EXECUTIVE COMMITTEE MEETING
January 14, 2005
Minutes Approved at the February 18, 2005 Meeting

Present: John Sanchez, ARLINGTON; John Sullivan, BOSTON; Jay Fink, LYNN; Katherine Haynes Dunphy, MILTON; Ted McIntire, READING.

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

I. Approval of the November 12, 2004 Minutes of the Executive Committee

Chairman Katherine Haynes Dunphy called the meeting, held at the Advisory Board office, to order at 8:38 a.m. A Motion was made **TO APPROVE THE NOVEMBER 12, 2004 MINUTES OF THE EXECUTIVE COMMITTEE.** It was seconded and passed by unanimous vote.

II. Administrative Update

MWRA Executive Director Joseph Favaloro noted that he has followed up on discussion held at a previous Executive Committee meeting regarding a salary structure evaluation by hiring King and Bishop, a firm that works with smaller entities, to study where salaries should be. If the Executive Committee decides there should be changes, there will be time to incorporate them in the FY06 budget.

Mr. Favaloro stated one of the largest growing line items within the Advisory Board budget has been health insurance. In discussions with Human Resources, Finance and Fred Laskey over the last few months, Mr. Favaloro suggested that the Advisory Board transfer the health insurance line item to the MWRA general health insurance budget. This change will help lower the Advisory Board's overall budget request to the MWRA and provide the Advisory Board with some additional funds in the event there needs to be changes in other line items.

Additionally, the Advisory Board has been using prior years' surplus and a portion of reserve to keep the overall budget increase down. A good piece of the $40,000 normally budgeted for health insurance will go back to the MWRA to keep the bottom line number below, more than likely, what it is today.

The Advisory Board's lease expires in September. Negotiations with Mr. Miller and his administrative officer have begun; initial discussions have centered on a reduction of $3,000 to $5,000 for lease costs.

III. Update: Wastewater Meter Replacement Program

All 217 meters in the Wastewater Meter Replacement Program have been installed, with 157 accepted as complete. Staff is working on the acceptance process for the remaining 60 meters. MWRA Director of Field Operations Rick Trubiano stated that staff was unsure if the meter acceptance will be at 100% by the goal date of March 1. Mr. Trubiano will come before the Operations Committee if a contingency plan is needed.

MWRA staff provided a "snapshot" view of how the new meters are presently functioning to allow communities an opportunity to plot the information into 2007 where they would have two years of the average flow along with one year of actual flow on those meters to determine how their assessments might look. This may help to determine which communities have increased or reduced flows, thereby increasing or reducing their assessments. This information will be updated every two months.

The Authority plans to hold a Wastewater Seminar to re-acclimate communities on how the metering system and methodology work and what to expect in the future.

IV. Update: MWRA CSO Plan

Per the Executive Committee, a letter was sent to the MWRA Board of Directors in regard to the inclusion of stormwater controls in the North Dorchester Bay and Reserved Channel CSO Project and receiving assurances that these controls do not set a precedent for stormwater for other MWRA projects. Chairman Dunphy went before the Board and requested that the Board seek written assurances from the regulators.

The Board directed staff to pursue written clarification on the lack of Authority responsibility for stormwater control and to file with the court the Board's position on this matter.

Although Mr. Laskey has received assurances from Environmental Protection Agency (EPA) Administrator Bob Varney that the North Dorchester Bay project will not set a stormwater precedent, Advisory Board staff brought to the Executive Committee's attention the Justice Department's response to the Authority's quarterly report.

As relates to the belief that the Authority is "off the hook" for the Charles River, the Justice Department's report states "It is premature to conclude that there would be no benefit to achieving a higher level of CSO control in the Charles. It is not unreasonable to expect the MWRA to implement a very high degree of control especially in the most sensitive waters. The Charles River is now used for the primary contact sport of windsurfing. The Authority should therefore provide the highest degree of protection attainable for this vital resource."

Further, the report indicates that the Authority expected rates to be "X" in 1997; however, rates are lower than expected so the Authority should be able to afford further projects.

Joe Foti expressed his concern that the Authority is being punished because it has done everything possible to keep rates palatable for the ratepayer.

Mr. Favaloro stated that the regulators are demanding a schedule. One of the arguments staff is proposing for CIP review is that the Authority should pull away from the table until the holistic approach is back in play. Until the regulators are looking at all the basins at the same time, there is no reason to move forward on any contracts on any of the basins. That is the only leverage the MWRA has.

Chairman Dunphy noted it is not unusual that every other year windsurfers would have to windsurf off the South Boston beaches. Most people in other areas along the Massachusetts coast know that if there is a heavy rain, you don't go swimming in certain locations the next day; the Charles River should not be any different.

Mr. Favaloro expressed dismay at the potential that the Authority may be expected to spend hundreds of millions of dollars in additional costs to develop a CSO plan to satisfy windsurfers.

John Sullivan noted that if the MWRA doesn't come up with a date, the United States might ask the court to impose a date, which could impact the CIP. That is the risk the Authority would take in stepping away from the table.

Chairman Dunphy stated if the court imposes a date, the court should be aware that other projects that might have greater benefit may have to be put on hold.

John Sullivan stated the Authority would do better negotiating a longer scale North Dorchester Bay project, stretching it out as much as possible. Otherwise, the court could take the whole project and compress it. Ms. Potter noted right now the MWRA has compressed the project themselves, having accelerated and advanced the start date for construction by a full year.

V. Discussion: Approach to MWRA Advisory Board FY06-09 CIP Review

Cornelia Potter stated since staff last reviewed the budget a year ago, the cost of the CSO Program has gone up by $100 million.

The Authority has reframed the capital program, reducing it dramatically by a total of $400 million from the future capital spending projected in the final FY05 capital budget. Future capital spending has been reduced from $1.8 billion to $1.4 billion, which is over 20% of the entire funds that have been identified for spending for FY05 and into the next decade.

In order to keep spending closer to the FY04 level, the Authority has removed $425 million of non-CSO spending and also excluded another $150 million in new water and wastewater projects, which were identified in the process of building this proposed budget. The proposed CIP is almost $600 million lower than if all previously planned and newly identified projects had been included. The reason for this development is heightened concern regarding the cost of the Authority's existing debt, as well as the findings of the recent affordability analysis and the fact that rates already are causing a significant economic impact for ratepayers.

Only in the last year or so has the Authority's new capital spending fallen below total debt service cost. All this time the Authority has been borrowing and spending more

capital dollars than it has been repaying each year. MWRA has back-end loaded and refinanced its debt in order to make rates more palatable in recent years, but at some point the principal has to be paid.

MWRA will pick up the pace of principal payments as this decade progresses and is the reason why rate projections in FY09 and FY10, in particular, are rising. The Authority is now paying back approximately $50 million in principal each year. In just two more years it will be $100 million and by FY11-FY12 it will be $200 million. This will put pressure on the rates.

Capital spending is rising by $100 million in the next three years even though the overall capital budget has come down. The reason for that is the CSO program. The Authority has proposed an accelerated schedule in order to respond to the court parties who have expressed concern that the South Boston project has taken so long to get off the ground, so the Authority has pushed $100 million into the current cap period and wants to start tunnel construction a year earlier (in FY06). The Authority has managed to stay within the overall cap amount for the FY04-08 period of $1.1 billion, but because spending on the soft ground tunnel in South Boston would peak in FY08, the Authority will be over the cap for FY08.

In the next five-year period, FY09-13, the Authority has reduced its planned spending by over $500 million. Spending on wastewater interception and pumping projects for that five-year period drops to $5 million over five years. Deer Island Treatment related projects drops by $6 million. CSO spending drops in the FY09-13 period, but that is because in the current FY04-08 period it has risen by $108 million.

A number of Drinking Water Transmission and Distribution and Pumping projects have also been reduced from this budget. Most of the spending reductions occur from FY09-13; the revised spending for this period is close to the budgeted spending in the budget two years ago in FY04 when the five-year hard cap was established for FY04-08.

The Authority states that the $100 million increase to the current cap period still leaves spending within the five-year cap, but in the last year of the cap (FY08) MWRA is more than $25 million over the cap level. The conditions of the cap state that the Authority could spend 20% more or less in a fiscal year, but for FY08 the Authority is $25 million more than 20% so they have not met that specific element of the cap with this proposed budget. That will be an issue for review. The Authority will need Board approval if the level of spending for FY08 continues to be allocated at this level.

With sharply reduced spending plans, the removal of projects or the exclusion of newly identified projects, the master planning process becomes that much more important because priority setting is going to be a lot tougher. It will also be a place for recording these projects and potential spending plans since they have fallen off the page in the capital budget. Staff believes an enhanced priority-setting process will be needed to determine what projects get into the capital budget.

The CSO Program is the single major driver of cost increases and shifts. It represents 40% of all future spending and is two-thirds of all planned wastewater spending and over one-third of all spending during this cap period.

Mr. Favaloro noted that the Cambridge proposal was pulled off the table at the Board of Directors meeting because Cambridge is requesting a substantial increase for their projects. Further, Cambridge is now claiming they are out of money.

Ms. Potter added the potential for additional controls for the Charles are out there relating to the Cottage Farm variance, as well as East Boston about which a resolution for the final project has not been reached.

Mr. Favaloro stated, to their credit, MWRA has gone back to the Advisory Board's original cap and has finally embraced the reality of a finite amount of resources and Master Planning, which is now crucial. If there is a finite amount of resources, should 40% of those resources be going to CSOs? Are we looking at cost versus benefit? What about water and wastewater projects? Advisory Board staff plans to use CSOs as the balancing act.

VI. Status: Rate Revenue Review Sub-Committee

Mr. Favaloro noted that the Rate Revenue Review Sub-Committee has met twice, going over pages and pages of power point presentations about the difficulties and implications of imposing a 2½% cap. A motion by John Carroll at the end of the second meeting was to bring it to the MWRA Board of Directors so the Board could weigh in.

Mr. Pappastergion said there was some good discussion and information as to what the implications of such a cap in any particular percent would be. It went to the Board for discussion on Wednesday. Mr. Laskey was informally directed to prepare a summary budget for the next meeting for FY06 and to show actual implications of such a cap.

Mr. Pappastergion stated the numbers indicate that a cap like this 1) does not work because of the huge amount of debt service and 2) can't work without serious implications as to how the Authority operates. It is not really much different from the way the Authority has been doing business all along. The Advisory Board reviews and recommends budgets back to the Authority that maximize the benefit from every dollar of ratepayer money.

If the Board voted a cap and were not able to achieve it, it would have been perceived that the Board of Directors was not able to live within its own means.

Ms. Potter noted that Authority staff pointed out that operating expenses have dropped since 1999, primarily because the Authority has better pelletizing and electricity contracts and has dropped 500 positions. Those are three areas that the Authority has reined in spending. The idea of extending the payment period must match up with the life of the asset for which these borrowings occurred. The Deer Island plant has been operational for a full ten years now, and other facilities are aging as well, so at some point these amounts do need to be paid.

Joe Foti stated if there is a way to get to 2½% between the Advisory Board and the Board of Directors, it will be done. There may be certain circumstances where 3½% is needed and then the Board would have to override the cap.

Mr. Pappastergion noted to get down to anything less than 3% is not under the Board's control; it is under the state's control because the only way to do it is to increase Debt Service Assistance (DSA). The Board could hold a bottom line budget and still be at 4%; MWRA is not going to get down to 1.9% like last year without DSA. How does the legislature view this if the Authority implements caps? How will use of a cap impact the potential for getting future DSA?

VII. Update: Legislative Priorities

Mr. Favaloro reported that the Chairman of the MWRA Advisory Board is now officially a member of the Board of Trustees for the Water Supply Protection Trust (Trust).

Mr. Pappastergion extended a complement on the Advisory Board's new *News and Notes* monthly feature. Mr. Favaloro introduced new staff member Andrea Briggs, who worked on *News and Notes*. Ms. Briggs joined the Advisory Board staff in November, having previously served as Legislative Director for Senator Stephen Brewer. She will deal with all legislative and media issues for the Advisory Board.

One of the initiatives flagged in *News and Notes* was the tenant sub-metering bill, which passed and goes into effect in March. A presentation will be made at the full Advisory Board meeting to outline the conditions of this bill. For the most part cities and towns, at least on paper, are held harmless; the onus is on landlords. Ironically, the Advisory Board was not actively involved in supporting or opposing this legislation but once it was enacted, it was this office that pushed to get regulations in place. The bill goes into effect March 16 and no state regulations had been put together so there was no guideline. Ms. Briggs began to speak with Counsel at the Department of Public Health, which has finally begun to get regulations together. Interestingly enough, this legislation was pushed by tenants on the first floor – the Greater Boston Real Estate Board.

Staff has no reason to believe Debt Service Assistance will be included in the Governor's House 1 Budget. Chairman Dunphy sent a detailed letter to the Governor about the need for DSA and referred to the *Affordability Study* and the *Water and Sewer Retail Rate Survey*. The letter also recognized the economic engine that Boston Harbor has been, but thus far has not swayed the Governor. This battle will most likely be played out in the House and the Senate. With all of the other priorities that haven't been funded, it may be difficult to get any real appreciation on the $10 million received for FY05.

VIII. Discussion: Process/Timeline for Reading Application to Join MWRA

Ted McIntire stated that Reading received approval from the Water Resources Commission (WRC) for an Inter-basin transfer; however, Kerry Mackin from the Ipswich River Watershed Association (IRWA) and Eileen Simonson from the Water Supply Citizens Advisory Committee (WSCAC) were at the WRC to vehemently oppose the conditions that had been agreed upon after months and months of negotiations with DEP, WRC and staff. IRWA and WSCAC want Reading to do more. The Town is not going to do more.

Ms. Mackin submitted a request to WRC to re-hear new information. It is Mr. McIntire's understanding that Ms. Mackin wants Reading to re-design its water treatment plant. The Town Manager has written a letter to the IRWA Board of Directors indicating that

Reading is going to have to make a decision on whether to cut its losses now. As of yesterday, the Town Manager does not want to proceed with approvals. Mr. McIntire expressed his desire to continue with the proceedings because it is a benefit to the Town and to the basin. Yesterday there was discussion that WRC would decide at its February meeting whether to consider re-hearing it. If they decide to re-hear it that will likely be in March.

John Sullivan questioned why the IRWA would not want Reading to take water from somewhere else. Mr. McIntire said the IRWA, or Kerry Mackin in particular, wants Reading to take all of its water from the MWRA. Reading has come up with a program that meets its needs and is a tremendous benefit to the basin and the river; she just keeps fighting it. It is extremely frustrating. Reading is trying to do something that will benefit everybody and it is costing the Town over $3 million just for membership into the system.

Chairman Dunphy said she could understand IRWA wanting Reading to take all its water from the MWRA, but certainly WSCAC doesn't agree with that. Mr. Favaloro said WSCAC has been opposed, but now wants Reading to take water in October as well. Mr. McIntire stated that Reading's proposal was to take 1 MGD from the basin from April through September. DEP is putting restrictions on permitted communities during that time. One of the groups wanted Reading to extend that into October; the Town agreed. Then the groups wanted to incorporate the restrictions on outside water use based on flows. Reading had based its calculations through September and came up with 219 million gallons per year maximum. Extending through October might require more than 219 million gallons, so Reading only agreed to take water from the MWRA through September.

Mr. Pappastergion expressed dismay that IRWA would risk Reading not taking any water from the MWRA. Mr. McIntire stated the two options are 1) Reading will take a maximum of 1 MGD from the basin from April to September or 2) Reading will continue to take 2.44 MGD on average from the basin during the same period.

Mr. McIntire requested that discussion on Reading be removed from the final Advisory Board agenda.

IX. Status: DCR/Trust

Advisory Board staff attended working meetings with the Authority to develop the FY06 work plan for the Department of Conservation and Recreation (DCR). Authority and DCR staff met this week to go over the plan.

The Authority has withheld $40,000 from the Division of Water Supply Protection's final FY04 bill until MWRA receives answers on questionable expenses.

Because there was no mechanism for land acquisition through the Trust and no state capital funds, over their last two meetings the MWRA Board of Directors developed compromised language and will spend up to $4.5 million in this year for land acquisition. The Trust will next meet in February to go over the FY06 plan.

X. Approval of the Advisory Board Agenda for January 20, 2005

A Motion was made **TO APPROVE THE ADVISORY BOARD AGENDA FOR THE JANUARY 20, 2005 MEETING, WITH DEFERRAL OF DISCUSSION ON READING.** It was seconded and passed by unanimous vote.

XI. Adjournment

A Motion was made **TO ADJOURN THE MEETING AT 9:59 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Edward Sullivan, Secretary