

METRO WATER RECOVERY

Minutes of the Regular Meeting of the Board of Directors

October 18, 2022

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, October 18, 2022 at 5:30 p.m. in the Boardroom.

Chair Johnston called the meeting to order.

1. OATH OF OFFICE

The following Director has been appointed by her Member Municipality to complete a two-year term of office expiring June 30, 2023.

Appointed Director

Mary Gearhart

Member Municipality

City and County of Denver

2. 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
Marv Falconburg, Brighton*
Mary Gearhart, Denver
Joan Iler, Westridge
Janet Kieler, Denver
Craig Kocian, Arvada*

Laura Kroeger, Lakewood
Doug Lazure, Denver
Bob LeGare, Aurora
Charles Long, Thornton
Martin Majors, Fruitdale*
Charlie Miller, Fort Lupton
Jamie Miller, North Table Mountain
Steve Pott, Applewood*
Bill Ray, Arvada
Greg Sekera, Lakewood
Peter Spanberger, Denver
Mary Beth Susman, Denver
Amerigo Svaldi, North Washington Street
Dennis Towndrow, North Pecos*
Scott Twombly, Thornton*
Ronald Younger, Denver

Directors Absent:

Kathy Laurienti, Crestview
Bob Roth, Aurora

Jennifer Williams, Denver

*Attended virtually

Others Present:

Mickey Conway
Emily Jackson
Liam Cavanaugh
Ruth Kedzior
Orren West
Yvonne Kohlmeier
Lydia Nkem
Brittany Peshek*

Chief Executive Officer (CEO)
General Counsel
Deputy CEO/Chief Operating Officer (COO)
Assistant to the CEO
Director of Maintenance
Senior Administrative Assistant
Executive Assistant
Administrative Analyst

3. PUBLIC COMMENT

There was no comment.

4. APPROVAL OF MINUTES

4.a Minutes of the Board of Directors Meeting on September 20, 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 September 20, 2022.

Director Younger moved and Director Iler seconded the motion to approve the minutes of the Regular Meeting of the Board of Directors held September 20, 2022.

The motion carried unanimously.

5. PROGRESS AND PROJECTION REPORTS

5.a Report by CEO

CEO Conway reviewed his written report, highlighting Metro Water Recovery staff member Dan Freedman being awarded the Rocky Mountain Water Environment Association Volunteer Excellence Award and Metro's Elevated Ops Team winning the Operations Challenge National Championship title at the Water Environment Federation's Technical Exhibition and Conference. He reminded Directors of two upcoming events: the Fall Workshop on October 27th and the Town Hall on November 9th.

Mr. Conway gave an update to last week's email regarding red-colored water coming in from the collection system, passing through the Robert W. Hite Treatment Facility and then discharging into the South Platte River. He and Mr. Cavanaugh answered questions on sampling, indications of toxicity, origination, how far north the substance travelled once it left the plant and of the quantity of a discharge it takes to experience this type of event.

5.b Report by General Counsel

General Counsel Jackson provided an overview on recent developments concerning litigation highlighted in her report and answered questions on per- and polyfluoroalkyl substances (PFAS) and biosolids.

6. REPORTS OF OFFICERS AND COMMITTEES

6.a Meeting Minutes

There were no additions to the following meeting minutes:

Operations Committee	October 4, 2022
Finance Committee	October 6, 2022
Strategic Planning Committee	October 6, 2022
Executive Committee	October 11, 2022

Director Kroeger gave an update on the Strategic Planning Committee and encouraged participation at the upcoming Fall Workshop.

7. NEW BUSINESS

Consent Agenda

7.a Consideration of North Complex Natural Gas Replacement Project (PAR 1382)

Director Aldstadt moved and Director Ray 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 construction services for the North Complex Natural Gas System Replacement Project (Project) at the Robert W. Hite Treatment Facility (RWHTF); and

WHEREAS, although the RWHTF has undergone numerous expansions and upgrades over the past 60 years, some of the original infrastructure is still in place and in service today as part of the overall treatment process which includes the North Complex natural gas system which serves various winter-time heating needs within this complex; and

WHEREAS, numerous repairs due to failures in both the piping system and valves have been made in recent years attempting to maintain system integrity and natural gas supply, however replacement of the remaining piping and installation of additional piping is now necessary; and

WHEREAS, pursuant to the bid process in Metro's *Purchasing and Contracting Policies*, a request for qualifications was posted on July 8, 2022 and the subsequent request for bid was posted on August 8, 2022, and Desco Acquisition LLC dba Blackeagle Energy Services (Blackeagle) was determined to be the lowest qualified, responsive, and responsible bidder; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to enter into an agreement, in the amount of \$876,797, with Blackeagle for construction services for the Project and appropriate \$1,143,000 from the Fixed Asset Replacement Fund Capital Project Account 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, in the amount of \$876,797, with Desco Acquisition LLC dba Blackeagle Energy Services for construction services for the North Complex Natural Gas System Replacement Project; and

BE IT FURTHER RESOLVED the sum of \$1,143,000 (100 percent) be and hereby is appropriated from the Fixed Asset Replacement Fund Capital Project Account for this purpose.

The motion carried unanimously.

7.b Consideration of Peracetic Acid Disinfection System Improvements Project (PAR 1400) – Work Package 1 Agreement and Appropriation

Director Aldstadt moved and Director Ray 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 a Construction Services Contract to procure equipment prior to a subsequent construction work package for the Peracetic Acid (PAA) Disinfection System Improvements Project (Project); and

WHEREAS, Metro received approval of PAA as its permanent disinfection system in October 2020; and

WHEREAS, the existing, temporary PAA system is reaching the end of its useful life, and now Metro requires the experience of a qualified consultant to evaluate and design the modifications necessary for the PAA disinfection system at the Robert W. Hite Treatment Facility; and

WHEREAS, following standard Metro consultant selection procedures, CDM Smith, Inc. was selected as the consultant to perform Design Phase Services for this Project; and

WHEREAS, the Project is being delivered through the Construction Manager-At-Risk (CMAR) delivery approach with Garney Companies, Inc. (Garney) performing Preconstruction and Construction Services; and

WHEREAS, Work Package #1 includes a Construction Contract for early procurement of equipment to reduce costs and accelerate the construction schedule which requires Board approval; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to enter into a Construction Services Contract for Work Package #1 with Garney up to the amount of \$1,470,000 to procure equipment prior to a subsequent construction work package for the Project and appropriate \$1,640,000 from the General Fund Capital Project Account 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 a Construction Services Contract for Work Package #1 with Garney Companies, Inc. up to the amount of \$1,470,000 to procure equipment prior to a subsequent construction work package for the Peracetic Acid Disinfection System Improvements Project; and

BE IT FURTHER RESOLVED the sum of \$1,640,000 be and hereby is appropriated from the General Fund Capital Project Account for this purpose.

The motion carried unanimously.

7.c Consideration of Civil/Mechanical Job Order Contracts

Director Aldstadt moved and Director Ray 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 five-year Job Order Contracting (JOC) Services agreements for miscellaneous civil and mechanical construction projects; and

WHEREAS, following Metro's standard qualification-based selection process, in March 2018, Metro entered into a five-year JOC contract with Velocity Plant Services, LLC. for miscellaneous, on-call civil/mechanical contracting services; and

WHEREAS, specific work was assigned through task orders which were funded by existing project appropriations or through departmental operating budgets; and

WHEREAS, the current civil/mechanical JOC contract is nearing the upper aggregate limit and will expire in March 2023, thus new contracts are required; and

WHEREAS, on July 22, 2022, following Metro's *Purchasing and Contracting Policies*, a Request for Statements of Qualifications (SOQ) to perform on-call civil/mechanical JOC services was advertised on *BidNet*, with four submittals arriving on August 16, 2022; and

WHEREAS, a Selection Committee made up of Metro staff evaluated the SOQ applications and determined all four contractors met the criteria and are qualified to perform the anticipated work tasks; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to enter into five-year JOC Services agreements for miscellaneous civil and mechanical construction projects with the following contractors:

- American West Construction, LLC
- Glacier Construction Co., Inc.
- J.R. Filanc Construction Co., Inc.
- Velocity Plant Services, LLC; 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 five-year Job Order Contracting Services agreements for miscellaneous civil and mechanical construction projects with the following contractors:

- American West Construction, LLC
- Glacier Construction Co., Inc.
- J.R. Filanc Construction Co., Inc.
- Velocity Plant Services, LLC.

The motion carried unanimously.

7.d Consideration of Litigation Funding

Director Aldstadt moved and Director Ray 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 appropriate funds for ongoing litigation; and

WHEREAS, on March 15, 2021, the Farmers Reservoir and Irrigation Company, Burlington Ditch Reservoir and Land Company, and Henrylyn Irrigation District (collectively, Ditch Companies) filed a civil action in Adams County District Court against Metro; and

WHEREAS, the Ditch Companies litigation has nearly used all funds previously appropriated for this effort; and

WHEREAS, on August 26, 2022, MWH Contractors (MWHC) filed a civil action in Denver County District Court against Metro concerning the Solids Processing Building Improvements Project (PAR 1244); and

WHEREAS, the Chief Executive Officer and Chair of the Board have approved the defenses of the actions under the Board’s Guidelines for Litigation Procedures which requires funding to support the defense; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend appropriating \$500,000 from the General Fund for the ongoing litigations with the Ditch Companies and MWHC; 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 General Fund for the ongoing litigations.

The motion carried unanimously.

7.e Consideration of Annual Benefits Recommendations

Director Aldstadt moved and Director Ray 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 adopt adjustments to the benefits package for all Metro employees and for the compensation for all Metro employees to be at the prevailing rate of pay for equivalent work; and

WHEREAS, Metro is required by C.R.S. § 32-4-510(1)(aa) to fix compensation of employees at prevailing rates of pay for equivalent work; and

WHEREAS, the term "compensation" has been held to include all remuneration for services rendered by Metro employees, including but not limited to wages; salaries; pensions; overtime; holiday and vacation pay; educational assistance; and health, dental, and life insurance; and

WHEREAS, in 2017, Metro hired Gallagher Benefit Services, Inc. (Gallagher), a benefits consultant, to conduct an annual review of Metro's health and dental insurance benefits program in light of the statutory requirements; and

WHEREAS, for 2023, Gallagher recommends Metro not change its percentage contribution to the cost of health insurance and dental insurance from Metro's 2022 contribution, and has opined the employer contributions are within the prevailing range in the Denver metropolitan area; and

WHEREAS, Metro currently provides all benefit-eligible employees with long-term disability insurance, which begins when an employee has been continuously disabled (unable to work for medical reasons) for 90 days, with benefits paid at 60 percent of covered wages; and

WHEREAS, Metro staff recommend addressing the 90-day waiting period with the implementation of short-term disability benefits for employees starting January 1, 2023, which has a seven day waiting period for benefits to be paid, meaning the first week of disability could be covered by using sick leave pay; and

WHEREAS, based upon the 2022 Employer's Council Benefit survey, this is a prevailing practice; and

WHEREAS, the annual review of leave benefits revealed vacation accrual for newer employees is slightly low compared to Denver-area governmental entities; and

WHEREAS, Metro staff recommend increasing vacation accrual for new hires, and all employees under four years of service, from 80 hours a year to 100 hours; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend adopting the following funding distribution for Metro's health and dental insurance programs:

1. Health Insurance: Effective January 1, 2023, Metro will continue to contribute 82 to 91 percent of the cost of employee-only coverage and 76 to 89

percent of the cost of two-person and family coverage, depending upon the health insurance plan chosen and the number of dependents covered; and

2. Dental Insurance: Effective January 1, 2023, Metro will contribute 70 percent of the cost of employee-only coverage and 56 percent of the cost of two-person and family coverage; and

3. Short Term Disability Insurance: Effective January 1, 2023, Metro will provide short-term disability insurance to all employees and pay 100 percent of the cost for this program; and

4. Vacation Accruals for New Hires: Effective January 1, 2023, Metro will increase vacation accrual for eligible employees and future new hires to total 100 hours for full-time employees in a calendar year; and

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

NOW, THEREFORE, BE IT RESOLVED the Board of Directors hereby determines the following funding distribution for Metro's health and dental insurance programs are necessary for the benefits package to meet the statutory mandate:

1. Health Insurance: Effective January 1, 2023, Metro will continue to contribute 82 to 91 percent of the cost of employee-only coverage and 76 to 89 percent of the cost of two-person and family coverage, depending upon the health insurance plan chosen and the number of dependents covered; and

2. Dental Insurance: Effective January 1, 2023, Metro will contribute 70 percent of the cost of employee-only coverage and 56 percent of the cost of two-person and family coverage; and

3. Short Term Disability Insurance: Effective January 1, 2023, Metro will provide short-term disability insurance to all employees and pay 100 percent of the cost for this program; and

4. Vacation Accruals for New Hires: Effective January 1, 2023, Metro will increase vacation accrual for eligible employees and future new hires to total 100 hours for full-time employees in a calendar year.

The motion carried unanimously.

7.f Consideration of Family and Medical Leave Insurance Program Recommendation

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

WHEREAS, in November of 2020, Colorado voters approved Proposition 118, which established the Paid Family and Medical Leave Insurance program ("FAMLI"); and

WHEREAS, FAMLI is a state-run program through which participating Colorado workers will be able to access a state funding source when taking leave to take care of themselves or their family during qualifying life circumstances; and

WHEREAS, under FAMLI, according to the Department of Labor and Employment, there are three options for how a local government may participate: option 1 – participate fully in FAMLI, option 2 - decline all participation, or option 3 - decline the employer participation while providing administrative support for employees; and

WHEREAS, under option 3 Metro Water Recovery would decline to pay the employer share of the premium (0.45 percent of all employees' wages), while supporting employees who choose to participate by deducting and remitting the employee share of the premium (0.45% of a participating employee's wages) and corresponding wage data to the state; and

WHEREAS, under option 3, Metro Water Recovery employees have the option to participate in FAMLI at any time, and for those employees who enroll the employee will pay the same premium (0.45% of a participating employee's wages) and will receive the full benefit; and

WHEREAS, Metro Water Recovery staff recommends selecting option 3, thereby declining to participate as an employer in FAMLI while supporting employees who choose to participate by deducting and remitting the employee share of the premium (0.45% of a participating employee's wages) and corresponding wage data to the state; and

WHEREAS, on September 14, 2022, employees were provided written notification of Metro Water Recovery's recommendation to select option 3, the public meeting vote process, and opportunity for public comment during the public meeting; and

WHEREAS, public notice of this item was given in the same manner as all Metro Water Recovery business and the opportunity for public comment testimony was provided during the October 18, 2022 public meeting; and,

NOW, THEREFORE, BE IT RESOLVED the Metro Water Recovery Board of Directors finds and determines, notice was given and the opportunity for public comment testimony was conducted in accordance with the regulations adopted by the Colorado Department of Labor and Employment and codified at 7 CCR 1107-2; and

BE IT FURTHER RESOLVED the Board of Directors, acting by and on behalf of Metro Water Recovery, hereby declines employer participation in FAMLI, but elects to collect and remit employee premiums to the state for those employees who elect coverage under FAMLI; and

BE IT FUTHER RESOLVED the Board of Directors further directs Metro Water Recovery staff to bring the matter of revisiting the decision to decline participation in FAMLI before a future Board of Directors by no later than eight years from tonight's vote.

The motion carried unanimously.

Roll Call Agenda

7.g Consideration of Annual Compensation Recommendations

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

WHEREAS, Metro Water Recovery, hereinafter referred to as “Metro,” is required by C.R.S. § 32-4-510(1)(aa) to fix compensation of employees at prevailing rates of pay for equivalent work; and

WHEREAS, Metro engaged Graves Consulting (Graves), a compensation consultant, to undertake a compensation study to assist the Board of Directors in determining the prevailing rates of pay in the Denver metropolitan area, and Graves’ findings were presented to the Operations and Finance committees; and

WHEREAS, based on the findings of Graves, the Chief Executive Officer provided a 2023 Pay Program Recommendation which includes a Merit Pool amount equal to 8.0 percent of 2022 year-end salaries, totaling approximately \$2.7 million, which will be provided to all eligible employees, and implementing the following four new Salary Structures to replace the current structures:

- Transmission and Treatment Operations
- Field and Technician
- Science and Engineering
- Management and Professional; and

WHEREAS, the Operations, Finance, and Executive committees, after having reviewed the Chief Executive Officer’s Pay Program Recommendation of a Merit Pool amount equal to 8.0 percent of 2022 year-end salaries, totaling approximately \$2.7 million, which will be provided to all eligible employees, recommend approval;

WHEREAS, the Operations, Finance, and Executive committees, after having reviewed the Chief Executive Officer’s Pay Program Recommendation of replacing current Salary Structures with four new Salary Structures, recommend approval; and

NOW, THEREFORE, BE IT RESOLVED the Chief Executive Officer’s Pay Program Recommendation to create a Merit Pool amount equal to 8.0 percent of 2022 year-end salaries for eligible employees be and hereby is approved for the 2023 Pay Program; and

BE IT FURTHER RESOLVED the Chief Executive Officer’s Pay Program Recommendation to implement the following four new Salary Structures to replace the current structures:

- Transmission and Treatment Operations
- Field and Technician
- Science and Engineering
- Management and Professional,

be and hereby is approved for the 2023 Pay Program.

Chair Johnston called for a roll call vote which carried with 36 Directors voting Yes:

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

8. INDIVIDUAL DIRECTOR COMMENTS

There was none.

9. OTHER INFORMATION

Chair Johnston informed Directors performance evaluation materials for their two direct reports will be in the November committee packets and requested the performance appraisals be completed and returned to him within two weeks.

10. ADJOURNMENT

Chair Johnston adjourned the meeting at 5:56 p.m.

MC\raklyjk