EXECUTIVE COMMITTEE MEETING
JANUARY 9, 2004
Minutes Approved at the February 20, 2004 Meeting

Present: John Sanchez, ARLINGTON; John Sullivan, BOSTON; Katherine Haynes Dunphy, MILTON; Jay Fink, QUINCY; Ted McIntire, READING; Ralph Pecora, WALTHAM.

Also in attendance: John Carroll, MWRA BOARD OF DIRECTORS; Joseph Favaloro, Cornelia Potter, Ryan Ferrara, Tracy Wadsworth and Mary Ann McClellan, MWRA ADVISORY BOARD STAFF.

I. Approval of the November 14, 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 NOVEMBER 14, 2003 MINUTES OF THE EXECUTIVE COMMITTEE.** It was seconded and passed by unanimous vote.

II. Results of Community Survey on I/I and the Local Pipeline Assistance Programs

Joseph Favaloro, MWRA Advisory Board Executive Director, stated the MWRA has included a $40 million placeholder in its Capital Improvement Plan (CIP), at the Advisory Board's urging, for a Phase V of the I/I Financial Assistance Program. A Survey on the I/I and Local Pipeline Assistance Programs was sent out to communities and the Advisory Board received a response rate of nearly 90%.

Ryan Ferrara informed the Executive Committee that 40 of the 43 wastewater communities participated for a 93% response rate; 37 of 38 communities responded for the Local Pipeline Assistance portion of the survey.

Responding communities unanimously supported the continuation of the I/I Program, with a slight majority of communities wanting to continue with 45% grant/55% interest-free loans, as with the Phase III and IV funding. The Operations Committee left the grant/loan subject open for further discussion at its February meeting, along with further discussions on whether the payback period for the I/I Program should be five or ten years. The respondents and the Operations Committee voted to support the Executive Committee's vote to support a Phase V of the I/I Program in the amount of $40 million. Two-thirds (66%) of the respondents supported the $40 million allocation.

In a non-weighted vote, communities had a two-thirds majority vote in favor of a sunset provision. If there were a weighted vote, the number went up to 73% in the affirmative. The Operations Committee will come up with a menu of how a sunset provision could be structured without being unfair to those communities that have funding issues. However, if communities cannot take advantage of the funds, they should be available to communities that can.

John Sullivan asked if those communities are paying for the funds that they are not utilizing. Mr. Ferrara stated the 45% grant portion is being paid for by all the communities, whether they use the funding or not. The concern is how can it be reallocated in an equitable way?

A number of communities that supported the sunset provision stated that funds should be used within a finite period, i.e. “use it or lose it”. The majority opposed to the sunset Provision said the Authority must respect the fact that communities are under unique pressures. For both the I/I and Local Water Programs, communities suggested that MWRA provide more outreach to appeal to elected officials, mayors and town managers.

With regard to the Local Pipeline Program (currently an interest-free loan), communities suggested a grant portion be offered. Some communities mentioned simplifying the administration of the program, as their people are frustrated because they do not have initiatives that fit closely into the Authority’s target of reducing the amount of unlined pipe. Communities felt the program should be expanded to include fire hydrants, etc.

The level of commitment that communities are anticipating for the pipeline program is contingent on the Authority offering these programs. This was heartening for staff.

Jay Fink asked if there was a reason that some communities did not respond. If those that did not respond do not want to use these funds, perhaps other communities could utilize them. Mr. Ferrara stated that three communities did not respond. Some are in transition with interim directors or with staff out sick.

Mr. Favaloro stated the response to the sunset provision was the most surprising. From a staff perspective, it cannot be ignored. Staff will develop strategies on phasing for further discussion before the Operations Committee.

Mr. Sullivan asked what harm it would do to have the money sit there. Mr. Favaloro stated that a sunset provision could be structured in a way that it would not have an immediate impact. It may provide motivation to convince the decision makers that they will lose these funds if they have not put something together by a certain date.

Mr. Fink noted when the Local Pipeline Program was created, it was to counter Environmental Protection Agency (EPA) concerns about filtration and water quality coming out of people’s taps. When the Department of Environmental Protection was involved, it wanted to target specific communities based on water quality. If there is one community with poor water quality that is forcing the MWRA or other communities to add additional chlorine, then it is responsible for us to say we have given this community the tool and put pressure on the community to do it, rather than bring the entire system down with it.

Ralph Pecora stated that we do not know all of the circumstances within each community, which may have had a turn over or budget cuts that did not allow them to take advantage of the program. They should not be penalized because of internal political or budgetary issues. Mr. Fink responded that the Advisory Board needs to hear that from those communities. From the MWRA level, if there is money still sitting there, why should they allocate more? Mr. Fink stated he would like to see everyone use all the money and improve the system, but if that is not going to happen, let's move on.

Mr. Favaloro noted that the threat of a sunset provision has motivated one City Engineer to speak with a Mayor about getting work started in their community. The Mayor called the Advisory Board to find out if the money would be lost.

III. Preview: Advisory Board CIP Review Process

Cornelia Potter stated that overall growth in projected spending and the timing of that growth is interesting. The Authority is projecting increases of nearly $350 million, of which some $290 million is for new initiatives. Some of the new work ($43 million) would be in the next four years, the first five-year cap period.

From FY09 out, there is a dramatic increase in projected spending. This is catching staff's eye because in prior years, there was a ten-year cap and staff had remarked over the last couple of years that as the Authority added new projects and phases to the capital budget, they were "making room for it" by borrowing from the future $126 million. Now that there is not a formal cap period beyond FY08, the Authority is turning to that timeframe as an opportunity to expand spending.

Staff has identified two issues, measurable growth over the ten-year period and competition for space to spend within the first five-year period, FY04-FY08. In the proposed capital program additional spending may be identified, most notably in the CSO Program where the Authority is entertaining a number of reassessments (for the Charles, East Boston, Alewife and South Boston projects), each one of which could result in higher levels of spending.

New spending includes placeholders for a number of new initiatives, including $114 million for interceptor renewal, $44 million for UV treatment at Walnut Hill, $39 million for Sudbury Aqueduct rehabilitation and $24 million for optimization of the Cambridge Branch Sewer.

Staff is about to start two solid weeks of briefings to get a clearer idea of the details and will also meet on the CEB. Budget Manager Carl Erickson will be at next week's Advisory Board meeting to provide a review of the proposed FY05-07 CIP.

Ms. Dunphy asked if staff is encountering any problems because MWRA has not provided a document. Ms. Potter stated it would be nice to have the words that wrap around the numbers. Authority staff has been enormously cooperative in providing notebooks and outlines for initiatives, but staff needs considerably more information.

John Carroll asked if the Authority is adhering to the five-year cap. Ms. Potter replied the proposed budget is within $300,000 of the $1.134 billion five-year cap. Mr. Favaloro stated the issue is not the five-year cap. Staff is noting that already, one year into the new five-year cap, MWRA has loaded $300 million of spending in the following five-year period (FY09-13) not covered under the cap. By the time the Board of Directors or the Advisory Board has an opportunity to review the next five years, that number could be so high that there will be no chance to control it. Mr. Carroll stated there will be a chance to control it because there is a limit on how much work MWRA can do.

Mr. Carroll stated that MWRA cannot get away with making the budget for FY09 $1 billion instead of $200+ million. Mr. Favaloro stated the real issue is what the MWRA will be spending over a ten-year horizon. All the Advisory Board staff is trying to flag is that the ten-year horizon that was there last year is now up $300+ million and we have no control over it.

Mr. Carroll asked when the Board votes to develop a cap for FY09-13. Ms. Potter stated the vote can come anytime between now and then, and could be as late as the spring of calendar 2008 when the Board votes on the FY09 budget. Mr. Favaloro noted that once a project is identified in the CIP, it magically becomes real. Then MWRA will say that the Advisory Board wants to cut the CIP by some amount of money and here are the devastating results of what the Advisory Board wants to do. That is why the cap helped. The Authority is loading in projects without any restraint. Mr. Carroll stated that the Board of Directors needs to make sure that they do not.

Mr. Favaloro stated to the Authority's credit, it is living within its cap. However, one-year into the cap, the next period has increased by $300 million. Two fiscal years from now, it may be $500 million more. History tells us that the Authority's number will become the new cap and the Advisory Board will have lost any chance of having a real say in it.

Mr. Sullivan asked how much money is in the current five-year cap for the North Dorchester Bay CSO. Ms. Potter said nearly $90 million of the $225 million currently budgeted for the project as a whole is scheduled to be spent within the five-year cap timeframe. Mr. Sullivan noted that if negotiations on the project go the wrong way, that number could become a $300 million budget. Ms. Potter stated there is the potential for that number to increase, depending on which alternative and whether the Authority is required to purchase a site for a CSO-related facility.

Mr. Fink asked what the timeline is for that project. Ms. Potter stated that construction currently is anticipated to begin in July 2006, with a 3½-year construction duration and $120 million budgeted after FY08. Mr. Sullivan noted that the budget could increase to $220 million. Ms. Potter agreed, stating that should there be re-negotiation with EPA, especially if costs increase during the cap period, the Authority should guard against being pushed to construct this project too fast. Mr. Carroll stated the Advisory Board's position would be that other projects would have to be reduced to accommodate this one.

Mr. Favaloro stated this is the start of the CIP process and staff will be spending significant time over the next 60 days keeping the Executive Committee and the Advisory Board apprised of its findings.

IV. Status: Transfer of the Watershed Division/Consultant Services

With the Executive Committee's support, the Advisory Board has negotiated a contract to engage the firm of Durand & Anastas Environmental Strategies, Inc., headed by the former Secretary of the Executive Office of Environmental Affairs, Bob Durand, to assist the Advisory Board in its attempts to separate the watershed division from the General Fund, be it through a statutory trust or a transfer to the MWRA (the Advisory Board's preference). The Executive Committee further voted that the contract could be no more than $40,000; the negotiated price is now $38,500, with a mid to end of August contract conclusion. This timeframe coincides with the legislative session.

As former Secretary of EOEA, Mr. Durand has a strong relationship with environmental organizations and is an avid outdoorsman. Mr. Durand is a former Representative and Senator from central Massachusetts. The person that replaced him in the Senate is now the Chairman of Natural Resources. There are a lot of possible positive outputs. J. R. Greene has asked that Mr. Durand attend a Sportsmen's' Dinner in March.

Mr. Pecora asked if the consultants would regularly attend meetings to discuss their findings. Mr. Favaloro stated the work plan devised for the consultants includes meetings with the Advisory Board and Executive Committee.

With a statutory trust or transfer, the goal is to insulate the Division of Water Supply from the restraints of the General Fund. To the credit of the Administration, they have, through General Counsel Jonathan Kaledin, been at the table in the creation of an MOU and have been open and up front in trying to create the right Statutory Trust language. Through her general counsel, Secretary Roy Herzfelder is aware that negotiations with the consultants are going on.

V. Legislative Update/Preview State Budget Process

Mr. Favaloro welcomed Tracy Wadsworth to the Advisory Board staff in the Government/Media Coordinator position.

Mr. Favaloro stated toward the end of the month, House 1 will find its way onto the radar screen. At this juncture, staff believes that debt service assistance will be zeroed out from the Governor's budget. The Administration has said it will provide more money for the water supply division for the responsibilities of watershed protection.

Staff assumes the SRF Program will continue as it was and has not heard anything about raising the SRF interest rate again. For FY04, MWRA has still not received its portion of the $5 million in debt service assistance. However, the MWRA Caucus has put pressure on the Department of Revenue, which has committed to send checks out in early March.

The Advisory Board has been pushing for an affordability analysis relating to the CSO Control Program. The Authority has invited Advisory Board staff to participate in meetings and interviews to bring on an organization to undertake the affordability analysis.

VI. Approval of the Advisory Board Agenda for January 15, 2004

A Motion was made **TO APPROVE THE ADVISORY BOARD AGENDA FOR THE JANUARY 15, 2004 MEETING.** It was seconded and passed by unanimous vote.

VII. Adjournment

A Motion was made **TO ADJOURN THE MEETING AT 9:52 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Edward Sullivan, Secretary