

**EXECUTIVE COMMITTEE MEETING  
FEBRUARY 9, 2007**

Minutes Approved at the March 9, 2007 Meeting

Present: John Sullivan, BOSTON; Ed Sullivan, CANTON; Jay Fink, LYNN; Ron Seaboyer, MELROSE; Katherine Haynes Dunphy, MILTON; Lou Taverna, NEWTON; Zig Peret, WILBRAHAM.

Also in attendance, Andrew Pappastergion, MWRA BOARD OF DIRECTORS; Joseph Favaloro, Cornelia Potter, Matthew Romero, Christine Hevelone-Byler and Mary Ann McClellan, MWRA ADVISORY BOARD STAFF.

**I. Approval of the January 12, 2007 Minutes of the Executive Committee**

Chairman Katherine Haynes Dunphy called the meeting to order at 8:35 a.m. A Motion was made **TO APPROVE THE JANUARY 12, 2007 MINUTES OF THE EXECUTIVE COMMITTEE**. It was seconded and passed by unanimous vote.

**II. MWRA and the Regulators:**

**Combined Sewer Overflows**

MWRA Advisory Board Executive Director Joseph Favaloro stated the Authority provided its Annual CSO Report, in draft form, to the MWRA Board of Directors at the Board's last meeting.

Because of the agreement made last March to control spending on CSOs through a series of five three-year variances, the Authority is now under a new understanding on where the CSO Control Program is going. In 1994, CSO projects were estimated at \$398 million; by 1997, costs had risen to \$487 million. Currently, the proposed FY08 CIP lists costs for the CSO Control Program at \$800+ million. CSOs are the single largest series of projects moving forward over the next five years.

The largest CSO Project is North Dorchester Bay, which has begun to move forward. Growth within existing projects is an issue that must be watched, such as the Morrissey Boulevard Drain Project, which began at \$16 million and is now at \$32+ million.

The Alewife/Mystic is still in play. Due to actions by Arlington, Belmont and Cambridge residents, the detention basin that is a principal part of the Alewife resolution is now nearly a year behind schedule, with no resolution on the horizon. Further, Arlington believes an

overall solution for Alewife should be zero discharges and has taken legal action to try to enforce that.

Cost increases for CSO Projects within Cambridge are now in the \$20 million range and potentially growing. Cambridge took on a piece of the cost increases of these projects but now says it has no more money to spend on these projects. The issue needs to be resolved before the projects can move forward. (Cost estimates have risen recently from \$74 million to \$94 million, as compared to the \$13.8 million the MWRA originally agreed to in the 1997 Court schedule.)

The Fort Point Channel is of critical importance to Save the Harbor/Save the Bay, which has a differing position than the Authority on what should be accomplished as part of the Fort Point Channel Projects.

The Authority believes the landmark series of five three-year variances mean no additional CSO work until 2020. Arleen O'Donnell, Acting DEP Commissioner, stated in an article that "there has been a lot done to combat CSOs in these rivers and we are tracking the need to do more by issuing variances over the next twelve years. Every three years we are going to take a look at the variances to decide whether more work needs to be done." Mr. Favaloro stated that is not the agreement that is in play. Ms. O'Donnell has been a staunch advocate for CSOs and if she means what she says, there is a battle waiting.

### **National Pollutant Discharge Elimination System**

The MWRA National Pollutant Discharge Elimination System (NPDES) permit needs to be looked at with the issue of blending. The Authority's five-year NPDES permit expired nearly two years ago and there has been no discussion between EPA and MWRA on a new permit. During negotiations for the last NPDES permit, the Advisory Board hired an attorney to review some of the EPA's requirements, which EPA later backed off from.

One issue that was jointly worked on during the NPDES negotiation was joint meetings on stormwater, which led to some new guidelines. The Authority and the Advisory Board must be vigilant on where EPA is going in the next five-year permit. EPA's explanation for not moving forward on the new permit is that they don't have enough staff.

### **Blending**

Mr. Favaloro reported the potential for a regulatory problem around the issue of blending. Deer Island was designed and permitted with the understanding that at times primary treated only wastewater would be blended with secondary treated wastewater and then disinfected to meet permit requirements; this is not abnormal. In most Wastewater Treatment Plants, where there is combined sewer overflows and huge variations in wet weather, blending is allowed; that is a national initiative. It was assumed that MWRA would blend part of its flows.

In 1995, when the Authority and court parties agreed on the elimination of Battery D, the court document contained language about how much of the flow would have secondary treatment (700+ million gallons a day [mgd]) and then the overflow to be dealt with in a blending style. More specifically, it is allowed after storms. MWRA has followed this practice since the start up of secondary treatment and submits reports each month to EPA

on their flows and how much of that flow had secondary treatment and how much was blended.

### **Water Management Act/Water Conservation Standards**

Mr. Favaloro stated that former Office of Commonwealth Development Commissioner Andrew Gottlieb, who ran a working committee to debate the Water Management Act and Water Conservation Standards, submitted a report to the House and Senate Natural Resources Committee. The report is a compilation of everyone's opinion and not one is the same. It all gets back to a "one size fits all" approach to regulations and will continue to be a hot issue. For many partial MWRA users, the registration issue and the requirements around it could cause problems for a lot of communities. Currently, staff does not know who will take the lead on this issue at the state level, however, it has been suggested that it will be Kathy Baskin, Executive Office of Environmental Affairs Director of Water Policy and Chair of the Water Resources Commission (WRC).

John Sullivan noted that Mr. Gottlieb's letter says he would like to apply new regulations equally to all basins, not just stressed basins, to make it easier for the regulators. These regulations should not apply to the MWRA District, with all of its surplus water.

### **System Expansion**

Staff has met with residents of central and western Massachusetts communities, including Northampton, to discuss system expansion. There has been discussion about setting aside water for those communities around the reservoirs if it is needed. The major issue centers on withdrawals into the different river bodies in that area. The Advisory Board has made it clear to the Water Supply Citizens Advisory Committee (WSCAC) that it does not support WSCAC's efforts to tell the Authority what the withdrawals will be. WSCAC and other organizations want to create a process to develop withdrawals. MWRA will be focusing its efforts to develop an overall plan on its own.

Mr. Favaloro noted that the Town of Wilmington is now well into the process to join the MWRA Waterworks System and the Town of Reading is moving forward with its plan to join the MWRA as a full-time water user. Further, staff has met with a few communities and entities over the last month to address inquiries about the application process to request water. Additionally, one small wastewater expansion request will be coming forward for a vote from the Operations and Executive Committees and the full Advisory Board next month for a fire station in Hingham.

### **III. Legislative Update/Status of Debt Service Assistance**

Mr. Favaloro noted that there have been numerous discussions between the new Administration, the Authority and the Advisory Board. Messrs. Favaloro and Laskey met with Secretary of Administration and Finance (A&F) Leslie Kirwan to try to grasp where the Administration was going with DSA; A&F staff was neither negative nor positive, but were receptive in conversation.

Chairman of House Ways & Means Robert DeLeo and Senate President Robert Travaglini have stated that they will do their best to maintain DSA.

Normally the MWRA would provide communities with their assessment to begin the MWRA/Advisory Board CEB review process. MWRA and Advisory Board staff jointly decided to push the budget process back one month to have a better understanding of where the new Administration stands on DSA. In the interim, the Advisory Board will put together a range of assessments for distribution to cities and towns with the best and worst case scenarios.

On Wednesday, the Advisory Board was notified that the Administration was leaning toward providing \$15 million in DSA for FY08; staff will continue efforts to increase that number.

Mr. Favaloro met with Somerville Mayor Joseph Curtatone, President of the Massachusetts Mayors' Association this year and part of the transition team for Deval Patrick, to see how far the mayors want to go on this issue. Mayor Curtatone said this is an important issue, noting that Somerville is going up 8+% to 12%. Advisory Board staff has been invited to make a presentation for the Massachusetts Mayors' Association at the Massachusetts Municipal Association and for the Metropolitan Mayors' Association that is an offshoot of the Metropolitan Area Planning Council.

Further, Chairman Dunphy, Advisory Board and MWRA staff met on Monday with Lt. Governor Tim Murray to put the DSA issue on the table and to note that this is a major issue for Mayor Curtatone in his capacity as President of the Mayors' Association. The goal was to hold to the \$25 million allocation.

The Governor's Budget (House 1) is due to be released at the end of February.

Mr. Favaloro noted that a meeting has been scheduled with the Rutland-Holden Committee to discuss the trunk line sewer on February 27. The communities of West Boylston, Rutland and Holden will all be in attendance and will include the Town Managers, DPW personnel and a legislative delegation consisting of Senator Stephen Brewer, representing Rutland; Senator Harriette Chandler, representing West Boylston and Holden; and Representative Lewis Evangelidis, representing Holden and West Boylston.

Mr. Favaloro noted that the Operations and Maintenance (O&M) charge for Rutland last year was approximately \$13,000. The Advisory Board questioned this line item and learned that Rutland was charged the exact cost of getting the MWRA truck and employee to the trunk line sewer. In the next few weeks, Rutland will receive a bill in the \$50,000 range to recover all of the costs.

Lou Taverna asked if the goal is to turn the sewer over to the communities. Mr. Favaloro said the goal is to create comfort for the three communities via the creation of a Sewer Commission, possibly keeping DCR as one of the voting members. The Sewer Commission would protect the communities from each other.

#### **IV. CIP/CEB Update**

Cornelia Potter stated that MWRA staff expects to mail the Capital Improvement Program (CIP) document by early next week, along with a copy of the Master Plan. Receipt of this document by the designees triggers the Advisory Board's 60-day review period.

In the meantime, Advisory Board staff has had a series of meetings with engineering, construction and planning staff.

Mr. Favaloro said next month staff will kick off discussion on an approach for the Current Expense Budget (CEB) review. Having used sustainable and predictable rate revenue requirements for a multi-year problem as the foundation for restructuring, how can staff meld that message into the overall year to year reviews? Where does the Advisory Board want to be and how can it be maintained? Every day new variables come into the mix. If the state does not provide DSA, how are we going to handle it? Our approach has been to meet certain numbers every year, either through additional use of rate stabilization or some of the other tools to restructure debt. There are many questions that need to be answered up front because it will drive how staff handles the budget review over the next 60 days.

Ms. Potter added that potential implications for the NPDES permit and what the treatment requirements could be translates into chemicals, which can be costly each year; staff will watch for those issues as well.

John Sullivan asked if communities have been concerned about the rates. Chairman Dunphy said Milton had a big issue last year because its water rate increased substantially, probably due to usage. Ron Seaboyer noted that rates are a huge issue in Melrose. Ed Sullivan said rates are a huge issue with Canton as well because Canton just had a \$4 million operational override. Two companies in Canton are considering moving; taxes and water and sewer rates are factors.

John Sullivan asked if communities are calling their elected officials. Mr. Favaloro stated because of the efforts of the communities last year in getting their message to the legislators, DSA was increased. Chairman DeLeo complimented the Advisory Board on how many communities participated and it generated action. Rates have not been on the radar screen, which is a compliment to the MWRA's efforts in controlling costs and DSA playing the role it has. If DSA goes away, some communities will have double or close to double digit increases.

Mr. Seaboyer said this was such an issue in Melrose that the Board of Aldermen and our delegation to the State House brought MWRA Executive Director Fred Laskey in to explain what has been going on.

Mr. Favaloro asked, if at the end of February the Governor releases House 1 and it has zero for DSA, should there be a harsh press release. For the last sixteen years, within 15 minutes of the release of the Governor's Budget, the Advisory Board has issued a press release critical of the Governor's action; that has been our approach. Should staff follow that same dynamic with the new Governor? Ed Sullivan said be consistent.

#### **V. Approval of the Advisory Board Agenda for February 15, 2007**

A Motion was made **TO APPROVE THE ADVISORY BOARD AGENDA FOR THE FEBRUARY 15, 2007 MEETING.** It was seconded and passed by unanimous vote.

## VI. Questions and Comments

Lou Taverna asked about the success of the restructuring deal, discussed at last month's Executive Committee meeting. Chairman Dunphy said the MWRA put out \$200 million for new borrowings and \$648 million for restructuring at a rate of 4.34%.

Chairman Dunphy noted that MWRA staff had previously told the Executive Committee that new money principal repayments would not begin until after ten years; in the end, they made it fifteen years because their financial adviser said it made a difference in the savings for the first few years.

Ms. Potter said after the sale, the Authority reported that longer term debt was particularly sought after by buyers. Also, because the Authority is an issuer every year, it has the opportunity to continue to structure new borrowings to be even earlier or later depending on the market conditions and interest rates. The argument is because long-term interest rates are still at historic lows, it was beneficial to go long at this time because if they borrow two or three years from now at higher rates they may structure that borrowing to pay earlier. The bonds were swept up in less than one hour.

## VII. Executive Director Annual Review

Chairman Dunphy noted that a presentation was made at last month's Executive Committee meeting that detailed the accomplishments and goals of the Advisory Board's Executive Director Joe Favaloro.

Mr. Fink made a **MOTION FOR A BETTER THAN SATISFACTORY APPROVAL RATING AND A ONE-YEAR EXTENSION OF THE EMPLOYMENT CONTRACT OF EXECUTIVE DIRECTOR JOSEPH E. FAVALORO, JR. TO JUNE 30, 2009.** It was seconded and passed by unanimous vote.

After confidential discussion, the Executive Committee entertained a **MOTION TO PROVIDE EXECUTIVE DIRECTOR JOSEPH E. FAVALORO, JR. WITH AN INCREASE IN COMPENSATION OF \$106,797.00, RETROACTIVELY TO JULY 1, 2006.** It was seconded and passed by unanimous vote.

Committee members requested a review of compensation at the MWRA and other agencies after the beginning of the next fiscal year (FY08).

## VIII. Adjournment

A Motion was made **TO ADJOURN THE MEETING AT 9:49 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Edward Sullivan, Secretary