

METRO WATER RECOVERY

Minutes of the Regular Meeting of the Board of Directors

May 21, 2024

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, May 24, 2024 at 5:30 p.m. in the Boardroom.

Chair Johnston called the meeting to order.

1. OATH OF OFFICE

The following Directors have been reappointed by their Member Municipalities for two-year terms of office expiring June 30, 2026.

Reappointed Director

Michael Barrett
John Chavez
David Councilman
Joan Iler
Craig Kocian
Martin Majors
Jamie Miller
Sarah Niyork
Del Smith
Scott Twombly

Member Municipality

Crestview Water and Sanitation
Berkeley Water and Sanitation District
Pleasant View Water and Sanitation District
Westridge Sanitation District
City of Arvada
Fruitdale Sanitation District
North Table Mountain Water and Sanitation District
South Adams Water and Sanitation District
Bancroft-Clover Water and Sanitation District
City of Thornton

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
Greg Baker, Aurora
Mike Barrett, Crestview
Clint Blackhurst, Brighton
Travis Bogan, Denver
Phil Burgi, Wheat Ridge
Nadine Caldwell, Aurora
John Chavez, Berkeley
David Councilman, Pleasant View
Deborah Crisp, East Lakewood
Clark Davenport, Northwest Lakewood

Laura Kroeger, Lakewood
Doug Lazure, Denver*
Bob LeGare, Aurora
Marena Lertch, Aurora
Josh Redman, Thornton
Thomas Roode, Denver
Greg Sekera, Lakewood*
Peter Spanberger, Denver
Mary Beth Susman, Denver
Amerigo Svaldi, North Washington Street
Dennis Towndrow, North Pecos

James DeHerrera, Aurora
Joan Iler, Westridge
Sharon Israel, Arvada
Craig Kocian, Arvada

Scott Twombly, Thornton
Jennifer Williams, Denver
Ronald Younger, Denver

Directors Absent:

Bonnie Baird, Alameda
Cody Berg, Applewood
Mary Gearhart, Denver
Janet Kieler, Denver

Martin Majors, Fruitdale
Charlie Miller, Fort Lupton
Jamie Miller, North Table Mountain

Others Present:

Mickey Conway
Emily Jackson
Liam Cavanaugh
Ruth Kedzior
Molly Kostelecky*
Yvonne Kohlmeier
Lydia Nkem*
Brittany Peshek
*Attended virtually

Chief Executive Officer (CEO)
Chief Legal Officer
Deputy CEO/Chief Operating Officer
Senior Administrative Manager
Chief Financial Officer
Executive Assistant
Assistant to the CEO
Legal Administrator

3. PUBLIC COMMENT

There was no comment.

4. APPROVAL OF MINUTES

4.a Minutes of the Board of Directors Meeting on March 19, 2024

Chair Johnston asked if there were any corrections, deletions, or additions to the minutes of the Regular Meeting of the Board of Directors held March 19, 2024.

Director Iler moved and Director Younger seconded the motion to approve the minutes of the Regular Meeting of the Board of Directors held March 19, 2024.

The motion carried unanimously.

5. PROGRESS AND PROJECTION REPORTS

5.a Report by CEO

CEO Conway reviewed his written report, highlighting the Administrative Warrant Authority bill (HB24-1062) which was signed into law by Governor Polis; Director Barrett inviting him to present at the May Crestview Water and Sanitation District Board meeting; his attendance at the recent Water Week 2024 conference held in Washington, D.C. and meetings with various U.S. Senators and Representatives staff; and his return to D.C. next week to meet with the Environmental Protection Agency (EPA) Biosolids group for two and a half days with a packed agenda. Mr. Conway remarked on the April 23, 2024 tour and meeting at the Robert W. Hite Treatment Facility (RWHTF) with the Large Front Range Utilities and Colorado Department of

Public Health and Environment (CDPHE) leadership. He also noted Metro Water Recovery will be 63 years old this year and appreciated the support from the community, Board members, staff, and contractors who have kept Metro going.

Chief Legal Officer Jackson answered a question concerning the entity responsible for enforcement as prescribed in the Warrants bill. Director Niyork stated she was honored and privileged to testify on behalf of Metro Water Recovery, was impressed with the amount of work that went into the passage of the bill and congratulated the Metro team for a job well done.

Mr. Conway responded to a question about the formation of the Large Front Range Utilities group, stating the group exists to provide a collective voice on shared challenges to CDPHE, and noted the April 23, 2024 meeting produced productive conversations. He also gave credit to CDPHE for their work despite having a staffing issue, but stated a change in perspective and collaboration will be needed. Director Smith thanked Mr. Conway for his participation.

5.b Report by Chief Legal Officer

Ms. Jackson provided an update stating the 2024 legislative session ended with over 700 bills being introduced this year, noting Metro Water Recovery's support of the Perfluoroalkyl and Polyfluoroalkyl Chemicals bill (SB24-081) while heavily amended still holds Metro's concept of source controls; the Legal and Strategy and Communication departments continued work to ensure Metro meets the deadline established in the new Rules Establishing Technology Accessibility Standards (8 CCR 1501-11); and noted the MWH Constructors litigation trial was set for July 2024.

Ms. Jackson answered a question on the Sports Betting Tax Revenue Voter Approval bill (HB24-1436).

6. REPORTS OF OFFICERS AND COMMITTEES

6.a Nominating Committee

Chair Johnston thanked Directors Aldstadt, Baker, Israel, Kroeger, and Twombly for their participation on the Nominating Committee, which convened immediately following the Board meeting.

6.b Rules and Regulations Committee

Director Twombly noted the Committee met just prior to the Board meeting; a Selection Committee is working on hiring a consultant to assist on its review of the Annual Charges in Section 4 of Metro Water Recovery's *Rules and Regulations Governing the Operation, Use and Services in the System (Rules and Regulations)*, by the June 18, 2024 meeting; the full Committee is working on minor cleanup items in Section 7 of the *Rules and Regulations* with the expectation to have a report and recommendation for the Board by the end of the year.

6.c Meeting Minutes

There were no additions to the following meeting minutes:

Rules and Regulations Committee	February 20, 2024
Operations Committee	May 7, 2024
Finance Committee	May 9, 2024
Executive Committee	May 14, 2024

7. NEW BUSINESS

7.a Hearing for Metro Water Recovery’s Preliminary 2025 Budget

Chair Johnston opened the Hearing of the Preliminary 2025 Budget at 5:48 p.m. to allow for questions and comments from holders of any security issues by Metro Water Recovery or the general public. There were no questions or comments. Chair Johnston closed the Hearing at 5:49 p.m.

7.b Hearing for Metro Water Recovery’s Amended 2024 Budget

Chair Johnston opened the Hearing of the Amended 2024 Budget at 5:49 p.m. to allow for questions and comments from holders of any security issues by Metro Water Recovery or the general public. There were no questions or comments. Chair Johnston closed the Hearing at 5:50 p.m. and reconvened the Regular Meeting of the Board of Directors at 5:50 p.m.

Consent Agenda

7.c Consideration of Northern Treatment Plant Post Digestion Sidestream Improvements (PAR 1434) Work Authorization 1, Engineering Services Amendment, and Appropriation

Director DeHerrera moved and Director Israel 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 provide an appropriation for Work Authorization 1 (WA1) associated with engineering services and post digestion solids treatment (PDST) reactor cleaning for the Northern Treatment Plant (NTP) Post Digestion Sidestream Improvements Project (PAR 1434) (Project); and

WHEREAS, in June 2023, the Board of Directors approved Metro to enter into a Professional Services Agreement to provide design phase services for the Project with Black and Veatch Corporation (Black & Veatch); and

WHEREAS, in August 2023, the Board of Directors approved Metro to enter into a CMAR Agreement with Archer Western Construction, LLC (Archer Western) to provide preconstruction services for the necessary modifications to the post digestion process’ chemical storage and feed, aeration, and temperature control systems to mitigate sidestream nitrogen and phosphorus loading; and

WHEREAS, through the operation and maintenance of the Bioreactor and PDST aeration system, constraints have been identified that impede reliable and efficient air delivery to each of these critical treatment processes which limits the ability of staff to meet required airflow setpoints and keep blowers online, which could result in problems with maintaining permit compliance; and

WHEREAS, Metro staff, in collaboration with Black & Veatch and Archer Western, are finalizing an amendment to the Professional Services Agreement with Black & Veatch and the design and scope of WA1 which will include procuring equipment and materials required for the aeration header blowoff valve improvements, performing construction and construction-related activities associated with the aeration header blowoff valve improvements, and supporting the commission of the aeration header blowoff valve; and

WHEREAS, Metro's *Purchasing and Contracts Policy* requires the Board of Directors to approve a Work Authorization with Archer Western and appropriate funds for the Project; and

WHEREAS, the Operations and Finance committees having reviewed the matter, recommend appropriating \$678,000 from the Fixed Asset Replacement Fund Capital Project Account for WA1 of the Project; and

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

NOW, THEREFORE, BE IT RESOLVED that the sum of \$678,000 (100 percent) be and hereby is appropriated from the Fixed Asset Replacement Fund Capital Project Account for Work Authorization 1 of the Northern Treatment Plant Post Digestion Sidestream Improvements Project (PAR 1434).

The motion carried unanimously.

7.d Consideration of Metering Facility Condition Assessment Project (PAR 1446) Professional Services Agreement and Appropriation

Director DeHerrera moved and Director Israel 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 to provide design services for the Metering Facility Condition Assessment Project (PAR 1446) (Project); and

WHEREAS, Metro staff is requesting a condition assessment of all metering facilities to identify issues with both the Non-Annual Charge and Annual Charge meters in its Transmission System to prioritize recommendations for future projects; and

WHEREAS, on January 18, 2024, Metro staff sent a Request for Proposals (RFP) to Black & Veatch Corporation (Black & Veatch) and HDR Engineering, Inc, the two consultants with the most relevant experience for this type of work currently contracted under Metro's General Engineering Services on-call contracts; and

WHEREAS, a review committee comprised of Metro staff reviewed the proposals and recommended the consulting services be awarded to Black & Veatch; and

WHEREAS, Black & Veatch and Metro staff have negotiated a task order in the amount of \$587,200 for consulting services; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to enter into a task order with Black & Veatch in the amount of \$587,200 for design services for the Project and appropriate \$750,000 (100 percent) 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 a task order with Black & Veatch Corporation in the amount of \$587,200 for design services for the Metering Facility Condition Assessment Project (PAR 1446) (Project); and

BE IT FURTHER RESOLVED that the sum of \$750,000 (100 percent) be and hereby is appropriated from the Fixed Asset Replacement Fund Capital Account for this Project.

The motion carried unanimously.

7.e Consideration of Digester Dewatering and Cleaning Services Contract

Director DeHerrera moved and Director Israel 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 one-year contract for digester dewatering and cleaning services for Metro's Robert W. Hite Treatment Facility (RWHTF); and

WHEREAS, Metro has an ongoing need for cleaning the digesters at the RWHTF which requires specialty equipment and expertise including removing all the remaining contents from the digesters, cleaning the inside of the digesters, and dewatering and disposal of the waste material; and

WHEREAS, on February 5, 2024, Metro staff issued a Request for Proposals (RFP) for digester dewatering and cleaning services and hosted a pre-bid site visit which was attended by eight prospective vendors; and

WHEREAS, a Selection Committee comprised of Board Directors and Metro staff determined Denali Corporation to provide the best value to Metro for these cleaning services; and

WHEREAS, Metro staff negotiated an agreement with Denali Corporation for digester dewatering and cleaning services in the amount of \$834,140 for one year of service; and

WHEREAS, the Operations and Finance committees, after having reviewed the matter, recommend authorizing the Chief Executive Officer to enter into a one-year contract effective June 1, 2024 through June 1, 2025 with Denali Corporation for digester dewatering and cleaning services for Metro's RWHTF in the total amount of \$834,140 for the initial contract 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 Chief Executive Officer be and hereby is authorized to enter into a one-year contract effective June 1, 2024 through June 1, 2025 with Denali Corporation for digester dewatering and cleaning services for Metro's Robert W. Hite Treatment Facility in the total amount of \$834,140 for the initial contract year; and

BE IT FURTHER RESOLVED the Chief Executive Officer be and hereby is authorized to enter into additional contract periods, not exceeding a total of five years, if it is determined by the Chief Executive Officer to be in the best interest of Metro.

The motion carried unanimously.

7.f Consideration of Regional Water Reuse Feasibility Study (PAR 1449) Intergovernmental Agreement with Denver Water and Aurora Water

Director DeHerrera moved and Director Israel 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 Aurora Water and Denver Water to jointly explore the feasibility of future regional water reuse projects which may serve their regional interests through a Regional Water Reuse Feasibility Study (PAR 1449) (Study); and

WHEREAS, Metro, Aurora Water, and Denver Water share goals to protect the region's water resources, surface water quality, and drinking water sources and water reuse could become an important strategic pillar in Aurora Water's and Denver Water's future sustainable and resilient drinking water supply management to assure a continued high level of service for existing and future customers; and

WHEREAS, Metro, Aurora Water, and Denver Water will engage a consultant to investigate the feasibility of regional water reuse efforts including infrastructure and water supplies to help identify and define the most regionally beneficial alternatives; and

WHEREAS, the possible use of Metro's effluent for reuse purposes is a potentially critical planning factor for the timing and selection of capital improvements to minimize cost impacts to the rate payers of all three agencies in the long-term; and

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

Aurora Water and Denver Water to jointly explore the feasibility of future regional water reuse projects which may serve their regional interests through a Study; 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 with Aurora Water and Denver Water to jointly explore the feasibility of future regional water reuse projects which may serve their regional interests through a Regional Water Reuse Feasibility Study; and

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

The motion carried unanimously.

Roll Call Agenda

7.g Consideration of Electrical Transmission Substation Project (PAR 1265) Property Acquisition/Eminent Domain

Director Davenport moved and Director Lertch seconded the motion to adopt the following resolution:

WHEREAS, Metro Water Recovery, hereinafter referred to as "Metro," is a metropolitan sewage district organized, existing, and possessing the statutory powers and authorities set forth in C.R.S. § 32-4-501, *et seq.*, possessing the power of eminent domain pursuant to C.R.S. §§ 32-4-502(2) and 32-4-510(1)(j); and

WHEREAS, Metro seeks to acquire easements on the land from the center line of the South Platte River channel south to the Section 12 line on the Robert W. Hite Treatment Facility (RWHTF) property, immediately adjacent to the existing bridge connecting the south side of Metro's property to the north side across the South Platte River (the "Subject Property") for the purpose of constructing new facilities at the RWHTF to effectuate its statutory purpose of owning, holding, and operating a sewage disposal system to intercept, receive, transport, treat, and dispose of the outfalls of sewer systems of municipalities; and

WHEREAS, the Board of Directors has determined the acquisition of the Subject Property is necessary for the public uses and/or purposes stated herein and hereby declares Metro's intention to acquire the Subject Property for those uses and/or purposes;

NOW, THEREFORE, BE IT RESOLVED the Board of Directors (the "Board") finds the acquisition of an easement on the land from the center line of the South Platte River channel south to the Section 12 line on the Robert W. Hite Treatment Facility (RWHTF) property, immediately adjacent to the existing bridge connecting the south side of Metro's property to the north side across the South Platte River (the "Subject

Property”) will serve a proper public purpose and use, and such use is necessary and essential to this public purpose and use. The Board hereby declares its intent to acquire easements in the Subject Property for the purposes stated herein and, if necessary, to do so through the exercise of the power of eminent domain; and

BE IT FURTHER RESOLVED the Chief Executive Officer be and is hereby authorized to negotiate for the voluntary acquisition of the Subject Property and is further authorized to make amendments to or otherwise revise the nature and/or description of the property rights to be acquired in furtherance of the public uses and/or purposes; and

BE IT FURTHER RESOLVED if, after engaging in good-faith negotiations, Metro is unable to acquire the necessary property rights, the Chief Executive Officer or designee, on its own or by special counsel, is authorized to institute and prosecute eminent domain proceedings in the name of Metro so as to acquire the Subject Property by condemnation. In the prosecution of any eminent domain actions to acquire the Subject Property, Metro shall have and retain all rights and powers lawfully delegated to it by C.R.S. §§ 32-4-502(2) and 32-4-510(1)(j); and

BE IT FURTHER RESOLVED if eminent domain proceedings are instituted, the Chief Executive Officer or designee and Metro's special counsel, are authorized to retain such expert witnesses, including appraisers, as deemed necessary for the eminent domain proceedings; and

BE IT FURTHER RESOLVED the Chief Executive Officer or designee, in consultation with Metro's special counsel, are hereby specifically authorized to make such reasonable or necessary amendments and corrections to the terms and legal descriptions of the property interests to be acquired, with authorization to include such additional or other property rights necessary or desirable by Metro; and

BE IT FURTHER RESOLVED the Chief Executive Officer will keep the Board informed of transactions and the status of any purchase of properties and/or acquisitions of land rights concerning the Subject Property.

Chair Johnston called for a roll call vote which carried with 32 Directors voting Yes:

Curt Aldstadt	Jo Ann Giddings	Thomas Roode
Greg Baker	Joan Iler	Greg Sekera
Mike Barrett	Sharon Israel	Del Smith
Clint Blackhurst	Andrew Johnston	Peter Spanberger
Travis Bogan	Craig Kocian	Mary Beth Susman
Nadine Caldwell	Laura Kroeger	Amerigo Svaldi
John Chavez	Doug Lazure	Dennis Towndrow
David Councilman	Bob LeGare	Scott Twombly
Deborah Crisp	Marena Lertch	Jennifer Williams
Clark Davenport	Sarah Niyork	Ronald Younger
James DeHerrera	Josh Redman	

8. DIRECTOR RECOGNITION

Chair Johnston recognized Director Phil Burgi for his 26 years of serving on Metro Water Recovery's Board of Directors, noting his service on many committees, the various leadership positions he held over the years, and how Metro has greatly benefited from his knowledge and experiences.

Director Niyork stated how much she learned from Director Burgi during her five years on the Board and expressed appreciation for his preparedness and the questions he asked.

CEO Conway, on behalf of Metro Water Recovery staff, said Director Burgi will be missed, highlighting how his wisdom challenged staff, his participation brought value to the development of the Northern Treatment Plant, and his experience in problem solving gave strength to the Board.

Director Burgi stated he was very appreciative of his time on the Board and will miss the staff, leadership team, and Directors. He also noted it was a privilege using his engineering knowledge along side Metro Water Recovery and remarked on the importance in having innovation and research activities onsite occurring concurrently with operations.

9. INDIVIDUAL DIRECTOR COMMENTS

There was none.

9. OTHER INFORMATION

There was none.

10. ADJOURNMENT

Chair Johnston adjourned the meeting at 6:01 p.m.

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