

EXECUTIVE COMMITTEE MEETING

February 18, 2005

Minutes Approved at the March 18, 2005 Meeting

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

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

I. Approval of the January 14, 2005 Minutes of the Executive Committee

Chairman Katherine Haynes Dunphy called the meeting, held at the Advisory Board office, to order at 8:36 a.m. A Motion was made **TO APPROVE THE JANUARY 14, 2005 MINUTES OF THE EXECUTIVE COMMITTEE**. It was seconded and passed by unanimous vote.

II. Action Item: Approval of MWRA's Five-Year Progress Report Citizen Panel

MWRA Advisory Board Executive Director Joseph Favaloro said statutorily every five years the MWRA has to do a report that details its accomplishments for the past five years and outlines the challenges they see over the next five years.

In the Enabling Act, the Advisory Board's responsibility is to approve the panel that will assist the Authority in the preparation of the progress report.

The panelists are Mabray Adams, Charles Button, Katherine Haynes Dunphy, Lauren Liss and Robert Ruddock. The Panel's major responsibility is to work on the Executive Summary of the report.

A Motion was made **TO APPROVE MWRA'S FIVE-YEAR PROGRESS REPORT CITIZEN PANEL**. It was seconded and passed by unanimous vote.

III. CSO Update – Judge Stearns Weighs In

At the last Executive Committee meeting, members talked about the U. S. Attorney weighing in on the Authority's quarterly progress report which expressed their concerns about the standard of treatment for the Charles River.

In his first report since taking over for Judge Mazzone, Judge Stearns is careful not to take a strong stand, but did weigh in that it was premature to discount additional improvements to Charles River water quality at this juncture. The report was not overly negative, but at the

same time, continued to keep alive a level of treatment in the Charles River that will significantly alter the whole holistic approach the Authority has laid out.

Staff offered some thoughts and concepts that they are considering to take active measures in our discussion about CSOs.

Cornelia Potter stated in preparing and delivering the Proposed Capital Budget to the Advisory Board, the MWRA has stayed within the cap amount of \$1.134 billion for the five year period from FY04-08, which was set almost two years ago. Total future spending has dropped by a net of \$400 million reflecting an increase of \$100 million for the CSO program but a reduction of more than \$500 million for other water and wastewater projects in order to lower the overall dimension of the budget. The Authority is holding spending within the cap and also presenting a budget over the multi-year period that reflects a smaller Capital Program.

The second theme staff plans to develop in the written comments has to do with Master Planning, a recurrent theme. As the Authority recognizes the limited dollars available it makes the master planning process more important because they have to use the prioritization process in order to decide what goes in and what stays out. It is the Master Plan document that will identify potential future needs and enhance priority setting.

The third theme has to do with the CSO Program, the major driver of cost increases and accelerated spending in this budget. The Authority added \$100 million in CSO spending to the current cap period, almost entirely for the North Dorchester Bay project; the regulators and other court parties have urged the Authority to move the design process forward and get construction underway.

CSO spending is now increased by 35%. Future CSO spending now totals \$500 million and is nearly 40% of all current and future capital spending.

Staff is pursuing three major lines of thinking for preparation of the Advisory Board's *Comments and Recommendations*. The first is to focus on CSOs. For well over a year, it has been the Authority's intent to work with the regulatory agencies to look at the CSO program as a whole – the holistic approach – to address those major CSO projects for which agreement on the scope, following reassessment, has not been fully reached. Staff believes the Authority should hold spending on those particular CSO projects until an agreement is reached, not only in the scope of the projects but to which each of the court parties will sign off on.

There are four major CSO projects involved in the holistic approach. The first of those four projects is the Alewife Project in Cambridge, which remains problematic; some citizens remain in opposition to the project. Many permits have to be gained and, significantly, a recent report has revised cost estimates upward by at least \$20 million, together with a statement from Cambridge that says they can no longer equally share in the burden associated with these increases.

The second project is the potential for additional storage and related projects affecting the Cottage Farm facility in terms of the use of the affordability analysis and whether it is cost

effective to do any more control in the area tributary to Cottage Farm. This additional storage amount has been estimated to be as much as another \$100 million.

The East Boston Project is third, for which cost estimates are now approaching \$60 million. The most recent reassessment is now more than a year old and it is not clear where the project is going in terms of how much control the Authority will eventually have to agree to and, therefore, what the final dimensions and cost of this project will be.

The fourth project is North Dorchester Bay, which now has several components to it including Pleasure Bay stormwater, the Morrissey Boulevard redirection of some stormwater from the southern most CSO outfall near Carson Beach; the Reserved Channel sewer separation; and a 17' in diameter tunnel which would go along Day Boulevard along the beach to redirect and capture CSO flows.

Related to it is the stormwater issue. Thus far, there have been no written assurances that MWRA's agreement to capture stormwater for South Boston will in fact not set a precedent. For that reason Advisory Board staff thinking on CSOs is to be more specific and pointed about not proceeding with these projects until an agreement has been met.

The second theme has to do with the Affordability Study. The Authority did finally, with the urging of the Advisory Board, conduct the analysis that is required of CSO projects, which are in line for a water quality designation less than B. If you want to have CSO excursions with a Bcso designation, you have to demonstrate you cannot afford to get to B. That is what the affordability analysis is about and specifically applies to Alewife and the Cottage Farm facilities whose receiving waters are expected eventually to be determined Bcso but are still under variance, which means it is another three years before the regulators have indicated they might be willing to reach a decision. The interesting conclusion of that analysis was that it is not just that the Authority's sewer rates are *going to eventually be unaffordable*, but that they are *unaffordable now*, a far more specific and pointed determination than the last time the Authority conducted this analysis when the whole shape of the CSO program was recast and agreed to in 1996 and 1997.

Furthermore, all this increased capital spending comes at a time when the schedule for debt service spending is rising rapidly. Over the next several years the pace of repayment, particularly for principal, rises rapidly.

The third theme has to do with the benefits of the capital program based on cost benefit analysis. Ironically, the author of the Affordability Analysis, who is an economic advisor to EPA about these decisions, points out that it flies in the face of normal economic analysis, which is to use cost benefit analysis, not whether or not to do anything as long as you can afford it. The Authority needs to demonstrate that the benefit of any of these projects has a benefit that is greater than the cost.

Furthermore, EPA's approach in putting CSO projects under court order has the effect of a forced prioritization of the capital program and pushes aside virtually all other system maintenance and rehabilitation projects, which is where the \$500 million in lower spending is coming from. Interceptor and pumping projects on the wastewater side and distribution and pumping projects on the water side are the categories of spending that have shrunk dramatically, which increases the risk of maintenance and operations problems in the future.

This year, the way the water rates have gone up, it should be emphasized that many of the water communities are the same communities that are paying the high operating and debt service costs of the sewer system. In just the two-year period between this year and two years from now wholesale water rates are expected to rise by 36%, largely due to debt service related costs.

CSOs have long been the dominant feature of the Advisory Board's comments, but it is amazing to find that it is another year later without much measurable progress on the holistic discussion that would have at least put some of the agreements regarding the costs of the South Boston project next to and against pressures to increase several of the other remaining CSO projects.

John Sullivan said that the Boston Water and Sewer Commission (BWSC) has been urging the Authority to let BWSC do the preliminary design on the Reserved Channel. As private developers build new condos, BWSC requires them to do some separation. If a preliminary design were available, BWSC could have the private developers help build infrastructure that could be used instead of the Authority paying for it. If we don't build it in accordance with the preliminary plan, when the final plan comes out eventually the original work would have to be re-done.

The preliminary design would allow BWSC and the MWRA to claim space in the street so it reduces costs. BWSC will keep urging the Authority for the preliminary design to have an idea the way everything should flow. Outlets to the ocean need to be built. If a private contractor wants to develop a piece of land along the waterfront, BWSC wants to be able to say before they do it that they have to leave a twenty-foot wide swath to put a pipe in. It saves money. The slower the Authority goes, the more time for private developers to implement this work. In the end, all that needed to be separated before with public money could all be done by private money because the state requires a four to one reduction.

Mr. Favaloro said in the bigger picture, MWRA is beginning to lose an opportunity to weigh in and make a difference. Every year in the capital budget that everything remains status quo is one year that is going to be harder to actually alter the course. The holistic approach was the basis for much of the South Boston additions and the expediting of the schedule. The stormwater discussion was supposed to spur commitments from the regulators. The Board not only voted that the Authority send a letter to the regulators but that they also include it in the court reports. Now it is February and staff has not seen anything.

John Sullivan said preliminary planning would be about \$2 million. Currently the Authority has a schedule to finish in 2017. It would be nice to have a plan now.

Chairman Dunphy said the Board asked the MWRA administrators to get something in writing from the regulators last June and again in December. Further, the Board asked to include the stormwater precedent language in the court report in March. The Board has made their position clear.

Mr. Favaloro stated in order to have the other CSO projects catch up, MWRA has to slow down the front piece, which is the North Dorchester Bay project. Further, staff hopes its

comments will generate more discussion on prioritizing the use of the Authority's finite amount of money to be sure that it is spent wisely.

Mr. Favaloro reported that an error was made in calculating the preliminary FY06 assessments. In calculating the Chicopee Valley Aqueduct (CVA) rate, MWRA staff over estimated the capital costs and over assessed the CVA communities by \$540,000, which now must be moved to the base of the other water communities.

IV. Update: Blue Hills Covered Storage Correspondence

Mr. Favaloro stated the Blue Hills Covered Storage Project has been in play for over two years. A working committee came up with an agreed upon approach for siting an underground covered storage tank. Nearly 35% of the overall project cost is for mitigation.

Friends of the Blue Hills (FBH) have raised objections to the project and last month they testified before the Department of Environmental Protection (DEP) to have the \$5 million SRF loan for this project withdrawn. Advisory Board staff testified that should not be the case and at that point decided to produce an informational piece on the project to educate the public, including members of the FBH.

Further, to try to get a more pro-ratepayer perspective on the project, thanks to Chairman Dunphy, the Advisory Board was able to get a good piece in the Milton Times. The Patriot Ledger also covered the story. The Advisory Board's attempt is to ensure that this project does not grow by adding mitigation for FBH, which is looking for additional land to provide wetlands. The Secretary of Environmental Affairs' office is now asking questions about additional land and other components. MWRA Executive Director Fred Laskey was clear to the Secretary that no further mitigation is going to happen.

In an administrative hearing, the Judge ruled in favor of the Authority in two points of law; however, the point of most concern was the amount of mitigation which the Judge deferred ruling on, with plans to bring FBH and MWRA out to the site in mid-March to scout out what mitigation will take place and what further mitigation may occur.

Bernie Cooper asked what communities would be affected. Mr. Favaloro said parts of Dorchester, Milton and principally Quincy, who have been painfully absent from this discussion. Chairman Dunphy noted that Quincy would be the most impacted.

Chairman Dunphy stated that FOB member Tom Palmer wants the MWRA to buy 30 acres of land on the north side of Chickatawbut Road across from the Reservoir. Of the 30 acres, only four acres are wetland. Mr. Palmer is saying MWRA has to replace nine acres of wetlands and he is determined that MWRA has to meet the letter of the law, even though what he is proposing does not meet the letter of the law. The land he wants MWRA to purchase belongs to the City of Quincy for use as a cemetery. MWRA offered the City of Quincy some acreage near the Quincy shipyard that has been re-zoned as open space in exchange for the parcel of land near the Reservoir. Quincy did not like the proposal.

Mr. Favaloro stated in summary, a working group came up with a plan to put the tank underground with a meadow over it, taking a man-made water body and making it into a real wetland. The project is over \$30 million, with nearly 35% for mitigation. A small group has held this process up for more than 18 months, which has added \$3 million to the cost

just for inflation. The group wants to add more mitigation dollars to the project. The Authority is holding the line.

John Carroll asked how critical this project is for Covered Storage. Mr. Ferrara said the overall system objective is to have one day's worth of Covered Storage within the entire distribution system. The idea is to put 10 million gallons of Covered Storage, primarily for the benefit of Quincy, for safety purposes and water quality and part of a commitment the Authority made to the Commonwealth. It is probably not the highest priority, but at the same time it is a good thing to do for the system in terms of safety and water quality.

Mr. Ferrara said the design/build project is essentially ready to go. The Authority expedited the project through the legislature after September 11 because it is considered to be a security-related project; that is one of its benefits.

John Carroll suggested that the MWRA contact Milton and Quincy to ask them to "step up to the plate". Chairman Dunphy said the Chairman of the Board of Selectmen for the Town of Milton is willing to write a letter of support for this project.

V. CIP/CEB Updates

Ms. Potter stated thus far the status of the Authority's spending this year on the capital budget is \$106 million. The Authority is assuming actual spending for this year will be closer to \$200 million, as opposed to the \$223 million budgeted. Not surprisingly, a quarter of spending for the year-to-date is CSO spending. CSO spending also reflects slower progress on CSO projects, particularly Union Park which has been progressing at a slower pace than had been assumed when the budget was built.

Over half of the spending so far this year is for the wastewater side of the picture, including the Braintree-Weymouth project. Waterworks spending is at \$50 million.

On the current expense side, the Authority has spent two and one-half times what they spent on capital spending – \$258 million for the first seven months of the year, which is still \$12 million (4%) below the budgeted amount. Revenues are also a little short because of the way the Authority is billing the Rate Revenue in anticipation of receipt of Debt Service Assistance. The actual difference is about \$8.5 million, of which \$4 million is for Direct Expense spending, lower in almost every category including *Wages and Salaries*; \$3 million is for lower spending in debt service because variable rates are lower than assumed when the budget was built; and \$1.5 million more than budgeted for investment income.

Spending in the FY06 CEB is going up by over \$40 million, but the use of \$27 million in rate stabilization funds is going to keep that proposed rate increase to about 5.7% (after adjustments for the CVA related charges).

For the next five years the Authority's projections have rate revenue increases estimated between \$40 to \$50 million each year.

John Carroll has tried to implement a 2½% cap on rate increases. Mr. Carroll stated at the last Board meeting, staff did a good job of presenting various alternatives that would keep the rate increase to 3%. Additionally, Mr. Carroll expressed concern that the Authority has over \$300 million in reserves. At a future meeting, the Board plans to discuss under what

conditions MWRA can use the Reserves to mitigate and stem the tide of rate increases in the outyears.

Mr. Favaloro noted that he will serve on a committee to select a financial advisor for the MWRA. The plan is to have a number of firms provide packages that answer a series of questions about different aspects of financing works, including the use of reserves, risk and other analysis.

Ms. Potter said the Debt Service Reserve Fund is over \$200 million, but it is similar to a rental agreement where one month's rent is set aside in a separate account to be returned at the end of the term of the agreement. The entire debt service schedule reflects the thirtieth year, or the final year, for every bond issue which is paid for out of that reserve.

The other thing that is important to remember is the Authority is spending, at least on the Direct Expense side, less than it did five years ago and that their projections have always reflected and, in fact, have attained 2½% for ongoing expenses plus the cost of new facilities such as the Walnut Hill Water Treatment Plant. The strategy has been to try to ease in repayment of the debt that the Authority has had to incur in the absence of more meaningful federal and state support. At some point those payments have got to be made.

VI. Legislative Update

Mr. Favaloro stated that the leadership teams in both the House and Senate have been announced. On the House side, House Chairman of Ways and Means, John Rogers, an active member of the caucus, is now the Majority Leader; Representative Lida Harkins, who just sent out a letter talking about the need for Debt Service Assistance, is now the Assistant Majority Leader; Byron Rushing, who has been a strong advocate for this office, has also moved into leadership. Saving the best for last, the Chairman of the MWRA Legislative Caucus, Representative Robert DeLeo, is now the Chairman of Ways and Means.

Debt Service Assistance remains the Advisory Board's main legislative focus. Discussions have centered on a DSA number of \$15 million. The House Budget is due out in six weeks.

The Advisory Board's Government/Media Coordinator Andrea Briggs will keep members abreast on residential water meters for apartments, which go into effect on March 16; as well as regulations for residential meters which will be determined in a March 2 hearing.

VII. Status: Reading Application to Join MWRA Water System

The Water Resources Commission (WRC) will revisit Reading's application for an inter-basin transfer on February 24th in response to objections from the Ipswich River Watershed Association (IRWA) and the Water Supply Citizens Advisory Committee (WSCAC).

IRWA and WSCAC's main objection is that October is a critical month for the Ipswich River Watershed and they would like Reading to take water from the MWRA through October. The WRC had previously voted that Reading could take water through September. Reading is willing to acquiesce to spread its request for 219 million gallons of water per year over the additional month; however, IRWA and WSCAC want Reading to take additional water for the month of October, which may trigger additional MEPA or regulatory involvement.

VIII. Update: Wastewater Metering Replacement Project

Jay Fink stated at the February 16 Wastewater Metering Replacement meeting, MWRA staff informed members that 12 rate meters still need to be approved and accepted. The averaged numbers being used for billing purposes will continue through the month of March, with the hope that all of those meters will be up and running by April 1.

IX. NPDES Permit Preview

The Authority is now in preliminary discussions on its NPDES permit, which is up for renewal. MWRA has taken a hard core approach at this point trying to eliminate the contingency plan and some of the monitoring plans from the NPDES permit.

Five years of operations and historical data should provide some changes in the Authority's NPDES permit. In preliminary discussions with EPA, key issues are Sanitary Sewer Overflows and Infiltration/Inflow. The fear is that EPA is going to use the NPDES permit to make all 43 communities co-permittees to the Authority's NPDES permit. If that is the case, EPA would use the Authority to regulate some I/I and Sanitary Sewer Overflow issues.

X. Approval of the Advisory Board Agenda for February 24, 2005

A Motion was made **TO APPROVE THE ADVISORY BOARD AGENDA FOR THE FEBRUARY 24, 2005 MEETING, WITH THE ADDITION OF A PRESENTATION ON THE 2004 CONSUMER CONFIDENCE REPORT SCHEDULE.** It was seconded and passed by unanimous vote.

XI. Adjournment

Prior to the adjournment, a cake was presented to John Carroll in celebration of his 77th birthday. A Motion was made **TO ADJOURN THE MEETING AT 9:58 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Edward Sullivan, Secretary