

**EXECUTIVE COMMITTEE MEETING**  
**October 15, 2004**  
**Minutes Approved at the November 12, 2004 Meeting**

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

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

**I. Welcome**

Chairman Katherine Haynes Dunphy called the meeting, held at the Advisory Board office, to order at 8:40 a.m. A Motion was made **TO APPROVE THE JUNE 11, 2004 AND SEPTEMBER 10, 2004 MINUTES OF THE EXECUTIVE COMMITTEE**. It was seconded and passed by unanimous vote.

**II. Report of the Executive Director**

MWRA Executive Director Joseph Favaloro reported during MWRA's efforts to move forward with its Integrated Water Supply Improvement Program, staff discovered a 1 MGD leak at Shaft C, which connects the Cosgrove Tunnel to the Walnut Hill Water Treatment Plant (WHWTP). A diver was scheduled to explore the 12' diameter pipe for damages on Wednesday evening. *(NOTE: The diver located a leaking joint and found one circumferential crack about 8 inches back from the joint. There is also a longitudinal crack in the concrete along the crown of the pipe in this area.)*

Delays in testing and start up of the WHWTP are now expected. The Authority is now in the process of re-chlorinating the Wachusett Aqueduct in case the Cosgrove Intake has to be taken down for repairs. The re-chlorination process takes two weeks because walls must be scrubbed down. Staff member Ryan Ferrara noted the delay timeframe will depend on the nature of the leak. It can take six to eight weeks to get the specially-made pipe.

**III. "Legislator(s) of the Year Awards"**

With the passing of the Water Supply Protection Trust (Trust) and the doubling of Debt Service Assistance, staff thought it appropriate for the Advisory Board to express its appreciation by presenting "Legislator(s) of the Year" awards. Six long-standing advocates of the Advisory Board that have carried the Advisory Board's legislation were identified: Representatives Robert DeLeo and Ronald Mariano, Senators Stephen Brewer and Charles Shannon, Senate President Robert Travaglini and Former Speaker Thomas Finneran. Additionally, "Certificates of Appreciation" were sent to the remaining members of MWRA's Legislative Caucus, which has been instrumental in advancing the MWRA's and Advisory Board's initiatives. Further, a luncheon is scheduled for October 21 at the State House.

**IV. Clinton Water Treatment Plant Residuals**

The Town of Clinton is in the process of completing construction of its water treatment plant. MWRA provides Clinton with free unprocessed water, which they must treat to be in compliance with the Safe Drinking Water Act. There have been issues with residuals. DEP and EPA have been involved. A solution is not at hand and there is some expectation that Clinton will attempt to send the residuals to the Clinton Wastewater Treatment Plant.

As a small wastewater treatment plant, the residuals would nearly triple the amount of solids in any given day. The end effluent that goes into the discharging water could negatively impact the NPDES permit.

A limited amount of landfill is available. Because solids would triple, changes in the process would have to be made to cover the landfill each day with soil, taking up yet more landfill space. Clinton Wastewater Treatment Plant or MWRA technical staff would verify that taking these residuals potentially could cause severe problems.

DEP or EPA would say MWRA takes Cambridge's residuals, which is comparing apples to oranges. The volumes are in the range of 300 MGD flow to 3 to 4 MGD flow. If MWRA were contemplating taking Clinton's residuals, the Authority must be extremely cautious. Clinton must pick up all responsibility, liability and costs. The Authority may continue to operate and maintain the plant, however, it must be on Clinton's dime.

Bernie Cooper asked the quantity of the residuals. Cornelia Potter stated Clinton treats 3,500 lbs. of residuals per day.

Ms. Dunphy asked if a precedent would be set for other communities with water treatment plants that might have a problem with DEP and come to MWRA with residuals. Mr. Favalaro said there are a number of communities that are sewer only or partial water that might run into a regulatory problem in the future. When the Authority came up with its plan to accept residuals, the first step is, on a case by case basis, the technical people would determine what impacts the residuals would have. The information would be evaluated and a decision made. It is a matter of scale.

Clinton has not compensated the Authority for water it used over and above their annual threshold many years ago. Further, Clinton has not reimbursed the Authority for construction work that went on when the Authority was trying to get water quality standards up a decade ago. MWRA did the work for the Clinton courthouse and has never been reimbursed. In return, the Authority has not been paying its water bill for the Wastewater Treatment Plant, for which Clinton is now charging interest. The irony is that Clinton pays MWRA zero for the water that goes to the Clinton Wastewater Treatment Plant that Clinton pays zero for.

## **V. CIP/CEB Update**

Cornelia Potter stated CEB spending is nearly \$115 million for the first three months of the fiscal year, \$6 million below the amount budgeted. Revenues, including rate revenue and investment income, come to \$121 million, leaving a year-to-date surplus of \$6 million. Contributing to this amount are lower spending on wages, fringe benefits and workers compensation, which are about two-thirds below budgeted spending for direct expenses. Lower chemicals and utilities expense currently offset greater than budgeted spending on maintenance. MWRA has also experienced lower debt service of \$2 million, mostly for variable rate debt with interest rates that remained below budgeted assumptions and the receipt of about \$2 million in Debt Service Assistance so far this year (on an accrual basis).

On the capital side, spending totaled \$60 million for the first quarter, nearly \$4 million more than budgeted. However, this was the lowest first quarter spending in over a dozen years.

Last year's capital spending was nearly 25% below the budgeted amount. At Wednesday's Board of Directors meeting, staff reported to the Board some of the reasons for that lower than budgeted spending. Certain contracts have not been awarded as fast as staff had expected and the Braintree-Weymouth project was delayed because Exelon was late in vacating that site. The Braintree-Weymouth Project was one of the largest initiatives MWRA had budgeted for last year.

Staff reported part of the reason for delays in getting other contracts off the ground were a shortage of staff resources due to some retirements and they are now beginning to budget for as-needed

engineering services to help move several projects forward. The Authority is considering reorganizing and consolidating its engineering staff.

Preparation for the FY06 Capital Budget began over the summer and the CEB process began in the last two weeks. The Capital Budget process is expected to end in late November in time to have the Board of Directors approve transmittal of the Budget to the Advisory Board for its review at the December Board meeting.

## **VI. Emerging Legislative Strategy**

Mr. Favaloro provided the Executive Committee with information regarding the Advisory Board's Legislative Strategy for FY05. All legislation needs to be filed by December 1.

First, and most importantly, is Debt Service Assistance. Statutory language allows for 20% of eligible wastewater and the MetroWest Tunnel debt. This is a two-year legislative cycle. Does the Advisory Board want to try to amend the statutory language, increasing eligible debt to a higher number to get a bigger share of Debt Service Assistance? Does the Advisory Board want to increase the eligible debt or expand the definition to include things like the water treatment plant? Because lead service replacements are high on EPA and DEP lists, and impact communities, should projects like lead service replacements be identified to be eligible for Debt Service Assistance?

The Mass Clean Water Council has taken the lead on advocating for the State Revolving Loan Fund to go back to 0% interest loans. Staff would seek approval from the Executive Committee to support this initiative in a secondary position via a letter of support.

John Sullivan stated it seems, with interest rates for borrowing at 4.5 and 5%, that 2% is a nice number. Zero is a free give away. Ms. Dunphy noted there is some advantage in communities to resonate at town meetings with 0% interest. John Sullivan noted that Boston has not been taking SRF funds because it has been borrowing at low rates. If 0% interest loans become available, Boston Water and Sewer Commission (BWSC) will be forced by the Commissioner to secure it.

A major initiative that came out of the last budget process was the creation of the Trust; however, one outstanding issue remains. The legislation deems that there be a five-member Board of Trustees, which include the Secretary of Environmental Affairs (or her designee), the Executive Director of the MWRA, a representative from the recreational associations in central-western Massachusetts and, as written, a member appointed by the Speaker of the House and a member appointed by the Senate President. The appointments by the Speaker and Senate President have constitutional issues. Staff has been working closely with Senator Brewer's office to change these appointments to the Chairman of the MWRA Advisory Board and the President of the Swift River Valley Historical Society.

Currently, the MWRA pays a fringe rate of 31% over and above all of the personnel line items for health insurance and retirement for the Department of Conservation & Recreation, even though there is no relationship between a percent rate and health and retirement costs. The legislative initiative has two approaches: 1) wave the fringe rate in total and 2) tell the MWRA what the health insurance and retirement costs are and MWRA will pay them, as opposed to paying 31% of a line item.

In case residuals for the Clinton Water Treatment Plant become a problem for the Clinton Wastewater Treatment Plant, staff would like to re-file its initiative for the Commonwealth/Clinton to pick up 100% of the costs. Further, Clinton has been growing in leaps and bounds with new condominium developments. It is good for Clinton, but it is hard to swallow that as Clinton gets millions in mitigation and millions in tax dollars, the MWRA is not getting a dime for the water and sewer that new condominium developments are producing. If the Commonwealth/Clinton does not want to pick up over the \$500,000, at the very least the condo developments should pay a direct user charge to the MWRA for the cost of water and sewerage.

The Tort Liability initiative, which would limit the Authority's liability to \$100,000, made it to Conference Committee last year and will be re-filed.

A bill that would give Winthrop and Quincy a direct vote on the Board of Directors made it through the Senate and House last year and is awaiting final enactment from the Governor. John Carroll noted that the MWRA Board of Directors is currently a ten person Board because the representative from the western part of the state has not shown in a year or more. One of the pre-requisites of the Board is that one person has to be a minority. Don Mitchell used to work for City of Springfield, but is now in the private sector. Mr. Pappastergion said the Governor should remove him and put somebody else on the Board. Mr. Carroll stated something needs to be done because something major may come along and the Board will be sitting there with only ten members.

Mr. Favaloro suggested the Board of Directors send a letter to the Secretary of Environmental Affairs or to the Governor to say this seat needs to be filled.

Another initiative to be filed would reimburse the MWRA and cities and towns for the I/I Grant/Loan Program. This initiative picked up some support. Now that lead services are a hot issue and impact communities statewide, a grant program for lead services has been proposed.

Bernie Cooper said Norwood is wrestling with who is going to pay for the homeowner's portion of lead service replacements. Virtually in every community it is the homeowner, but that is not always easy to do. Norwood has a lot of senior citizens. Is there any possibility of filing an initiative that would allow a town to assess betterments for the homeowner's portion, on a voluntarily basis. Is it up to the cities and towns to add the replacement of lead services, including the homeowner's portion, to a betterment and assess the cost to be paid over a period of five to ten years? If the money were borrowed from the MWRA's water rehabilitation program for ten years, Norwood might be able to match the obligation because there will be a lot of homeowners that are sitting in a nice house, but have no income. Mr. Favaloro said staff would investigate by talking to counsel of the House and Senate to see what can and can't be done. Mr. Cooper said it would give the town some flexibility.

Mr. Pappastergion said it is a good idea, but it cannot be limited to just lead service replacements, the betterment process would have to be opened to all pipe replacement. Mr. Cooper asked if it could be opened for communities under a DEP lead service replacement or other public health mandate. Mr. Pappastergion said DEP cannot mandate a private homeowner to undertake lead replacement. Mr. Cooper noted the town could encourage homeowners.

John Sullivan asked if the Lead and Copper Rule requires communities to offer the service to the homeowner at their cost. If it is done at the homeowner's cost, why couldn't the community do the work and then put a lien on the property as you can with their water bill. Mr. Cooper questioned if the law would allow a community to do that. Mr. Sullivan said if the money is owed, a lien can be placed for that portion and that may allow the homeowner to leave it there until they sell the house. Mr. Cooper noted the betterment at least gives communities a flow of funds to pay back regardless of where it is borrowed. Mr. Sullivan stated that BWSC allows a \$1,000 grant. If the cost is \$2,000 to \$3,000, a deduction of \$1,000 is taken off as a grant and the rest can be paid back over a year, added onto their bill.

## **VII. Update: CSO Program**

Ms. Potter stated in the last couple of months DEP has extended the variance for both the Alewife Project and the Charles River for three years, requiring the Authority and participating communities to pursue additional projects that may improve water quality during this period.

The Authority is now moving forward to acquire additional professional services to ready the North Dorchester Bay Project for construction start, which the Authority is aiming to begin in the spring of 2006 (one year earlier than MWRA thought they could achieve). The negotiating process for resetting the court ordered schedule is to begin later this month.

The Fort Point Channel Project will be turned over to BWSC to finalize design because it is primarily now a sewer separation project. The Boston 019 project in Charlestown is also moving forward in final design. MWRA has begun talks with EPA about the nature of the level of control that the East Boston project would be required to achieve since the reassessment identified that the level of control promised earlier would not be achieved with the current design.

John Sullivan noted the Authority has not given us the reassessment for East Boston yet. Ms. Potter agreed and stated yet at the same time MWRA has reported to the Court that discussions have begun with EPA.

MWRA is in the process of working on the next CIP, CSO projects are likely to rise in cost by \$40 million, \$30 million of it due to increased inflation. Sewer separation projects continue in North Dorchester Bay and for the Stony Brook area.

Mr. Favaloro also noted that the shared contract between MWRA and Cambridge will potentially cost \$20 to \$30 million more. With inflation at \$40+ million, Cambridge at \$20 to \$30 million, it would seem that the holistic approach has holes. Without getting any better definition on the Charles River and Alewife from the regulators, the Authority is expediting the North Dorchester Bay project potentially by a year. Ms. Potter noted the whole concept of the holistic discussion that was supposed to have taken place a year ago was to ensure the Authority was able to put some boundaries around potential growth of every other CSO project as it was acquiescing to an ever growing South Boston project.

Ms. Dunphy asked if MWRA was able to obtain a commitment writing from the regulators regarding the stormwater precedent. Ms. Potter replied that the Advisory Board has not heard anything back from MWRA staff. There seems to be some reluctance on the part of the staff to request it, even though the Advisory Board and the Board of Directors said it should be in writing. Ms. Dunphy said she could understand if the regulators said they would not put it in writing, but why the staff is not pursuing it is an essential issue. Is there any legislation at the state level that could be filed to force that issue? John Sullivan said the federal regulators cannot be forced to acquiesce. The biggest problem is the Charles River which sets the work underway and then there will be further requirements. The variance says continue to look for other ways and is all about stormwater in the lower basin.

Ms. Dunphy asked what other municipalities that have CSOs are doing on the national level. John Sullivan said nothing is being done on the national level; everybody else is saying lets keep planning and MWRA is getting beat. Mr. Favaloro agreed, the only one doing anything is the MWRA.

John Sullivan suggested one thing that can be done to force the issue is to get it into the court records showing what the agreement was with EPA. EPA, being a court party, can object and say they never agreed to that, but the whole idea of a holistic approach should be put by the MWRA as a court filing so it becomes official, including that this is stormwater, one time only, no precedent. Then ask the judge in his review to look at the issue. MWRA has to get it official somewhere outside their Board because EPA will say MWRA did stormwater there, they can do it here. Then the Authority might have an argument.

Mr. Favaloro noted the Board of Directors would have to ask where the regulators' promise in writing is. John Carroll suggested that the Executive Committee write a letter to the Board of Directors and ask them to deal with the issue. Ms. Dunphy agreed, stating the full Advisory Board should also vote to support it. Mr. Favaloro said staff would draft a letter.

Due to his deteriorating health, Judge Mazzone is no longer involved with the court case and is being replaced by Judge Stearns.

**VIII. Status: Wastewater Meter Replacement Program**

The good news is the Authority has accelerated the pace of meter installations. The continuing bad news is the certification of these meters is still going painfully slow. There are now 41 certified meters in the system, well below where the Authority needs to be to be at a pace to be done by the end of March. Authority staff is in a quandary as to why the certification process is going as slowly as it is. Staff has had to move meters to alternate locations to have meters work properly. Some of the meters in place are showing significantly larger flow, particularly Milton where two meters are well over 30%. If those numbers hold true, Milton will experience some significant increases.

John Sullivan said the overall increase from the old meters to the new meters is 2.6%. If the old meters were wrong, should estimated flows be reviewed? Who says the old meter was okay? Jay Fink said there ought to be another column on the MWRA reports for a weighted percent. Was it 100 gallons of flow or a million gallons of flow that was off by 30%?

**IX. Preview: 2004 Water & Sewer Retail Rate Survey**

Ryan Ferrara updated the Committee with results obtained from the 2004 Water & Sewer Retail Rate Survey. MWRA communities have an average of a 5.3% increase (subject to change with new information to be provided by Ashland and Lexington), the lowest increase in three years. The 2002 and 2003 surveys had an increase of 6.1%.

Proofs will be sent to communities next week for community approval. Appendix C, which uses calendar year 2003 water use information to determine average household use, is being prepared. It will provide a weighted average for each community based upon typical water use in a household.

John Sullivan asked if the survey is posted on the Advisory Board website. Mr. Ferrara replied in the affirmative. The information is posted in PDF format and allows the Advisory Board to reduce copying costs.

**X. Approval of the Advisory Board Agenda for October 21, 2004**

A Motion was made **TO APPROVE THE ADVISORY BOARD AGENDA FOR THE OCTOBER 21, 2004 MEETING**. It was seconded and passed by unanimous vote.

**XI. Adjournment**

A Motion was made **TO ADJOURN THE MEETING AT 10:08 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Edward Sullivan, Secretary