

EXECUTIVE COMMITTEE MEETING
OCTOBER 10, 2003

MINUTES APPROVED AT THE NOVEMBER 14, 2003 MEETING

Present: John Sanchez, ARLINGTON; John Sullivan, BOSTON; Ed Sullivan, CANTON; Katherine Haynes Dunphy, MILTON; Lou Taverna, NEWTON.

Also in attendance: Andrew Pappastergion and Joseph Foti, MWRA BOARD OF DIRECTORS; Joseph Favaloro, Cornelia Potter, Ryan Ferrara and Mary Ann McClellan, MWRA ADVISORY BOARD STAFF.

I. Approval of the September 12, 2003 Minutes of the Executive Committee

The meeting, held at the Advisory Board office, was called to order by Chairman Katherine Haynes Dunphy at 8:34 a.m. A Motion was made **TO APPROVE THE SEPTEMBER 12, 2003 MINUTES OF THE EXECUTIVE COMMITTEE.** It was seconded and passed by unanimous vote.

II. Upcoming Hearing on Senate 1259

- ♦ Discussion: Memorandum of Understanding (MOU) Between EOEA and MWRA Regarding Watershed Operations

The hearing on Senate 1259 will be held next week. In addition, an MOU is emerging between the Division of Conservation and Recreation (DCR) and the Authority.

The Advisory Board is encouraging members to be present at the hearing. Staff provided members with a cost analysis that showed the impacts of building a filtration plant in conservative dollars, taking the lowest identified amount of \$180 million. Assuming a 4.8% interest rate (the current rate) and without operating costs, which would be significant – minimally \$3.7 million per year, staff calculated the additional costs for each community for the first year and over the 30-year loan period. It could have relatively significant impacts on communities, based on the size of a community. Somerville would pay an additional \$360,000 per year and \$11 million over 30 years. Boston would pay \$132 million over 30 years to build a filtration plant.

With the latest round of the Early Retirement Incentive Program, the former Division of Watershed Management (DWM), now DCR, is down to 122 employees. Overtime funding for weekends and evenings continues to be a problem. All night meeting overtime has been eliminated, disturbing the close relationship that DWM had with watershed communities. The Administration eliminated all funds for the state-wide acquisition of land, including watershed property. Critical pieces of land have been identified. Under existing circumstances, the opportunity to acquire it will be lost.

Mr. Favaloro stated that the MOU favored by the Executive Office of Environmental Affairs (EOEA) isn't worth the paper it is written on if there is no way to make DCR accountable. EOEA and MWRA staffs have been going back and forth with drafts. The Advisory Board staff had the opportunity to review the draft MOU and noted that key subjects were not mentioned. The Advisory Board wants to include in the MOU the stipulation that DCR would be exempt from all state caps. After two and a half weeks, the Authority agreed to add this measure. Jonathan Kaledin and Karl Honkonen of EOEA have taken that language under advisement.

Mr. Favaloro expressed concern that the Secretary will convince the Board that the transfer is not needed because the MOU will be in place. The MOU works hand in hand with the transfer. The Advisory Board has been advocating this transfer for many years. In the past year, when the Board of Directors joined, it was a critical step. If the Authority and Board of Directors walk away, the transfer legislation is in trouble.

Andrew Pappastergion stated that he feels strongly that the Advisory Board should be a player in the MOU discussions.

III. Discussion: Making the Case for a Realistic CSO Plan

♦ Cost Benefit Analysis

Cornelia Potter stated that five projects remain in the CSO Control Program that the Authority is in the process of reassessing or moving forward (with revised project plans). They are the North Dorchester Bay/Reserved Channel, East Boston Branch Sewer Relief, Fort Point Channel & BOS019 Conduits, Upgrading Existing CSO Facilities (including Cottage Farm CSO) and Cambridge CAM002-004 (Cambridge) Sewer Separation (including the Alewife/Mystic). These five projects are where the largest and most significant changes can be expected to occur and where the dialog is focused.

The CSO Program has evolved over the last ten years with notable cost increases. In 1994, the initially revised CSO Plan was approximately \$370 million, not including planning and support costs; by the time the Plan was agreed to by the Court and a schedule was set in 1997, the costs had grown to \$440 million. As of the current capital budget (FY04-06), costs have grown to more than \$644 million.

There are a number of alternatives that the Authority has identified or is being asked to consider, particularly for North Dorchester Bay. The alternatives include the potential for building the 600-MGD facility, relocated to a site at Castle Island or Subaru Pier. Additional costs could be added to the project depending on which main alternative is selected.

The Union Park Detention Treatment Facility is under construction, but is a particularly tough project. The Authority has already experienced a change order of \$900,000 and identified a future change order to deal with substantially different subsurface conditions. The Advisory Board estimates that there will be at least \$2 million in change order costs.

The Authority has upgraded the Cottage Farm CSO Facility, expanding its capability and improving its treatment capacity. If the Authority were pushed by EPA to construct additional storage under Magazine Park, next to Magazine Beach, the cost to MWRA would be \$40 to \$80 million, depending on whether Cambridge would split costs.

The East Boston Branch Sewer Relief will cost \$58 million for the existing plan; even with revisions to the plan, that cost may not drop.

The Cambridge Project for Alewife/Mystic has long been under discussion. It is a tough issue because it involves flooding homes in the Alewife/Arlington area. Further, dry weather conditions don't meet water quality standards. The Authority, because it is obligated to deal with CSO discharges, has developed a plan that has grown from \$12 million to \$75 million because the extent of the problem was not known. Half of these costs are the obligation of the Authority. There have been a number of discussions about the cost-effectiveness of the Plan because when it is completed, it will not result in dry weather conditions meeting water quality standards.

Also involved in the Cambridge Project is the larger public health concern of floodwaters contaminated with human effluent. Even though a plan was ostensibly agreed to and filed with MEPA for public comments, MWRA is concerned that the regulatory agencies may require additional CSO controls beyond the 84% now recommended. The additional work to reach complete CSO elimination could cost between \$50 and \$100 million more.

In sum, there is the potential for an additional \$200 to \$400 million in costs that could be added to the CSO Control Program, bringing the program cost back up over \$1 billion.

John Sanchez asked if the 1997 Plan was based on a court order and was MWRA required to remove 100% of the CSOs. Ms. Potter stated that the Plan goes with the revised court order and the revised court order schedule. MWRA was not required to remove 100% of the CSOs; there was the option to review water quality standards and potential plans for meeting water quality standards. If the Authority couldn't completely eliminate CSOs, then there could be a determination to set water quality at Bcso. For Alewife, the Authority has proposed Bcso, but with a considerable level of control.

Mr. Sanchez stated that Arlington is concerned about CSOs because the Alewife Brook is flooding people's houses and backyards. MWRA's phased approach is acceptable, but Mr. Sanchez hopes that the Executive Committee will support the objective of long-term full CSO removal. Mr. Favaloro stated that in any plan the Authority puts forward it always strives to get to 0%, but there are no clear answers. Much of the debate on the homes in Arlington relates to the principal problem that the cause comes from Belmont and Arlington, so whatever the Authority were to accomplish, the flooding will still be impacting East Arlington until Belmont and Arlington become part of the solution.

Mr. Pappastergion stated that the Board wrestles with the question that if you spend \$600 million to get to 97% and the last 3% is going to cost another \$600 million, is it worth it? What benefit do you get?

Ms. Potter noted that Authority staff additionally questions whether the final percentage can even be removed.

Ms. Dunphy asked if all the sewage was removed, to what extent there still be contamination from dirty stormwater. Mr. Favaloro noted that Pleasure Bay, where there are no CSO discharges, had beach closures because of stormwater, so there is clearly a direct link with stormwater and water quality. That is the dilemma – to spend all this money to correct a problem and the person in East Arlington is going to say it is not any better.

Mr. Sanchez agreed, but what if those communities were in the process of eliminating those problems. Arlington is working on three projects to eliminate bacteria from entering its drainage systems.

Mr. Favaloro stated that over time, as each community does its part, perhaps at that point the Authority could see what else needs to be done. Is the solution always open ended? Mr. Favaloro thinks the answer is yes, unless MWRA is forced down the road that “this is the solution, do it now”. If all the pieces haven’t been put into play, there is an opportunity to go back and fine tune it.

Mr. Sanchez asked if the consensus of the Executive Committee is as communities progress over the phased approach, work will continue on CSO removals; or is the consensus that “this is what we are going to do and stop”. John Sullivan responded that we can never stop. When a community has a stormwater permit, studies are required; results are variable. Boston Water and Sewer Commission (BWSC) has data that says it is good today, but bad the next day. Boston’s permit has five years of studies that are sent to EPA. Stormwater will never be totally clean; it is highly variable and may violate water quality standards. BWSC is doing CSO separation in Stony Brook, separating up to a one-year storm; you still get stormwater. If there is a five-year storm, BWSC will dump CSO on the Stony Brook with EPA’s approval. Perhaps in the future the goal can be a two-year storm, but that is a function of money. If you choose to live in an urban environment, you do the best you can with the money you have.

Mr. Pappastergion noted that if inflow and infiltration could be removed from the system, CSOs may never activate but that is a different problem than stormwater.

Ms. Dunphy noted that Arlington is concerned, and rightfully so, that contaminated water is in people’s neighborhoods, in their yards or homes. That is a problem that is more serious than having pollution going into the water, but nobody is near it. Perhaps these neighborhoods will need special attention and more money should be directed to them than to Fort Point Channel for example. Do some CSO work, then stormwater work, and see what the next step is. It is a process.

Mr. Sanchez stated that it needs to be cost effective for everyone and expressed his support for MWRA’s proposed project. As pollution levels drop, we should continue to work on CSO removal.

Ms. Potter reported MWRA's findings that roughly 75% of the total annual stormwater runoff tributary to the Brook comes from Belmont and Arlington. Even if additional stormwater discharge resulting from sewer separation in Cambridge and Somerville could in some way be treated, the remaining untreated stormwater from Belmont and Arlington would continue to cause exceedances of Class B standards. The conclusion to be drawn from these observations is that CSO elimination by sewer separation at an incremental cost of another \$100 million beyond the cost of the recommended plan would not result in attainment of the Class B standard.

Further, it is possible that some factors of the day to day dry weather bacteria load to Alewife are caused by clogged connections between the sanitary sewer and the stormdrains. It is suggested that if additional resources were to be spent beyond the cost of the recommended plan, the target should be the sources causing both the non-CSO wet weather violations and the day to day exceedances of bacteria standards, as opposed to further reducing the activation of CSO in larger and less frequent storms. These activities would appropriately start to move beyond the scope of the Authority's program and introduce the need for participation from other entities.

♦ Affordability Analysis

Mr. Favaloro stated, where is the cost greater than the benefit – that has to be maintained as a critical component in any discussion with the court parties and with EPA. The single most critical piece, if the Authority is going to make a credible case that diffuses the CLF's or the regulators, is going to hinge on the affordability discussion. The Authority, as part of its last submission, had some changes to the affordability analysis. EPA is debating MWRA because they believe the Authority isn't living within the letter of the regulations on affordability analysis. The reality is whatever the Authority puts together for the submittals with its own pen will not be taken as credible. It will be seen as self-fulfilling.

The Advisory Board has strongly advocated for hiring a world-renowned economist with stature to take into consideration factors relating to living in New England and the greater Boston area. This endeavor is going to be well-spent money.

Ed Sullivan noted that right now the Advisory Board is taking the place of the expert as advocates for the ratepayer. Looking at the total budget, there has to be a limit. We must get the best bang for the buck.

Ms. Dunphy expressed her sympathy for Arlington's problem regarding people's homes; however, she does not want MWRA committed to spending money if it is not going to solve the problem. Doing one step at a time and then taking step back to reassess is the correct method. MWRA is not a stormwater agency; it can't take on the problem for all the communities.

Lou Taverna asked if the Advisory Board has the budget to hire an independent economist. Mr. Favaloro responded that the Advisory Board does have a legal fund that could be used for this purpose. For the same reason that the Authority's penmanship wouldn't be credible, the Advisory Board's would be seen as self-fulfilling. The value of the document may be lost because it was done via the Advisory Board. Ms. Dunphy

also noted that the Advisory Board is not part of the court proceedings between EPA and MWRA and it could be difficult to insert Advisory Board documents into the proceedings.

- ◆ Threat of Legal Action

Mr. Favaloro stated at some point the Advisory Board may get into a discussion about some level or threat of legal action as relates to stormwater.

IV. Preview: Wastewater Metering Replacement Program

MWRA staff and the meter manufacturer will provide a presentation at the next Advisory Board meeting to give communities an opportunity for comments and questions.

V. Update: CIP/CEB Budgets

Ms. Potter gave an update on spending through August, the first two months of FY04, based on variance reports of both current and capital budgets. Maintenance spending has picked up the pace and was over budget for August. Staff met yesterday with the Deer Island team and discussed maintenance projects and staffing. Deer Island has 19 positions to advertise for. Total staffing at Deer Island is now at 240 employees, as low as it has ever been, having been affected by layoffs and no new hires in 2003.

Staff expects that overtime spending will be higher than budgeted as it will be a number of months before the Authority has the full complement of people it needs. Overall direct expense spending is \$1.75 million below budgeted through the first two months of the year and total operating costs including lower debt service put the variance at \$2.7 million below budget for direct expenses. Investment income is down as well.

On the capital side, MWRA has spent \$3 million more than budgeted, \$50 million for the first two months of the year.

VI. Questions or Comments

Mr. Favaloro reported that the Advisory Board's Government/Media staff position is being advertised for two Sundays in the Boston Globe, online and in the Tuesday edition of Metro. To date, ten to twelve resumes have been received. The applicant should have a good understanding of the Legislative process, strong writing skills and knowledge of regulatory issues.

VII. Approval of the Advisory Board Agenda for October 16, 2003

A Motion was made **TO APPROVE THE ADVISORY BOARD AGENDA FOR THE OCTOBER 16, 2003 MEETING**. It was seconded and passed by unanimous vote.

VII. Adjournment

A Motion was made **TO ADJOURN THE MEETING AT 10:03 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Edward Sullivan, Secretary