



The ADVISORY BOARD

Newsletter

Published monthly by the MWRA Advisory Board

Vol II, Number 1

January 1992

AUTHORITY PLANS TO BORROW \$1.3 BILLION IN NEXT YEAR

Cornelia Potter

The MWRA's Chief Financial Officer, reporting to the Advisory Board's Executive Committee January 10th, described a revised financing plan which will approach \$1.3 billion between now and June 1993.

Phil Shapiro, pointing out that interest rates may have bottomed out, informed the group that the Authority is considering locking in the low long-term interest rates some time this spring. The borrowing would be comprised of \$200 million in variable rate debt which would later be changed to a fixed rate issue, and the other, approximately \$800 million would be at a fixed rate. The Authority estimates that the combined rate that would be obtained is 6.5%, lower than ever before.

He also pointed out borrowing at a later point could expose the Authority to other factors, such as the possible worsening of the municipal fiscal picture and Congressional budget actions which could be viewed by the financial markets as inflationary, thus threatening the Authority's bond rating and increasing the interest rate that the Authority can expect to pay.

(Continued on Page 2)

MWRA APPOINTS NEW EXECUTIVE DIRECTOR

On January 29, 1992 the MWRA Board of Directors chose Douglas B. MacDonald to succeed Paul Levy as Executive Director of the MWRA. The following is a brief history of Mr. MacDonald's accomplishments to date:

Douglas B. MacDonald is a 1973 magna cum laude graduate of Harvard Law School. He joined the law firm of Palmer & Dodge in 1981 and has been a partner since 1983. Mr.

MacDonald has concentrated his practice in the representation of public bodies in contracting, environmental and financing matters. He was the principal draftsman of MWRA's enabling legislation, served as MWRA's interim general counsel from February 1985 to June 1986, and coordinated Palmer & Dodge's services

as underwriters' counsel for the MWRA's 1989 initial long-term capital bond financing. He has advised other authorities on procurement and contracting matters for engineering and construction services. In environmental law, he has also worked on Clean Water Act matters, negotiating permits and compliance schedules with federal regulators for several clients in Massachusetts. He was special environmental and finance counsel to the island-wide, 75-plant Puerto Rico Aqueduct and Sewer Authority from 1987 to 1990. Mr. MacDonald has been admitted to the Massachusetts and Illinois Bars and is a member of several Bar Associations. He is also a member to the New England Water Pollution Control Federation and the American Water Works Association.



The
Advisory Board Newsletter
is written, produced,
and edited by:

Joseph Favaloro
Cornelia Potter
Paul Niedzwiecki
Joseph Nargi
Tara O'Donnell
Daniel Goodman
Patty Cross

The \$1 billion borrowing this spring is expected to carry the Authority into next spring, when another, approximately \$300 million issue is being considered.

The recent announcement that another \$100 million in federal funding will be requested in the FY93 national budget is not expected to be received soon enough to affect these borrowing plans. The Authority plans to spend over \$800 million in FY93, and over \$700 million in FY94.

.....

FINAL LEAD AND COPPER RULES

Joseph Nargi

On June 7, 1991 the U.S. Environmental Protection Agency (EPA) published the National Primary Drinking Water Regulations for Lead and Copper. This rule requires all public water suppliers to conduct initial and follow-up tap and distribution system sampling for lead, copper and other appropriate water quality parameters. The number of samples that each supplier is required to collect is based on population. Sample monitoring is scheduled to commence January 1992 for suppliers whose population exceeds 50,000 and July 1992 for those whose population is 50,000 or less.

The final lead and copper rule requires that samples are to be collected from the appropriate number of sample sites for at least two consecutive six month periods. Upon completion of the initial cycle of sampling, each supplier will then be required to sample annually. All public water systems that maintain acceptable levels of lead and copper may reduce the number of sampling sites by 50% and their collection frequency to once per year. The maximum contaminant levels, which are set by the EPA, are zero for lead and 1.3 milligrams per liter (mg/l) for copper.

Each water system is required to complete a "materials evaluation" of its distribution system in order to identify a pool of targeted sampling sites that meet the requirements for sample locations. All sites from which "first-draw" samples are collected, must be from this pool. The pool is divided into three tiers. Tier 1 consists of single family structures that contain copper pipes with lead solder installed after 1982, or contain lead plumbing; and/or are served by a lead service line. Tier 2 consists of multi family structure that follow the same criteria as tier 1. Tier 3 consists of single family structures that contain copper pipes with lead solder installed before 1983. All samples must be taken from tier 1, which is the high risk tier, unless an inadequate number of structures are available, then the supplier must draw from tier 2 and tier 3 respectively, until the appropriate number of samples are drawn.

All samples must be one liter in volume, must be a first-draw, and must have stood motionless in the plumbing or lead service line for at least six hours. Sample locations must be in the kitchen or bathroom. The regulation also establish treatment technique requirements that include optimal corrosion control, source water treatment, public education, and lead service line replacement. The treatment techniques are triggered when test results of the samples exceed the corresponding action levels. These action levels are 0.015 mg/l for lead and 1.3 mg/l for copper measured in the 90th percentile. In the event that test results exceed the action levels, public notification must occur within sixty days.

The MWRA water distribution system supplies water to 46 member communities, which vary in population from 10,000 to 500,000. Based on the original sampling requirements, more than 2000 samples would be needed during the initial period and more than 1000 during the follow-up period. The Advisory Board, along with the MWRA, petitioned the Department of Environmental Protection to reduce the number of samples required, based on the fact that all the MWRA water communities share a common

source and should be considered one large system. This would be consistent with 310 CMR 22.12, which permits consecutive public water systems to be considered a single system for monitoring purposes. Also, the concentration of lead and copper in targeted high risk locations would not vary significantly from one community to another within the MWRA service area. Thus, high volume sampling would be redundant and could be reduced without compromising the ultimate goal of the lead and copper rule, which is to supply quality potable water.

As a result of the petition all MWRA fully supplied communities inside the Southborough area are allowed to reduce the number of samples by 75%. These 25 communities will be supplied with bottles from the MWRA, which will also provide the testing of these samples. However, the remaining 21 MWRA water communities will have to comply with the original regulation and sample 100%, along with incurring the responsibility of having these samples tested. This is due to the fact that they supply all or part of their own water to the community, or they receive partially treated or raw, untreated water from the MWRA.

.....

LEGISLATIVE UPDATE

Tara O'Donnell

Hearing dates will be announced in Mid-February.

House 393

AN ACT RELATIVE TO CERTAIN FEES TO BE PAID BY THE MWRA (Rep. Cass)

Seeks to repeal the \$.00015 per gallon tax on water which could add up to \$16 million per year to ratepayers.

House 394

AN ACT RELATIVE TO THE WATERSHED MANAGEMENT FUND (Rep. Cass)

Seeks to repeal the Watershed Management Fund to be managed by the Commonwealth.

House 395

AN ACT RELATIVE TO CERTAIN PAYMENTS TO BE MADE BY THE MWRA TO THE COMMONWEALTH (Rep. Cass)

Seeks to repeal the section which provides for the prepayment of the MDC debt purported by the Governor to be \$120 million.

Senate 978

AN ACT RELATIVE TO THE ESTABLISHMENT OF THE CLINTON-LANCASTER WASTEWATER DISTRICT (Senator White)

Seeks to transfer the Clinton Wastewater Treatment Plant from the operating and capital budget of the MWRA to the Clinton/Lancaster Sewer District. This treatment plant costs MWRA ratepayers an additional and unnecessary \$2.8 million a year.

House 1954

AN ACT RELATIVE TO THE COST OF THE CLEAN-UP OF BOSTON HARBOR (Rep. Galvin)

This legislation seeks to find the fairest formula to spread the cost of the harbor cleanup over the entire Commonwealth.

House Docket # 2865

AN ACT TO REDUCE WATER AND SEWER FEES (Rep. Cohen)

The legislation would allow homeowners to deduct their water and sewer fees from their taxes.

Senate 1178

AN ACT RELATIVE TO THE COMPOSITION OF THE MWRA BOARD OF DIRECTORS (Senator LoPresti)

This bill would allow Quincy and Winthrop to directly appoint their members to the Board of Directors. In addition, the legislation would permit the Board to elect their own Chairperson.

Senate 1140

AN ACT FURTHER REGULATING UNIFORM PROCUREMENT (Senator Buell)

This bill seeks to provide preference to a responsive Massachusetts bidder if their bid is within ten thousand of the lowest bid.

House 397

AN ACT TO PROTECT THE METROPOLITAN DRINKING WATER SUPPLY (Rep. Cohen)

Passed the House, Senate has delayed action until mid-March.

February 9 - March 21

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Feb 9	Feb 10	Feb 11 8:30am Operations Committee Meeting - Brookline	Feb 12 MWRA Board of Director's Meeting	Feb 13 10:30am WSCAC - Worcester	Feb 14 8:15am Executive Committee Meeting Mr. Levy's Final Day	Feb 15
	Boston Harbor Mass Bay Symposium Kennedy Library					
Feb 16	Feb 17 PRESIDENTS DAY	Feb 18	Feb 19 9:30am Law Suit Hearing - State Supreme Judicial Court	Feb 20 5:30pm Sewer Rate Task Force - Dedham 7:30pm Advisory Board Meeting - Dedham	Feb 21	Feb 22
Feb 23	Feb 24	Feb 25 Begin 60 day review of MWRA FY93 CEB (tentative)	Feb 26 MWRA Board of Director's Meeting	Feb 27	Feb 28	Feb 29
Mar 1	Mar 2	Mar 3	Mar 4	Mar 5	Mar 6 11:00am Wastewater Advisory Committee Meeting	Mar 7
Mar 8	Mar 9	Mar 10	Mar 11 MWRA Board of Director's Meeting	Mar 12	Mar 13 8:15am Executive Committee Meeting	Mar 14
Mar 15	Mar 16	Mar 17	Mar 18	Mar 19 7:30pm Advisory Board Meeting - Wakefield	Mar 20	Mar 21 New England Environmental Conference - Tufts Univ.

FY 93 BUDGET REVIEW TO BEGIN IN FEBRUARY

Cornelia Potter

During the first week of February, cities and towns should hear what the proposed water and sewer rates should be for the year starting July 1st. The MWRA is expected to announce, in time for the February 12th Board of Directors meeting, the rate revenue required to cover its current expense budget for FY93. The overall regionwide rate increase is expected to be in the 38% range.

At the February 12th meeting, the MWRA is also expected to authorize the release of the draft operating budget to the Advisory Board for its official, 60-day review. We plan a thorough and detailed examination of the spending plan, to ensure that every dollar proposed is justified. Weekly meetings will be held with interested Advisory Board members during March and early April,

to develop a set of recommendations. These comments and recommendations will be discussed by the Executive Committee on April 17 and the full Advisory Board on April 23rd. The Authority will be holding its rate hearings during this period, most likely during the first week in April. The MWRA Board of Directors will hold its budget hearing around May 10, and will finalize the budget at its June 24th meeting.

Over the last two months members of the MWRA Board of Directors, members of the Advisory Board, and their respective staffs held meetings as an Ad Hoc Committee to examine the budget process. The committee arrived at a list of 13 recommendations aimed at improving the budget process and resulting in increased Advisory Board participation.

AD HOC COMMITTEE RECOMMENDATIONS

The recommendations are to:

1. Adopt a tiered approach to budget review;
2. Create a working committee to sift through less significant issues;
3. Adopt a practice of formal consultation with the Advisory Board early in the budget preparation process;
4. Notify the Advisory Board of policies and expenses that arise out of the budget review process;
5. Encourage increased Board participation in budget review and attendance at budget hearings;
6. Hold periodic updates of key programs and activities for the Board of Directors;
7. Provide a place for direct Advisory Board participation during budget hearings;
8. Provide a schedule of latest estimates of commodity costs and usage for use by the working committee and Board at their deliberations;
9. Reallocate budgeted amounts during the year at the end of the sixth month;
10. Identify cost savings as they arise for transfer to the stabilization fund;
11. Expand tabular presentations in the budget document;
12. Update current year spending projections in the budget document;
13. Reconvene Ad Hoc Committee at close of budget cycle.

Editorial

by Joseph Favaloro
Executive Director
MWRA Advisory Board

CHALLENGES AND EXPECTATIONS

February 14th of 1992 marks more than the celebration of the feast of St. Valentine, it also marks the beginning of a new chapter in the history of the Boston Harbor and more specifically the MWRA. Paul Levy, the Authority's chief executive for the past four years, will leave the Navy Yard with a legacy of achievements and accomplishments that have the MWRA on or ahead of the court ordered schedule mandating the milestones along the way to a cleaner Boston Harbor.

Mr. Levy's departure seems a perfect opportunity to reflect on prevailing attitudes at the MWRA and to outline, for Doug MacDonald, a plan to take the Authority the next mile, in the continuing effort to meet the challenges of

the future while addressing the concerns of the 2.5 million ratepayers who have been left with the check. The first step is a prudent and forthright dialogue between Mr. MacDonald and the Advisory Board.

The Advisory Board has assembled a Special Report to the Executive Director which will be on his desk the day he officially takes the reins at the MWRA. The report recognizes the opportunity, at this crossroads, to re-evaluate the project making use of the latest data. Now is the time to act if any comprehensive rate-relief program is to be put in place. In the face of a 46% rate increase on the sewer side of operations this year alone, and with the arrival of the peak construction years, a rate stabilization program is essential. Any rate stabilization plan post FY93 will be in vain as the rate-relief window will be closed with the shutters fastened as the typhoon of debt service will be upon us.

As the special report points out, the number one priority of the new Executive Director must be obtaining additional state and federal funding for the Boston Harbor project. State funding is a bleak prospect at best. However, it should be a priority of the new Executive Director to, at the least, keep the state out of the ratepayers pocket and stop the incessant raids on the MWRA and end the state's "creative" budget balancing act, on the backs of ratepayers. Such unsound and unfair tax shifting is wrong and in some cases unconstitutional.

With the new Executive Director comes expectations of new relationships with congress and the President. Mr. MacDonald should, within the first month of his tenure, convene the Massachusetts congressional delegation, in state, and have them tour the facilities at Deer Island and point out the 950, soon to be 2000, jobs created by the project and ask them how such an enormous economic turbine is denied any substantial federal fuel. It is inexcusable that a public project responsible for one-third of the construction presently underway in New England goes virtually ignored by the federal government except for an occasional 100 million dollars dropped in a 6 billion dollar bucket. The federal government must become part of the solution. The minds of federal regulators must be opened along with the purse-strings of Congress and the President. This is the duty with which Mr. MacDonald is charged.

LITIGATION UPDATE

Paul Niedzwiecki

The wheels of justice turn slowly, but they do turn. It has taken six months but at last it's here! On Wednesday, February 19th, at 9:30 a.m. the pending motions to dismiss in the case of MWRA Advisory Board v. Commonwealth of Massachusetts will be heard in front of a single justice of the Supreme Judicial Court of Massachusetts. The hearing will be held on the 13th floor of the Suffolk Superior Court House and is open to the public.

Since the last Newsletter the state has filed a motion to dismiss the MWRA's crossclaim. As it stands there are motions to dismiss pending against all the plaintiffs in the case, the Advisory Board, the communities, the individual ratepayers, and the MWRA. The state uses the same argument in all of its motions to dismiss, challenging the standing of all the parties involved to sue over the issues in question. The communities and the MWRA, at the least, have very persuasive defenses to any challenge to their standing. The suit should survive the motion to dismiss and move on very quickly to a hearing on the merits.

The Advisory Board has realized a real cost savings to date of at least \$2,826,600 for ratepayers in FY92.

This figure will undoubtedly run higher as already the state's position on the "furlough" program has changed with the passing of legislation in late November that reimburses employees who worked without receiving pay. The Advisory Board's counsel have already contacted the MWRA and the Attorney General's office asking them to stipulate to the fact the "furlough" request has been voided. A stipulation of this nature will be another major victory.

Upon review of the Governor's proposed budget for FY93, House No. 1, it is clear that state does not expect to receive the \$120 million from the pre-payment of MDC debt. This non-tax revenue has been criticized harshly in the press with Senate Ways and Means Chair Patricia McGovern saying, "It didn't work last year, I don't know what makes him think it is going to work this year." In a report issued on January 30th, the Massachusetts Taxpayers Foundation called the \$120 million in non-tax revenue, "[a] bad idea, which would be financed by ratepayers in the water and sewer district who already face a heavy burden."

Stay Tuned...



MASSACHUSETTS WATER RESOURCES AUTHORITY
ADVISORY BOARD
Eleven Beacon Street, Suite 1010
Boston, Massachusetts 02108-3002