EXECUTIVE COMMITTEE MEETING
FRIDAY, OCTOBER 10, 2008
ADVISORY BOARD OFFICE
8:30 A.M.
Minutes Approved at the November 14, 2008 Meeting

Present: John Sullivan, BOSTON; John Sanchez, BURLINGTON; Ed Sullivan, CANTON; Jay Fink, LYNN; Katherine Haynes Dunphy, MILTON; Lou Taverna, NEWTON; Bernie Cooper, NORWOOD; Ted McIntire, READING; Walter Woods, WELLESLEY; Zig Peret, WILBRAHAM.

Also in attendance, John Carroll, Andrew Pappastergion and Joseph Foti, 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 September 12, 2008 Minutes of the Executive Committee

Chairman Katherine Haynes Dunphy called the meeting to order at 8:33 a.m. A Motion was made **TO APPROVE THE SEPTEMBER 12, 2008 MINUTES OF THE EXECUTIVE COMMITTEE**. It was seconded and passed by unanimous vote.

II. Advisory Board Perspective: Facing Potential Gubernatorial 9c Cuts/Impacts of Ongoing Financial Crisis

MWRA Advisory Board Executive Director Joseph Favaloro stated in an attempt to stay ahead of the curve, staff has developed an approach to deal with the potential loss of Debt Service Assistance (DSA) as we look at the financial crisis that is on the horizon.

Advisory Board staff is suggesting that the MWRA implement a multi-part approach. Beginning in July, Advisory Board implored MWRA staff and the Board to slow down on extra payments into the pension fund; the payments were not slowed down, in fact they were accelerated. As of the last Board meeting, the Authority has put all but $3.5 million of $14 million plus for FY08 and FY09 Post Retirement Benefits Liability into the pension fund. John Carroll called Fred Laskey last week to prevent the $3.5 million from being put into the pension fund.

In the Advisory Board's scenario of how to deal with addressing the $15 million loss of DSA, the $3.5 million would not be put toward the pension fund liability and is held to help offset the loss of DSA. The MWRA is three years beyond when its NPDES permit expired; a new permit would have likely eliminate some of the harbor monitoring that the MWRA is doing. If the Authority significantly reduced the remaining monitoring for the year, that could provide up to an additional $1.25 million to be used to offset any deficits.

Third, the current budget for the Department of Conservation and Recreation's (DCR's) Watershed Division, for which the MWRA pays 100% of its costs, grew almost 8%. Chairman

Dunphy serves on the Water Supply Protection Trust and she raised serious questions about why the watershed budget, which is now at steady state, is growing almost 8%. If the MWRA is going to bear some pain, so too should the Watershed Division of DCR as well. Under staff's recommendation, the Watershed Division should pare down its budget approximately $500,000. Staff would emphasize that In the Advisory Board's scenario, not one person loses their job.

Other possible areas to explore include agency-wide set asides. The Authority needs to look at all of its 1,246 budgeted positions. Of the 1,246 positions budgeted, there are 15 vacant positions. If the Authority freezes those hires, it would have some level of savings. At the last Board meeting, nine positions were approved. Additionally, if a position has been unfilled for two or three quarters, perhaps the Authority needs to reevaluate whether it needs that position.

The Advisory Board also suggests changes to operations to reduce how much sludge is produced. To put it into perspective, every ton saves an estimated $200,000 on an annual basis.

John Carroll asked how to reduce the amount of sludge. Cornelia Potter stated that increased detention time in the digesters could possibly reduce the amount of sludge slightly. There are other new technologies that are also being discussed, but that would take longer. The more time residuals spend in the digesters the more it breaks down, resulting in fewer solids.

Joe Foti asked why the Authority wouldn't be doing that anyway. Ms. Potter said there is a lot of variability in their operations and we are asking them to look more closely at what really influences the amount of sludge at the other end. Also, the Authority would argue that their biggest responsibility is ensuring that they meet water quality standards; secondary goals, so to speak, are not as important.

The Authority budgets for 106 tons of sludge per day, averaged over the entire year. The budget is between $12 and $13 million for sludge processing at the Fore River Plant. Advisory Board staff is saying that even a reduction of one to three tons to the 106 tons per day average at Deer Island before being sent to Fore River to be made into pellets would yield measurable savings.

Mr. Carroll asked what the annual savings would be if the Authority saved one ton per day. Ms. Potter said an estimated $200,000 for every ton annually; ten tons would be $2 million per year; however, staff does not assume ten tons. Even three to five tons would still add up to significant savings.

Reducing demand and increasing self-generation of electricity on Deer Island alone could yield a potential savings of $150,000.

Mr. Favaloro recapped the way things are going with variable rate debt, noting that there was a surplus for the first few months of the year because it had been budgeted at 4%, but rates were being set in the 2% range; however, resets over the last month have been up to 9%, so not only is the surplus drying up, but also there is the potential that the capital spending line items will be adding another layer of costs to the deficit unless the markets begin to stabilize.

A few things within the capital budget need to be looked at. A) Can the MWRA borrow? B) If it does borrow, what is it going to cost? C) If it can't borrow, what can the MWRA do to reduce its costs in this fiscal year in the amount it needs to borrow?

One of the things that the Authority needs to do right away is to remove those parts of contracts that are non-project mitigations; those that have nothing to do with the path of completing those projects. Reconvene the Community Mitigation Committee and refer mitigation portions of contracts to it.

The last one is to try to actively achieve a one-quarter lag in spending, creating a three-month window on some heavy spending projects to slow them down enough to create some savings. The Authority is planning to go out for a borrowing in November. The first question is will the market stabilize so they can get a decent rate. The second question is how much they need to borrow. If they can reduce the amount they need to borrow, it reduces the capital costs for this year.

Further, take a look at the interest income assumptions. Is there a way to ring out more dollars in the amount of monies and their vast reserves?

If the markets come back, there are at least two financing in place options that the Authority never pursued. These are ideal because it doesn't add to the term length; it only reduces the cost. If refinancing opportunities are available, the Authority needs to jump on it to reduce its capital costs to help in what is going to be a major deficit.

The communities are all partners in meeting the obligations of the Authority. The budget that the Authority approved in June assumed the MWRA's share of $15 million, which is $11.25 million. Once that budget was approved, the Legislature came back and put $20 million into the budget for statewide DSA making the Authority's share $15 million. At the last Board meeting, Advisory Board staff suggested that the communities not get the benefit of that additional $3.75 million until the state's situation cleared itself up. Though there is a $15 million problem at the MWRA, $3.75 million is already dealt with because the communities never got the value of a piece of the DSA. Bernie Cooper noted that communities that sell water are well below projections because of the rainy summer; a lot of communities are going to be running deficits.

John Carroll said that he didn't want to have a mid-year rate increase in these economic times. Mr. Favaloro said with this approach, there would be no mid-year rate increase.

Savings from the budget from the Advisory Board's suggestions total $5.5 million, which comes off of the $15 million deficit. Every percent of directs on the set aside is equal to about $2.2 million. A 1 to 2% savings from all the divisions could result in $5.75 million coming out of the Authority's budget. Along with the $3.75 million of DSA that was never applied to communities' assessments, the total comes to $15 million. All of this is tied into coverage requirements. Removing DSA triggers another piece on the debt side, which increases the overall need for coverage; $15 million is really closer to $17 million.

If everything stays the way it is now, the Authority will be paying significantly more between now and the end of the year in debt service, somewhere in the range of $5 to $8 million. Additionally, in its initial examination, the coverage requirement could have another $5 to $7 million impact on the overall Authority number.

The problems in the FY09 State Budget are not going away in FY10. Decisions made now need to be carried forward for next year.

Mr. Favaloro stated if the Authority wants to borrow money, it can find it; however, it could be paying a large premium. Last week the Authority borrowed $50 million worth of Commercial Paper, with $30 million at 4.75% and $20 million at 5.75%; it resets weekly. It could reset at 3% or 9%. The Authority needs to take a step back before borrowing just because it has a court order or a court milestone; a plan needs to be developed. What happens if the Authority can't borrow? The Authority needs to come up with a capital plan that slows down projects dramatically and communicate this information to the judge. The Authority needs to have a contingency plan in the event that there are only high rates available.

Zig Peret noted that the government is considering loaning money to communities. California has a budget deficit and cash flow problems; the government is looking at financing California until its next budget cycle because they are unable to get short-term debt.

Chairman Dunphy said the Authority might want to look at longer-term borrowing rather than the seven-day rate; for planning it would make their life a lot easier. When there was a mid-year rate increase in early 2004, the Authority used surpluses or reserves that had been set aside for future years. The Board ought to think about its position on whether to use the reserves that have been set aside for rate deductions or rate control for future years.

Jay Fink asked what money is in rate stabilization. Mr. Favaloro said one of the reasons we didn't put reserves on this list is because it is a finite amount of money. In the past you could replenish the fund with any surplus from the end of the year; there will not be a surplus at the end of FY09. Judicious use of reserves now will help later. Ms. Potter said the combination of rate stabilization and bond redemption both serve as rate stabilization funds of $75 million. There will be increasing and heavy use of those reserves over the next four years when they are assumed to be completely drawn down.

John Carroll said there would be heavy discussion on the financial situation at the Board meeting on Wednesday. He suggested that the Executive Committee vote to send the Advisory Board's plan to the MWRA and ask to be put on the Board's agenda so that all the Board members will have the opportunity to read it before the meeting to consider these ideas, as well as any others that might come up during that meeting.

Ms. Potter observed that the information before the Executive Committee is essentially an outline. It is a series of ideas but they are not specific in recommendations or their scale. Staff will be more specific when it becomes clearer exactly the shortfall the Authority is facing; there will be a budget amendment and a 30-day official Advisory Board review with much more careful and detailed recommendations. Staff is trying to help shape initial discussions.

Jay Fink made **A MOTION TO SEND THREE CATEGORIES OF POTENTIAL STRATEGIES, IDENTIFIED BY THE MWRA ADVISORY BOARD, TO DEAL WITH THE LOSS OF DEBT SERVICE ASSISTANCE TO THE MWRA BOARD OF DIRECTORS TO REQUEST THEIR CONSIDERATION AT THE OCTOBER 15, 2008 MWRA BOARD OF DIRECTORS MEETING. THE FIRST STRATEGY INCLUDED A LIST OF SPECIFIC REDUCTIONS TO THE MWRA CURRENT EXPENSE BUDGET WITH PROPOSED AMOUNTS FOR REDUCTION. THE SECOND IDENTIFIED OTHER AREAS TO EXPLORE**

FURTHER, WHILE REMAINING COGNIZANT THAT ATTACHING SPECIFIC DOLLAR VALUES TO THESE AREAS WOULD BE PREMATURE WITHOUT ADDITIONAL RESEARCH. THIS CATEGORY DISCUSSED THE POSSIBILITY OF AN AGENCY-WIDE "SET ASIDE" TARGET PERCENTAGE, NOTING THAT REDUCING THE DIRECT EXPENSE BUDGET BY 1% WOULD BE EQUIVALENT TO $2.2 MILLION. ALSO INCLUDED IN THIS SECTION ARE AREAS OUTSIDE OF THE DIRECT EXPENSE BUDGET TO HELP BALANCE THE REDUCTIONS ACROSS THE ORGANIZATION. THE FINAL CATEGORY WOULD BE THE AMOUNT BORNE BY THE MEMBER COMMUNITIES. THIS AMOUNT TOTALS THE $3.75 MILLION INCREMENTAL CHANGE BETWEEN THE $11.25 MILLION DEBT SERVICE ASSISTANCE IN THE AUTHORITY'S BUDGET AS APPROVED AND THE $15 MILLION APPROVED IN THE FINAL STATE BUDGET. It was seconded and passed by unanimous vote.

III. Advisory Board Letter to the MWRA Board of Directors Regarding the Odor Control Facility for the North Dorchester Bay CSO Facilities Project

Mr. Favaloro reported that the Advisory Board sent a letter and staff summary to members of the MWRA Board of Directors regarding a project that has been in play for nearly five years. The Authority had a fully vetted process on the North Dorchester Bay CSO Facilities Project, went to DCR, got legislative approval for DCR land and had Article 97 legislation with a two-thirds roll call vote of both the House and Senate. At the eleventh hour, a developer has now requested that the planned odor control facility be placed underground. The developer's request has triggered political intervention and discussions between Authority staff and the developer.

Mr. Favaloro stated that he called Judge Stearns regarding this situation; the judge said it is difficult for him to weigh in unless the Authority tells him directly. He suggested the Authority file a supplemental report and then he could weigh in.

In the letter to the Board, staff reiterated that the MWRA should not be paying twice for the same facility and that they should create a supplemental report to the judge as requested. If the judge had knowledge of the situation, he would likely not hold the Authority to the court ordered date. However the judge involved himself, at least some of the ammunition and threats of litigation would be taken away from the developer. If the developer wants the facility underground, his corporation should pay for it, not the ratepayers.

In Washington DC six months ago Congressman Lynch said he would get funds for the project included in an earmark in the federal budget but that has not materialized.

Andrew Pappastergion said when you had discussions with MWRA staff about filing a report what was their reaction? Mr. Favaloro said at this point they are looking for direction from the Board of Directors; they are not going to do anything until directed to.

Chairman Dunphy said "the ratepayers are spending a great deal of money to clean up North Dorchester Bay, which is an enormous benefit for Corcoran and Jennison; they are solid business men and if they missed the ball on this one, I don't think the ratepayers should pick it up. They had plenty of time to make this request at the beginning."

IV. Preview: 2009/2010 Advisory Board Legislative Package

Mr. Favaloro said staff is now looking at the direction that the Advisory Board should go for the coming two-year legislative session. A legislative package will be before the Executive

Committee and the full Advisory Board next month for approval, which will allow staff time to seek sponsors for our legislation to be filed in December.

In one approach, new emphasis will be placed upon the Bottle Bill. Staff has testified over the last couple of months before Energy and Environmental Affairs and before Administration and Finance at the state level to discuss two approaches to utilize bottled water as a revenue source.

The first approach is to expand the Bottle Bill to include a deposit on bottled water. In 2007, just under 305 million gallons of bottled water was purchased in Massachusetts. A deposit on those bottles could provide critical funding for a dedicated water and sewer infrastructure account that communities and authorities throughout the Commonwealth of Massachusetts can draw on to meet the needs for what has become "the forgotten infrastructure." A five-cent deposit would be equivalent to $30 to $50 million annually.

Jay Fink asked if there was any discussion of coming out with a flat fee or tax rather than a deposit. Mr. Favaloro said the second approach is, in fact, a tax or user fee on bottled water containers. It has been gaining momentum over time. The City of Chicago has implemented a local ordinance that put a five-cent per unit tax on bottled water and has been in effect since January. Staff is trying to obtain as much information as possible on how it works in the City of Chicago. It would provide critical funding and a significant amount of revenue. The flip side is if people don't want to buy bottled water anymore, they are going to once again turn to tap water. In a roundabout way it will encourage consumers toward tap water again.

Jay Fink said unlike the modification to the Bottle Bill, this, if it specifically targets water, makes the revenue easier to go back to water infrastructure and, in these economic times, you are not taxing a gallon of milk that is necessary to feed the family and those that buy bottled water, energy water or vitamin water can be viewed in these times can look at it as a luxury tax.

Mr. Favaloro said this approach adds a flat tax of five-cents per container. Revenues would be dedicated to a water and wastewater infrastructure fund. Based on analysis of the 305 million gallons of water sold and how it breaks out between gallon containers and liter containers and all the different sizes, it would amount to approximately $65 million per year to go into that fund.

The Advisory Board will file dual track legislation. One is the tried and true deposit on bottled water and the other is to go right at the resource and tax it. The two different ends of the spectrum will work to provide levels of funding if they gain any traction over the next two years.

The third initiative relates to the Sewer Rate Relief Fund. There is no way to determine what the Debt Service Assistance (DSA) number will be from year to year, if at all. It is at the discretion of the legislature and the Governor. Staff's goal is to make the DSA process work more like other programs in the state.

Staff received notice yesterday from the Pioneer Institute that in its planned cuts for the Commonwealth it included the water and sewer subsidies, telling the Governor to cut them out. In their letter, they did not say to eliminate the septic tax credit, which is actually more money than the Sewer Rate Relief Fund, because it is embedded in the statutes that allow for it just to happen. There is an explanation of what is eligible and how it is distributed to those that replace their septic system. It is part of the Department of Revenue's (DOR) budget; DOR sees what the number is, determines what their needs are, and puts that amount into the budget and provides that credit. No one knows about it and the process just keeps turning the way it is supposed to.

DSA, because it says up to 20% of eligible debt, is brought to the forefront and focus and provokes a full range of discussion. Staff's approach here is to make the Sewer Rate Relief Fund more like the septic tax credit by structuring the language in the statute that very specifically outlines that it is 20% of eligible debt so that it isn't debatable; it would make it based on a formula.

Staff will be back before the Executive Committee and the full Advisory Board next month to seek approval of its legislative package.

V. Insulating the Advisory Board Budget

Mr. Favaloro said each year the Advisory Board is audited by Daniel Dennis and Company. Early in the last fiscal year, staff came before the Executive Committee to report that the audit standards had changed, becoming more stringent and expensive. In July, the Advisory Board was audited for the first time under the new standards for non-profits. Representatives from Daniel Dennis said no non-profit had ever gone through the new stringent standards without a finding. The new standards include a letter directly to the governing body that outlines, from a due diligence perspective, all of the failures and deficiencies (either major or minor).

Staff member Mary Ann McClellan was required to put together a Policies and Procedures Manual, which must be followed to the letter. Mr. Favaloro and Ms. McClellan must hold discussions on items before they go out and meet on a monthly basis to ensure that all procedures are in play.

Mr. Favaloro provided the Executive Committee with the letter directly communicating to them from Daniel Dennis and Company, which said that the Advisory Board had no deficiencies or findings. Mr. Favaloro credited the efforts of Ms. McClellan for the exceptional audit results.

Jay Fink **MADE A MOTION TO ACCEPT THE DANIEL DENNIS AND COMPANY LETTER TO THE ADVISORY BOARD'S AUDIT FILE.** It was seconded and passed by unanimous vote.

As part of the insulation, additional accounts have been established to diversify the Advisory Board's holdings to ensure FDIC coverage on Advisory Board funds. With the economic difficulties, for the first time ever staff feared a run on banks could leave the Advisory Board exposed if all of its funds are in one bank.

Accounts have been opened with the Massachusetts Municipal Depository Trust and ING, in addition to individual accounts at Citizens Bank. The funds need to remain accessible in the short-term and provide some level of return.

In January, a tenth account will be established to adopt a flexible spending account for employees. Ms. McClellan will take pre-tax monies from employees' paychecks, on a voluntary basis, to be deposited into a Flexible Spending Account. On a quarterly basis, receipts for health care costs not covered by health insurance will be submitted to Ms. McClellan by staff so they can draw down from their individual contributions.

VI. Approval of the Advisory Board Agenda for October 16, 2008

A Motion was made **TO APPROVE THE ADVISORY BOARD AGENDA FOR THE OCTOBER 16, 2008 MEETING.** It was seconded and passed by unanimous vote.

VII. Adjournment

A Motion was made **TO ADJOURN THE MEETING AT 10:16 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Edward Sullivan, Secretary