EXECUTIVE COMMITTEE MEETING
FRIDAY, NOVEMBER 9, 2007
ADVISORY BOARD OFFICE
Minutes Approved at the January 11, 2008 Meeting.

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

Also in attendance, John Carroll, 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 October 12, 2007 Minutes of the Executive Committee
Chairman Katherine Haynes Dunphy called the meeting to order at 8:34 a.m. A Motion was made **TO APPROVE THE OCTOBER 12, 2007 MINUTES OF THE EXECUTIVE COMMITTEE**. It was seconded and passed by unanimous vote.

II. Legislative Updates:
<u>Meetings with Administration & Finance and Governor's Office</u>
MWRA Advisory Board Executive Director Joseph Favaloro reported that Chairman Dunphy and Advisory Board staff met last week with Administration and Finance (A&F) Secretary Leslie Kirwan and her senior staff to try to influence the House 1 Budget in regard to Debt Service Assistance (DSA).

In the past, staff worked with the House and Senate to strive for an acceptable number for DSA since House 1 rarely included funding. With the new Administration, whose first actions were to restore DSA when Governor Romney made 9c cuts and actually insert DSA in its first House 1 budget, staff believed getting the right number in the House 1 budget could make the process smoother.

Secretary Kirwan was clear and direct in her message. As late as early July, Governor Patrick considered vetoing DSA because he believes there is a better way to utilize those funds for low income and elderly individuals, as opposed to providing funds as a reduction in assessments to cities and towns.

The Administration talked about strengthening the SRF Program with $23 million as opposed to providing those funds for statewide DSA. Staff respectfully told A&F that $23 million is not going to significantly increase the SRF. Most importantly, DSA isn't an answer for future borrowers as much as it is a response to the $6 billion of borrowings that has already occurred to mitigate the impacts of an already existing debt service that is nearly 60% of the MWRA's operating budget. Chairman Dunphy noted that there was a low-income/elderly program in existence a few years ago; very few people that needed that money got it because the process for applying for it was so burdensome. Chairman Dunphy stated it was the most inefficient program she had ever seen.

Zig Peret said the purpose was and still is to fund unfunded imperatives that the government wanted done. Mr. Favaloro said DSA was created in response to ratepayer revolt that was occurring up to 1994 and was an acknowledgement of the need of the Commonwealth to participate in mitigating those impacts. Specifically, the formula is 20% of eligible sewer debt plus the MetroWest Tunnel, the only water project allowed as part of the Sewer Relief Fund. DSA was created in response to existing debt.

Advisory Board staff also met with the Governor's staff and the Chief of Staff for Ian Bowles, Secretary of the Executive Office of Energy and Environmental Affairs, to discuss the political realities of DSA. There was discussion about levels of DSA over the next three years and keeping rates in the 4% range. At the meeting, Mr. Favaloro stated that it would be irresponsible to keep DSA low and use up all the MWRA's reserves so that the Governor can have rate increases at or below 4%. The Governor's office told staff to work with A&F.

This past Monday staff received an email from A&F asking the Advisory Board to outline, by Thursday, the case for DSA and to propose and describe the pros and cons of all other alternatives that should be considered, including financial ramifications.

MWRA and Advisory Board staff put together alternatives to provide a lengthy document that was hand-delivered to A&F by their deadline. Staff offered its continued efforts to work with the Administration to find mutually beneficial approaches to providing ratepayer relief.

Mr. Favaloro noted that when the Low Income Sewer and Water Assistance Program was put in place, out of 371 cities and towns and districts, only 92 were eligible for the program. Out of those 92 communities, only 8,000 households benefited, which cements the case for a broad-based program.

Staff talked about state tax credits such as septic and Title V compliance. Currently, if you have a failing septic system, the state will give you up to $800 in a state tax credit to replace it. Staff suggested it may be an excellent approach; it may be prohibitive cost wise but if you want to provide credits to ratepayers for capital work that the MWRA did that is a great idea.

Staff suggested a state income tax deduction but because of earned income credits, it still may not be attracting the benefits to the targeted individuals. Another suggestion was to create further incentives on the retail level. There are 38 communities just in the MWRA service area that provide some low income and elderly discount programs; even in those communities, the penetration rate is almost miniscule.

Jay Fink asked if the City of Worcester gets anything from DSA and does the Lt. Governor have any input. Christine Hevelone-Byler responded in the affirmative. Mr. Favaloro noted the first meeting staff had last January was with the Lt. Governor. The Lt. Governor's first responsibility was to lead the charge for a municipal partnership. Much of the Municipal Partnership Act tenets have not been accomplished; the property tax piece of that had been the focus. The Lt. Governor could feel our pain, but the pain he was most trying to alleviate was on the property tax side.

Walter Woods said the Legislature has been the biggest part of the Advisory Board's strength on this whole subject matter. What is their attitude? Mr. Favaloro stated the Advisory Board and the Authority have incredible strength in the House, led by Ron Mariano as the MWRA Caucus Chairman and Bob DeLeo as the House Chairman of Ways and Means; however, there is weakening and diminishing strength in the Senate. In the past year and one-half, the Authority and the Advisory Board have lost Senate President Bob Travaglini, Assistant Majority Leader Bob Havern and Senator Charlie Shannon, who was the Senate Caucus Chairman. With Senate President Therese Murray, we are not getting as much DSA because this has not been her priority.

Mr. Favaloro said cities and towns need to focus on this issue. Not only may we not grow the $23 million, we may lose it in total.

Mr. Favaloro stated that he has asked the caucus members to include DSA on their lists. Last year the Advisory Board got 23 of 39 Senators to formally sign onto an amendment to the senate budget to match the DSA number in the House and still were not successful.

<u>Bottle Bill</u>

Staff has been actively pursuing bottle bills, but has not taken any formal action because of timing issues. A principal sponsor on the House side, Doug Peterson, is leaving the House to become the Agricultural Secretary for the Commonwealth.

Over the last month there has been a significant backlash of bottled water versus tap, with many groups pushing for changes. Nationally, many municipalities are banning bottled water from municipal buildings. In Chicago, bottled water is being taxed to use the funds for infrastructure repairs.

III. 2007 Advisory Board Water & Sewer Retail Rate Survey

Matthew Romero stated the FY07 assessments had increased 4.9% from FY06, with household charges for MWRA communities passing the $1,000 mark last year for the first time. The average retail rate increase was 6.3% and retail rates over the past ten years, from 1996 to 2006, had increased 61%.

For FY08, assessments for MWRA communities have increased 4.5%; the average MWRA community household charge is now $1,072 and the average MWRA community retail rate increase is 6.6%.

John Sullivan asked if it is true that the average household charge is $1,072 or is that based on 90,000 gallons. Mr. Romero stated in the Advisory Board's survey, as a consistency point from year to year, staff uses 90,000 gallons, or 120 hundred cubic feet (HCF), as the benchmark; that is what these figures are based upon.

John Sullivan said people are using less water. In reality, our average chart is significantly lower than what we are reporting, perhaps somewhere in the $900 range. Mr. Romero said staff has included Appendix C, which utilizes data reported to the Department of Environmental Protection as actual usage of water and divides that data by the census for the number of households in each community to arrive at an alternative picture to the 120 HCF. John Sullivan noted that number can also be skewed because of institutional and industrial use of water. Mr. Romero said that is a fair point.

Putting it in to perspective, over the previous ten years, from 1997 to 2007, the MWRA is now looking at a retail rate increase of 65%, in comparison to the 61% from 1996 to 2006. Putting the 120 HCF caveat aside, the 6.6% increase is the largest since 1993 for MWRA communities. Compared to the other surveyed U.S. cities, the MWRA is still second, right behind Portland, Maine.

Proofs have been sent out to the MWRA communities. Non-MWRA community proofs will be sent out next week. The deadline for changes is the Wednesday before Thanksgiving. The final report is expected to be mailed in early December.

John Sullivan said MWRA was using 320 million gallons per day (MGD) and is now down to 230 MGD. People looking at this may think it is a game being played because the people I represent don't pay that. The Advisory Board needs to keep pushing that this is based on a standard of 90,000 gallons because we don't want to be accused of grandstanding in order to receive more DSA.

Zig Peret suggested using "MWRA community factor constant" instead of the word household. Mr. Favaloro said staff will work on fine tuning the information that comes out of the survey. The emphasis will squarely be on the growth in retail rates of 6.6% rather than the increase in dollars.

IV. CEB/CIP Preview

Cornelia Potter said through the first quarter of this year, the Authority is close to its budget of $135 million on the Current Expense Budget side, which includes nearly $76 million in capital financing expense for the first three months alone.

The Authority is just beginning to prepare for the FY09 budget, especially on the direct expense side, which requires a lot of detailed filings from each of the departments and divisions in the Authority. The traditional schedule for the CEB is that it comes to the Board in February for authorization to transmit to the Advisory Board for review.

Electricity expense is over budget for the first quarter of the year even though flows are down because it has been so dry. Processing in both the primary and secondary process areas is running over budget. Last year and the year before electricity was a big deal in monitoring the Authority's budgets; two years ago because of the impacts of Hurricane Katrina and last year the Authority budgeted so conservatively so they wouldn't experience the Katrina type impacts again that they had a large surplus. So electricity and utilities continue to form one of those non-personnel related issue areas that the Advisory Board monitors.

The Authority is keeping up with its maintenance budget, especially taking advantage of the summer months with outdoor roofing type projects at Deer Island so there may be some spikes in the first quarter that will even out through the year.

For the capital budget, spending through the first quarter came to $37 million, 26% below the $50 million budgeted for the period. The under-spending shows the continuing concern that the Advisory Board has had about the Authority's ability to spend, with 25% below budget now a recurring pattern. Staff is watching that particularly closely because we are coming up to the new setting of the next five-year cap. What is the Authority's capability to spend? If they request monies, is that something that should be supported because there are so many variables into what they actually spend or do you tighten that request because they haven't been able to spend. Staff will be seeing a report from their Capital Improvement Program Committee. The Authority's assessment of why they haven't spent as much under the last cap needs to be brought into play and appreciated as staff assesses what the Authority will propose for the next cap.

As they prepare the initial cuts for the FY09 CIP, staff is recognizing that they will be at least 20% under budget in this fiscal year, which will create a slide over effect into the next five-year cap. That, coupled with some increases in cost estimates for the CSO program of another $20+ million, plus the acceleration of assumed construction schedules for the West Roxbury Tunnel Project, is increasing potential costs for the next five-year period by another $100 million taking preliminary estimates for the next five-year period over $1.1 billion.

The Authority is expected to have the proposed capital program to the Board in December and will request that the Board authorize transmittal to the Advisory Board for its review. Unless they get their key materials out to the Advisory Board by Christmas, staff will not have a full 60-day review period in time for the February Board meeting.

The largest capital projects to be awarded this year include electrical equipment upgrades at Deer Island at nearly $15 million; design of the West Roxbury Tunnel is supposed to come out next spring ($16 million by current estimates); rehabilitation of the lower Hultmann Aqueduct construction contract goes out next spring; construction of the East Boston Branch CSO project at over $50 million is to be awarded next spring as well.

Lou Taverna said so the concern is that the MWRA is under-spending on its capital program now by 20% and that at some future time there will be a flood of capital projects on the books. Ms. Potter said at some point there is going to be some catch up. For example, the lower than budgeted spending this quarter is largely due to lower than budgeted CSO spending because the tunnel boring machine did not get delivered until September. Nearly $9 million of the $13 million variance for the first quarter will catch up; at the same time preliminary numbers for FY08 still put spending at more than $40 million under what the Authority assumed so there will be other areas that get pushed out into the next cap period, which then puts pressure on how to set the next cap, especially when it is the construction dollars for the five or six biggest projects that will be awarded this spring.

V. NPDES Permit Status

Mr. Favaloro said seven and one-half years ago when the MWRA got its last five-year National Pollutant Discharge Elimination System (NPDES) permit, there was a lot of discussion relating to how the MWRA could be the czar of the municipal sewer systems. Jay Fink led the committee that pushed back at the EPA and developed ways to work cooperatively on I/I and SSO issues.

Even though the Advisory Board has no idea when a draft will be available for MWRA staff to review, staff has heard that EPA is constructing language that makes each of the 43 wastewater communities a co-permittee; therefore, EPA would have access to communities through the Authority's NPDES permit. Mr. Favaloro said he assumes the intended action would be 43 appeals to the NPDES permit if, in fact, it is true.

John Sullivan said to get the Union Park CSO facility online, because the Authority didn't have a NPDES permit, EPA made the Authority a co-permittee with the Boston Water and Sewer Commission (BWSC). Now BWSC is trying to remove the MWRA from its permit.

Further, Mr. Sullivan noted that EPA wants to get the City of Boston Highway and Parks Departments on BWSC's stormwater permit because EPA has no control over them. "Co-permittee" may be EPA's new marching orders.

Mr. Favaloro said Boston has a permit but on the other communities EPA's angle is going to be through the Authority. When staff sees the language there will be further discussion. The communities should not allow EPA access through the Authority. If EPA wants to create 43 permits, that is one thing; at least that is negotiated directly with each community.

Chairman Dunphy said she would be concerned if a community were a co-permittee and a problem evolved; it could change the relationships of the individual communities with MWRA and there wouldn't be the level of comfort and cooperation of working together to solve problems because there could be worries about who is going to pick up the costs.

Mr. Favaloro said normally EPA does a draft that they share with MWRA staff; the Authority does not know if that will occur. Beyond that, will there be a formal process for review and comment as in previous years; staff assumes that to be the case but does not know for sure.

VI. Supplemental Environmental Project Update

Mr. Favaloro said because of issues related to blending at Deer Island, there is the potential that the Authority will be issued a fine by the EPA. Half of the fine amount can be used for a Supplemental Environmental Project (SEP) that benefits the MWRA or the communities. Last month the Executive Committee discussed the concept of a SEP; should it benefit the greater good of the 43 wastewater communities, be it technical assistance or those types of things that all of the communities can achieve some level of benefit. Mr. Favaloro stated that the MWRA is trying to sketch out the "greater good" concept.

Staff has begun to hear back on some of the thoughts that EPA has suggested, which include bacterial source identification at Sandy Beach at the Mystic River or removal of trash from the Charles, Neponset and Mystic Rivers.

VII. Tracking Debt Refinancing Opportunities

Advisory Board staff continues to press the Authority to look at opportunities for refinancing as they arise. The MWRA needs to carefully evaluate every proposal. Firms such as Raymond James and Bank of America have shared proposals and floated ideas. Since the Advisory Board reached out to Lehman Brothers for ideas, it has sent the message that part of the discussion process begins at the Advisory Board. Things change quickly; staff is advocating that the Authority be ready to act if an opportunity becomes available.

VIII. Approval of the Advisory Board Agenda for November 15, 2007

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

IV. Adjournment

A Motion was made **TO ADJOURN THE MEETING AT 10:02 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Edward Sullivan, Secretary