and electrical construction work, respectively, for Year 1 work for the Annual Fixed Asset Replacement Priorities Project (Project); and

WHEREAS, in 2021, Metro staff recommended Metro extend these agreements for Year 2 work; and

WHEREAS, Year 2 work has been completed; and

WHEREAS, Year 3 work for the Project has been identified and prioritized; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to amend the JOC Services Agreements with Moltz and Sturgeon by one additional year to provide on-call civil/mechanical and electrical construction work, respectively, for the Year 3 work for the Project such that the combined upper limit of both contracts will not increase by more than \$1,200,000, and to appropriate \$1,200,000 from the Fixed Asset Replacement Fund for this 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 Chief Executive Officer be and hereby is authorized to amend the JOC Services Agreements with Moltz Construction, Inc. and Sturgeon Electric Company, Inc. by one year to provide on-call civil/mechanical and electrical construction work, respectively, for the Annual Fixed Asset Replacement Priorities Project (Project) such that the combined upper limit of both contracts will not increase by more than \$1,200,000; and

BE IT FURTHER RESOLVED \$1,200,000 (100 percent) be and hereby is appropriated from the Fixed Asset Replacement Fund for this Project.

The motion carried unanimously.

6.f **Consideration of General Property Acquisition 2019 – 2026 (PAR 1356) – Property and Land Rights, Increased Chief Executive Officer Spending Authority, and Supplemental Appropriation**

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

WHEREAS, it is necessary Metro Water Recovery, hereinafter referred to as “Metro,” acquire land rights to support Metro day-to-day functions and operation through the General Property Acquisition Project (Project); and

WHEREAS, in Resolution 0319-6.e the Board approved the Project to acquire certain strategic properties to support future expansions of Metro facilities; and

WHEREAS, there are two properties of interest identified in the Project which have not yet been acquired; and

WHEREAS, Metro is seeking authority to exercise eminent domain as necessary to purchase two properties along York Street which were identified as key acquisitions to support the future expansion of Metro facilities; and

WHEREAS, Metro staff recommends the Board of Directors authorize the Chief Executive Officer to negotiate such purchases or acquisitions and appropriate a supplemental amount of \$2,300,000 for this purpose; and

WHEREAS, the Chief Executive Officer will keep the Board of Directors informed of transactions and the status of any purchase of properties and/or acquisition of land rights; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to enter into contracts for the purchase of properties and/or acquire land rights as needed to support Metro’s day-to-day functions and operations not related to other capital projects, appropriate an additional \$2,300,000 million for these purposes, and authorize the Chief Executive Officer to exercise eminent domain authority as necessary and in the best interest of Metro for Parcels 9 and 10 as identified in Exhibit A; 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 contracts for the purchase of properties and/or acquire land rights as needed to support Metro’s day-to-day functions and operations not related to other capital projects; and

BE IT FURTHER RESOLVED a supplemental \$2,300,000 (100 percent) be and hereby is appropriated from the General Fund for these purposes; and

BE IT FURTHER RESOLVED the Chief Executive Officer be and hereby is authorized to exercise eminent domain authority as necessary and in the best interest of Metro for Parcels 9 and 10 as identified in Exhibit A.

The motion carried unanimously.

### **Roll Call Agenda**

#### **6.g Consideration of Appointments to the Defined Benefit Plan Retirement Board**

Director Burgi moved and Director LeGare seconded the motion to adopt the following resolution:

WHEREAS, the terms of two members of the Defined Benefit Plan Retirement Board (DB Retirement Board) of Metro Water Recovery, hereinafter referred to as "Metro," expire on July 31, 2022; and

WHEREAS, members of the DB Retirement Board continue to serve until they are reappointed or replaced, and it is necessary appointments be made to fill these positions; and

WHEREAS, the Chair of the Board, Andrew Johnston recommends reappointing Metro Director Duncanson and Director Long to the DB Retirement Board for two-year terms expiring on July 31, 2024; and

WHEREAS, the Chair of the Board also recommends appointing Metro Director Twombly to the DB Retirement Board for a two-year term expiring on July 31, 2024;

NOW, THEREFORE, BE IT RESOLVED Metro Director Duncanson and Director Long be and hereby are reappointed to the Defined Benefit Plan Retirement Board for the term of August 16, 2022 through July 31, 2024;

BE IT FURTHER RESOLVED Metro Director Twombly be and hereby is appointed to the Defined Benefit Plan Retirement Board for the term of August 16, 2022 through July 31, 2024.

Chair Johnston called for a roll call vote which carried with 34 Directors voting Yes:

Curt Aldstadt	Joan Iler	Bill Ray
Peter Baertlein	Andrew Johnston	Bob Roth
Greg Baker	Janet Kieler	Greg Sekera
Phil Burgi	Craig Kocian	Del Smith
Nadine Caldwell	Laura Kroeger	Peter Spanberger
John Chavez	Kathy Laurienti	Mary Beth Susman
David Councilman	Doug Lazure	Amerigo Svaldi
Deborah Crisp	Bob LeGare	Dennis Towndrow
Clark Davenport	Charles Long	Scott Twombly
James DeHerrera	Sarah Niyork	Jennifer Williams
Robert Duncanson	Steve Pott	Ronald Younger
Jo Ann Giddings		



6.h **Consideration of Appointments to the Defined Contribution Plan Retirement Board**

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

WHEREAS, the terms of one member of the Defined Contribution Plan Retirement Board (DC Retirement Board) of Metro Water Recovery, hereinafter referred to as "Metro," expires on July 31, 2022; and

WHEREAS, members of the DC Retirement Board continue to serve until they are reappointed or replaced, and it is necessary appointments be made to fill these positions; and

WHEREAS, the Chair of the Board, Andrew Johnston recommends reappointing Metro Director Sekera to the DC Retirement Board to complete a two-year term expiring on July 31, 2024;

NOW, THEREFORE, BE IT RESOLVED Metro Director Sekera be and hereby is reappointed to the Defined Contribution Plan Retirement Board to complete a term from August 16, 2022 through July 31, 2024.

Chair Johnston called for a roll call vote which carried with 34 Directors voting Yes:

Curt Aldstadt	Joan Iler	Bill Ray
Peter Baertlein	Andrew Johnston	Bob Roth
Greg Baker	Janet Kieler	Greg Sekera
Phil Burgi	Craig Kocian	Del Smith
Nadine Caldwell	Laura Kroeger	Peter Spanberger
John Chavez	Kathy Laurienti	Mary Beth Susman
David Councilman	Doug Lazure	Amerigo Svaldi
Deborah Crisp	Bob LeGare	Dennis Towndrow
Clark Davenport	Charles Long	Scott Twombly
James DeHerrera	Sarah Niyork	Jennifer Williams
Robert Duncanson	Steve Pott	Ronald Younger
Jo Ann Giddings		

6.i **Consideration of Thornton-Yosemite Metering Facility Customer Category Assignment**

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

WHEREAS, it is necessary for Metro Water Recovery, hereinafter referred to as "Metro," to assign an "A" customer category to the Thornton-Yosemite Metering Facility (Thornton-Yosemite); and

WHEREAS, Thornton-Yosemite was put into service when flow was redirected to the Todd Creek interceptor in January of 2018 upon decommissioning of the lift station at Yosemite Street; and

WHEREAS, based on Metro Water Recovery's *Rules and Regulations Governing the Operation, Use, and Services of the System*, Thornton-Yosemite was originally assigned as an Annual Charge Connector category "A."; and

WHEREAS, once Thornton-Yosemite was put into service, it was discovered the 1.5-mgd average flow rate included future flows from Thornton's Big Dry Creek interceptor which had not yet been constructed; and

WHEREAS without the flows from Thornton's Big Dry Creek interceptor Metro staff encountered difficulties sampling; and;

WHEREAS, due to the forgoing issues Thornton-Yosemite was subsequently reassigned as Annual Charge Connector category "D1"; and

WHEREAS, as of late 2021, the flow rates in Thornton-Yosemite began increasing and no longer meet the "D1" customer category criteria; and

WHEREAS, based on the changed circumstances Metro staff recommend reassigning Thornton-Yosemite as Annual Charge Connector category "A" assignment; and

WHEREAS, the Executive Committee, after having reviewed the matter, recommends authorizing the Chief Executive Officer to assign the Thornton-Yosemite as Annual Charge Connector category "A", effective January 1, 2023;

NOW, THEREFORE, BE IT RESOLVED the Thornton-Yosemite Metering Facility be and hereby is assigned as Annual Charge Connector category "A", effective January 1, 2023.

CEO Conway explained the required change and timeline according to Metro Water Recovery's *Rules and Regulations* and how this was positive for Metro and Thornton.

Chair Johnston called for a roll call vote which carried with 34 Directors voting Yes:

Curt Aldstadt	Joan Iler	Bill Ray
Peter Baertlein	Andrew Johnston	Bob Roth
Greg Baker	Janet Kieler	Greg Sekera
Phil Burgi	Craig Kocian	Del Smith
Nadine Caldwell	Laura Kroeger	Peter Spanberger
John Chavez	Kathy Laurienti	Mary Beth Susman
David Councilman	Doug Lazure	Amerigo Svaldi
Deborah Crisp	Bob LeGare	Dennis Towndrow
Clark Davenport	Charles Long	Scott Twombly
James DeHerrera	Sarah Niyork	Jennifer Williams
Robert Duncanson	Steve Pott	Ronald Younger
Jo Ann Giddings		

## 7. INDIVIDUAL DIRECTOR COMMENTS

Chair Johnston reminded Directors of the New Director Orientation on Monday, August 29 with breakfast at 7 a.m.

**8. OTHER INFORMATION**

There was none.

**9. ADJOURNMENT**

Chair Johnston adjourned the meeting at 5:54 p.m.

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