EXECUTIVE COMMITTEE MEETING
FEBRUARY 20, 2004
Minutes Approved at the March 12, 2004 Meeting

Present: John Sullivan, BOSTON; Ed Sullivan, CANTON; William Hadley, LEXINGTON; Katherine Haynes Dunphy, MILTON; Lou Taverna, NEWTON; Bernie Cooper, NORWOOD; Jay Fink, QUINCY.

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

I. Approval of the January 9, 2004 Minutes of the Executive Committee

The meeting, held at the Advisory Board office, was called to order by Chairman Katherine Haynes Dunphy at 8:32 a.m. A Motion was made **TO APPROVE THE JANUARY 9, 2004 MINUTES OF THE EXECUTIVE COMMITTEE.** It was seconded and passed by unanimous vote.

II. Action Item: Recommended Changes to the Infiltration/Inflow Grant/Loan Program

Joe Favaloro stated the Operations Committee met on February 10, 2004 to provide guidance on options for a sunset provision and the combination of grants vs. loans for the Infiltration/Inflow (I/I) Program.

Ryan Ferrara reported the Operations Committee agreed to support a 45% grant/55% interest-free loan arrangement with a five-year payback for Phase V of the I/I Program. Both the Executive and Operations Committees had previously agreed the Authority should go forward with a Phase V of the I/I Program in the amount of $40 million.

Options for instituting a sunset provision, compiled by Advisory Board staff and Operations Committee Chairman, Jay Fink, were made available to the Operations Committee. For the I/I Program, the Operations Committee agreed if a community does not utilize its funding for each phase within a particular time period, it would lose the grant portion of the I/I grant/loan program. However, communities remain eligible for the loan portion.

John Sullivan asked if a community used $1 from a Phase, would the community remain eligible or do all funds have to be exhausted? Mr. Favaloro replied the funds must be exhausted by the date of each phase. Mr. Sullivan stated the language should specifically say the total allocation must be exhausted. Staff agreed.

Mr. Ferrara said the Committee chose not to implement a sunset provision on the Local Water Pipeline Assistance Program (LWPAP), choosing instead to review a sunset provision during the five-year revisit to the LWPAP, already scheduled for July 2005.

The Committee decided to reallocate the grant portion of the funds back to the MWRA construction fund, allowing the MWRA to avoid taking on debt to provide these grants.

Joe Foti asked if the main reason for not creating a pool with the grant portion is to reduce the Authority's borrowings. Mr. Favaloro replied it would be a nightmare to reallocate pool funds among the communities. The most direct approach is to reduce the program by that amount. Ms. Dunphy noted communities that want to do more work can advocate for a new phase of the program.

A Motion was made **TO APPROVE THE FOLLOWING REFINEMENTS TO THE MWRA'S INFILTRATION/INFLOW (I/I) LOCAL FINANCIAL ASSISTANCE PROGRAM, INCLUDING REVISIONS RECOMMENDED BY THE EXECUTIVE COMMITTEE:**

1. **That the MWRA support a Phase Five of the Infiltration/Inflow (I/I) Financial Assistance Program in the amount of $40 million.**

2. **That Phase V funding be made available to communities based upon a 45% Grant/55% Interest Free Loan arrangement.**

3. **That communities be provided five-years to payback the interest-free loan portion of Phase V (I/I) Financial Assistance Program.**

4. **If an eligible community fails to take advantage of their total allocations under Phases One and Two of the I/I Financial Assistance Program by June 30, 2006, the community will relinquish the 25% grant portion associated with Phases One and Two. Eligible communities will be allowed to take advantage of their total allocations under Phases Three and Four by June 30, 2008 and June 30, 2010, respectively, or forfeit the 45% grant component. The Advisory Board recommends that eligible communities must utilize their entire allocation under Phase Five by June 30, 2012, or forfeit the 45% grant segment. The loan components for each of the Phases will remain available, absent any time constraints.**

5. **Any unused grant funds will be reduced from the total program amount upon the expiration dates for each respective phase.**

It was seconded and passed by unanimous vote.

III. Transferring the Former MDC Watershed Division from the Commonwealth's General Fund

Bob Durand of Durand & Anastas Environmental Strategies, Inc. has been hired as a consultant in support of the Advisory Board's effort to move the Division of Water Supply Protection (DWSP) (formerly the MDC Division of Watershed Management) from the General Fund of the Commonwealth. Options include transferring the Division to the MWRA, Memorandum of Understanding (MOU) and/or Statutory Trust.

Mr. Durand has begun discussions with the stakeholders and will attend the February 26th Advisory Board meeting to provide an update.

Senator Brewer, who represents the district that is most impacted, is the first “domino” if anything beyond an MOU is to occur. The Senator is supportive of protecting the water supply, but is concerned about transferring the DWSP to MWRA and wants to give the MOU a chance to work. This is significant because it puts the Trust in jeopardy between now and the end of this Legislative Session. It will be necessary to work with Bob Durand to develop and implement a strategy that ensures that the two documents remain together.

As written, the MOU effectively outlines responsibilities between the state and the MWRA; water responsibilities are with the Authority and land responsibilities are with the Division of Conservation and Recreation (DCR). The MOU outlines better accountability and would give the Authority direct opportunity to deal with problems as they develop. If dams need capital improvements, the Authority would be able to make them. However, the only way the MOU works is if it is accompanied by the Trust.

Based on meetings with the Comptroller’s Office, a statutory Trust is workable. Language is being developed to insulate the DWSP from the General Fund. The language would also develop a mechanism for the Authority to deposit funds to allow for hiring without implications and may eliminate some of the other issues that MWRA has with the current mechanism. A Trust would create a level of insulation for the smooth operation and protection of the water supply and the avoidance of filtration.

Without the Trust, the MOU is not enforceable and the MWRA would not be able to deal with land acquisition issues or hire needed positions. For the first quarter of FY04, revenues in forestry went from $300,000 to $51,000 because the DWSP did not have the staff to undertake the necessary activities.

Bob Durand plans to focus on meetings with members of the MWRA Board of Directors between now and the March 10th Board meeting when the MOU is scheduled for a vote. Mr. Durand has suggested the MOU not be allowed to take effect until it includes the Trust. There is momentum for the MOU now. A story in the State House News noted that the MOU is coming. There are so many priorities at the State House that if the Trust is made less of a priority, the Legislature may not get to it in time. The only way to ensure the Trust is established is to keep it bundled with the MOU.

John Carroll asked how the MOU could be slowed down. Mr. Favaloro responded by not voting the MOU in March. If the MOU is signed prior to the Trust, the Trust will not happen. The parties could agree to continue to work on the MOU and not bring it to a vote. Mr. Carroll said he has given his word to the Secretary of Environmental Affairs that he would support the MOU.

Mr. Favaloro stated Bob Durand, to whom the Advisory Board is paying a lot of money for his expertise, has already suggested to Fred Laskey that the MOU not be brought forward for a vote. Mr. Carroll reiterated his personal commitment to vote for the MOU if it is brought forward.

Mr. Favaloro stated the goal is to create something independent of the General Fund. The only way the MOU is enforceable is with a trigger of the Trust. Writing 32 pages worth of words that direct what ought to happen is of no value unless you have a way of implementing them. Ms. Dunphy requested that Mr. Carroll seek a commitment from the Secretary that she will support the Trust and push for Senator Brewer's support as well. Mr. Carroll agreed.

John Sullivan recommended Bob Durand focus on gaining Senator Brewer's support. Mr. Favaloro noted staff will be meeting with Senator Brewer prior to Thursday's Advisory Board meeting.

Mr. Pappastergion asked what the worst case scenario is if the Board votes for the MOU and the Trust does not go through. Mr. Favaloro stated that the MWRA may be in violation of the Safe Water Drinking Act and will have to build a filtration plant.

Mr. Carroll stated the MOU is a good document. Every effort should be made to get Senator Brewer to agree to let the Trust happen.

Mr. Favaloro stated Bob Durand will continue to work with the legislative piece and meet with members of the Board, including Chair Herzfelder, to provide the Advisory Board's perspective. He hopes to incorporate the Trust into the House and Senate budgets.

Tracy Wadsworth said the problem is, there is a great deal of momentum behind the MOU. A lot of people are talking behind the scenes about the MOU and urging its adoption, but that is not happening for the Trust. On the surface they are saying they support it, but no one is really lobbying for it.

Ms. Dunphy stated strong support for the Trust from the Secretary might sway Senator Brewer. Perhaps Bob Durand or, more importantly, members of the Board (particularly John Carroll) could convince the Secretary that this is a great MOU, but without the Trust it is not going to work. Otherwise, the goal may not be achieved. Mr. Favaloro suggested that it would be helpful to hear that Doug Foy and Administration & Finance are supportive as well. Mr. Carroll stated his belief that the Romney Administration is supportive.

John Sullivan stated language on Page 23 of the MOU notes that one agency must notify the other agency within a certain timeframe. The words "in writing" should be added.

IV. Legislative Update (Highlights of House 1)

Joe Favaloro provided highlights of the FY04-05 House 1 budget. The Governor not only zeroed out debt service assistance, he discontinued the program. As far as the Administration is concerned, there is no need for debt service assistance.

House 1 includes enough money in the SRF for water and sewer projects and did provide $700,000 in additional funding for the DWSP. The FY04 budget included $9.3 million, less $500,000 for Clinton, for a total of $8.8 million. For FY05, the budget includes $10.6 million, less $600,000 for DEM and $500,000 for Clinton, for a total of $9.5 million.

The MWRA Legislative Caucus is scheduled to meet Tuesday. Advisory Board staff will outline the MWRA's debt service assistance needs.

The Department of Revenue is releasing the debt service monies for FY04 by the middle of next week. The Authority's share will be $4,040,000.

V. Discussion: CIP Budget Review Process

Cornelia Potter reported the CIP process has been extended by one month because the Authority's publication of the draft document was not introduced until the end of January. The Advisory Board's vote on the CIP will be in March.

Spending from the start of the Authority in FY85 through the last fiscal year totaled approximately $6 billion. Through the next ten years and a few years beyond, the Authority has identified another $2 billion worth of spending. Because of the new five-year cap period from FY04-08, total spending is expected to be $1.107 billion for that timeframe. For the next five-year period (FY09-13), spending is currently identified at $747 million. For the traditional ten-year period (FY05-14), the total is $1.7 billion.

Staff has identified well over $300 million in additional spending proposed by the Authority. Most of that increase is in the five-year period of FY09-13. Furthermore, Authority staff is trying to address, through the Master Planning Process and the Facilities Asset Management Protection Program (FAMP), longer term needs to gain a more specific grasp of what they may need to protect their assets. The plan started with Deer Island, but the thinking has expanded to the wastewater interceptor and public safety. Authority staff is indicating it could easily spend $300 million a year in asset management. If that were the case, additional spending would be identified for the next phase of $364 million. It is a real concern in terms of the Authority increasing its estimates of where they may be spending money.

John Sullivan asked if there is an actual study on asset management. Is staff just saying the pump should be replaced in ten years because in 15 years it may break down or have they really developed something? Ms. Potter stated that the MWRA really has developed something for Deer Island. For the past couple of years, a consultant firm has been reviewing Deer Island asset management, from which the laterally centered management program has evolved.

MWRA is taking the lessons learned from that program and applying them to the Field Operations Department. John Fortin, a staff member, has become quite expert at it and is considered extremely effective. He has been temporarily assigned for the next year to the Field Operations Division to put some structure around Field Operations. Still the question is, how much money should you be spending? Right now, the well thought out Deer Island FAMP program is only 0.5% of the assets at Deer Island per year. MWRA is saying they may need to increase the figure to 2 to 4%.

John Sullivan stated he understands the need for asset management at Deer Island. It is in a harsh environment. Interceptors and pipes should not need rehabilitation for 100 years. Ms. Potter stated the study includes determining the useful lives of the different assets. Currently, the Authority is taking the overall multi-billion-dollar number and multiplying by 2%. The Advisory Board is suggesting take out the Outfall Tunnel, MetroWest and Norumbega, because the Authority will not be dealing with these facilities every forty years. Thus, a more specific percentage for the asset base can be determined and the number reduced based on the useful life and other factors.

Overall, the Authority's costs have increased over the last ten years to $650 million, the current cost estimate. The Authority is saying there are a number of cost risks. The South Boston project could require considerable dollars for site acquisition. The Authority may be pushed to add to the current $55+ million budget for the East Boston project and there are risks for additional control at Cottage Farm and additional costs for Alewife. The Authority's estimated cost for that bundle of unknown projects is $200 to $300 million, costs that are not yet in the capital program.

The cap is an important feature of the Advisory Board's budget review. The definition of a cap for a future period is crucial or it may get to the point where everything has been filled in and the Authority can't get out of it.

Ms. Potter reminded the Committee the CSO Control Program is the dominant feature of the future capital program. John Sullivan asked if the East Boston report will be out in a month. Ms. Potter said yes. Her understanding is the Authority staff will be bringing a recommended solution stemming from the reassessment report for East Boston to the Board for a vote. If MWRA is forced by the regulatory agencies to reach the same level of CSO control, increases can be expected.

John Carroll suggested the Advisory Board contact legislators and issue a press release that says the projected rate increase by the Authority was 4.7%, but could be 0% if debt service assistance was $20.7 million. In other words, tell the legislators MWRA would have a 0% rate increase if they could appropriate this much money in debt service assistance.

Mr. Favaloro noted that a 0% rate increase could do damage to the outyears, causing spikes. It could also be a problem with the rating agencies.

Ms. Potter noted when the Authority thought it would be eligible for a fully funded debt service assistance program, with projected debt service receipts as high as $70 million, it never translated into a 0% rate increase. The Authority always used a balance of reserves in order to create an even theme of rate increases.

Mr. Favaloro clarified that Mr. Carroll's point is to let legislators know what their money is going to buy and find a better way of making sure that message gets out there. The Advisory Board and MWRA will be meeting with the whole caucus as the legislators begin their meetings with Chairman Rogers of House Ways & Means. The Advisory Board will frame its arguments around what the legislators are getting for their money.

Ms. Dunphy suggested rather than 0%, MWRA may want to promise to reduce the increase to somewhere close to the level of inflation and point out that it could really make a difference to the ratepayers.

Ms. Potter noted the Board of Directors has voted to approve the transmittal of the Current Expense Budget to the Advisory Board for its review period. The proposed rate increase is

4.7%, or $20 million. Overall, Direct Expenses increased by $4 million; Indirect Expenses, including insurance, by $5 million; and debt service by $25 million, for nearly a $35 million increase in the overall expenses to the budget. In addition to the $20 million increase to rates, the Authority has applied bond redemption and rate stabilization funds to make up the difference between $35 million and the $20 million.

Mr. Favaloro informed the Committee that the Board of Directors has appointed Laura Guadagno as Director of Finance. Ms. Guadagno's last assignment was with the SRF. She has worked in Administration & Finance and with firms throughout Massachusetts and New York. The hope is she will come on board in the April timeline for a smooth transition with Ken Wissman, who plans to retire June 30.

Mr. Favaloro noted one of the major themes on the CIP will continue to be the need for a cap. Resources shouldn't be unlimited. From just last year, projections are already $300+ million, with the potential for another $300+ million on top of that. He is not sure that was the intention when the cap was altered last year. Staff plans to recommend a ten-year cap be revisited or the next five-year cap needs to be set sooner, as opposed to later. Once a number appears in a proposed CIP, it becomes real. The more CIPs between now and when the next five-year cap is set, the number is just going to get higher and higher and make it almost impossible to get to a lower number.

To the Authority's credit, it is living within the remaining four-year cap, but some of the CSO projects would have an impact and may, as early as the next CIP, be in jeopardy of exceeding the original five-year cap. Ms. Potter said the Authority may need to add some of those additional dollars this spring to be consistent with the recommended alternatives for South Boston and East Boston. MWRA is currently within $3,000 of its cap.

VI. Evaluation of the Executive Director

Jay Fink asked if it was Mr. Favaloro's desire to renew his contract on an annual basis. Mr. Favaloro responded the contract language says, in receipt of a satisfactory review, the option for the Executive Committee was to add an additional year if the contract is still in place. With the contract expiring, a longer duration would be preferred. Bill Hadley proposed a three-year contract with salary recommendations based on a yearly basis.

Mr. Favaloro noted there is still so much to work for. Today there was a heated discussion related to DCR, discussion on the cap and CSOs – all issues that are really important. As long as those types of quests are out there, he enjoys the challenge of trying to get them accomplished.

Mr. Fink noted those challenges are not going away. A couple of years ago, there was a ten-year cap in place and MWRA had debt service assistance and continued to plug away at the MDC transfer.

Bernie Cooper noted the continuity at the Executive Director's level. Joe has been around longer than most legislators and certainly most people in the Secretary's office.

Mr. Fink stated his belief that the Executive Committee is pleased with Joe's performance and suggested a multi-year contract, with a roll over every year, so that each year there is three years ahead of him with a favorable evaluation.

Ms. Dunphy stated Joe has been successful in creating new initiatives and coming up with great ideas that he has been able to sell to the Authority, so he has really not just done a job, he has made a job.

Jay Fink made **A MOTION FOR A FAVORABLE EVALUATION FOR THE EXECUTIVE DIRECTOR, JOSEPH FAVALORO.** It was seconded and passed by unanimous vote.

Ms. Dunphy said the next step is to draw up a contract to begin when the current one expires.

VII. Approval of the Advisory Board Agenda for February 26, 2004

A Motion was made **TO APPROVE THE ADVISORY BOARD AGENDA FOR THE FEBRUARY 26, 2004 MEETING, WITH THE ADDITION OF A PRESENTATION ON THE ANNUAL CONSUMER CONFIDENCE REPORT BY JOSHUA DAS, PROJECT MANAGER – PUBLIC HEALTH.** It was seconded and passed by unanimous vote.

VIII. Adjournment

A Motion was made **TO ADJOURN THE MEETING AT 10:05 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Edward Sullivan, Secretary