

**EXECUTIVE COMMITTEE MEETING
FRIDAY, FEBRUARY 10, 2012
ADVISORY BOARD OFFICE**

MINUTES APPROVED AT THE MARCH 9, 2012 MEETING

Present: John Sullivan, BOSTON; Andrew DeSantis, CHELSEA; Jay Fink, LYNN; Katherine Dunphy, MILTON; Lou Taverna, NEWTON; John DeAmicis, STONEHAM; Zig Peret, WILBRAHAM.

Also in attendance, John Carroll, Andrew Pappastergion and Joseph Foti, MWRA BOARD OF DIRECTORS; Gabe Crocker and Don Rose, COLER & COLANTINIO; Pamela Heidell, MWRA STAFF; Joseph Favaloro, Matthew Romero, Maggie Atanasov, Mary Ann McClellan and Cornelia Potter, MWRA ADVISORY BOARD STAFF.

I. Welcome – Approval of the January 13, 2012 Minutes of the Executive Committee

Chairman Katherine Haynes Dunphy called the meeting to order at 8:36 a.m. A Motion was made **TO APPROVE THE JANUARY 13, 2012 MINUTES OF THE EXECUTIVE COMMITTEE**. It was seconded and passed by unanimous vote.

MWRA Advisory Board Executive Director Joseph Favaloro said the Division of Water Supply Protection (DWSP) is now nearing two years without a forestry program because a report, generated by Dr. Barten of U-Mass, has yet to come to fruition. Some aggressive environmental groups have been putting out misinformation about the impacts of the forestry programs. A letter from Environment Massachusetts was recently sent to Boards of Selectmen and governing bodies of communities asking for a total ban on all forestry to protect the drinking water. Jonathan Yeo of DWSP is working on a response to that letter because the misinformation that is included in that discussion could have some significant impacts on the MWRA and communities. A well-managed forestry program is needed for watershed protection.

Chairman Dunphy said the letter from Environment Massachusetts basically says that if there isn't a permanent ban on forestry, which is the management of the forest for our benefit, then the communities are going to have to pay for a new water filtration plant. It seems that this group's job is to get signatures. There may be some people that don't realize that they have received misinformation and may support this group.

II. Presentation: Under MWRA Policy OP.11, Requests for Sewer Service to Locations Outside the MWRA Sewer Service Area, to Approve the Request of FoxRock Research Realty, LLC (FoxRock) to Increase the Sewer Flow from

2,025 Gallons Per Day (GPD) to 5,336 GPD on a Previously Approved Connection from a 2” Force Main in Hingham Connecting to the Sewer Collection System in the Town of Weymouth.

Mr. Favaloro stated under MWRA Policy OP.11, Requests for Sewer Service to Locations Outside of the MWRA Sewer Service Area, there is a process for approval that has to go through the regulatory process, the legislature, the MWRA Advisory Board and the MWRA Board of Directors.

Mr. DeAmicis asked if the process was “overkill.” Mr. Favaloro said the process was not created by the Advisory Board; it is statutorily required and was meant to ensure that it takes into account where the flow enters the system, which could cause a dramatic impact to the system, rather than just the amount of flow. The process is still a good idea. Pam Heidell added that MWRA’s sewer area is defined in the Enabling Act so the MWRA cannot just add someone without legislation. Unfortunately, when this connection was approved before, the earlier version limited the amount of flow and did not have a provision that said “unless an additional amount was approved by the MWRA”; now any new legislation contains that phrase.

Mr. Favaloro said this is an existing connection that was approved many years ago to come into the system through Hingham; the request is simply to expand the amount of gallons allowed.

Gabe Crocker from Coler and Colantonio said FoxRock Properties, the owner of 105 Research Road, has entered into a long-term agreement to renovate the property to turn it into a school for the South Shore Educational Collaborative. It is a regional school that serves 30 communities for children and adults with special needs.

It is an existing warehouse facility that has an existing fire-approved connection for 2,025 gallons per day (gpd); the applicant is proposing to renovate the warehouse to change the use for the school and, based on Title 5 flows, it increases the flow to 5,336 gpd, which is an increase of 3,311 gpd. The facility is in Hingham and its sewer connection is tied to the MWRA through a connection in Weymouth. The existing connection has the capacity to handle the additional flow and no improvements are proposed.

For this location, there is an inter-basin transfer where the water is being pulled from the Aquarian water system and discharging into another basin. The increase has received approval from the Water Resources Commission (WRC) with the condition that offset credits be mitigated by the applicant; the applicant has been working with the Aquarian Water Company to essentially offset the flow. The facility cannot open until that mitigation required by the WRC is complete.

Legislation, sponsored by Rep. Garrett Bradley, has been filed to increase the flow. The applicant is seeking the approval of the Advisory Board, the MWRA Board of Directors and the legislature for the proposed increase in flow, being offset by the water use credits as well as the I/I reductions in Weymouth.

Mr. Favaloro said the approach to remove inflow is that the applicant will remove approximately 14,000 gallons of inflow through a list of 28 sump pump removals in the

Town of Weymouth, of which the applicant will do 12 to achieve the four-to-one offset, which is a condition of approval. A piece of the entrance fee, which is also a component of coming into the MWRA system, was already paid when they were approved for the original 2,025 gallons per day. The additional flows would result in an entrance fee of \$12,750. Hingham and Weymouth have already given their approval.

Mr. Favaloro said the normal practice is to bring the applicant before the Executive Committee and, at the discretion of the Chairman of the Operations Committee, an Operations Committee meeting can be called for people that have direct technical questions or want more information, and then it will go to the full Advisory Board. Since this is an increase, rather than a completely new connection, it is likely that a final vote on this connection could be taken in March, conditioned upon receiving legislative approval.

Jay Fink, Chairman of the Operations Committee, said this connection was approved in 2004. Was there an I/I reduction then? Pam Heidell said this connection's process was started before the MWRA's policy was revised and a more informal agreement was made at that time. The applicant gave the MWRA money at that time to do a sewer improvement within the MWRA's system that reduced inflow and infiltration. Mr. Favaloro added that approach has since been formalized as the removal of a four-to-one ratio of inflow to requested flow.

Chairman Dunphy noted that the actual removal will be more than four-to-one because the Town of Weymouth requires a six-to-one removal.

Mr. Fink said he did not believe that an Operations Committee meeting would be necessary since it is an existing connection and it is just a matter of increasing the flow. With the Weymouth conditions being higher than the MWRA's conditions and the expectation that the additional work will be done before the flow goes online, it is doubtful that the Operations Committee would have too much more to ask.

Mr. Favaloro noted that the consultants would be at the Advisory Board meeting during the next week and if members have questions, they can ask at that meeting. Any approval would be conditioned on final legislative approval and a vote is expected in March.

III. Survey Results

Mr. Favaloro noted that last month the results of the initial survey indicated that Friday was the preferred day for Executive Committee meetings. A subsequent discussion on the time of day followed and a new survey was undertaken. Predominantly the answer was the first thing in the morning and specifically, Friday was the preferred day (with 77% of the respondents favoring this day and time).

IV. Advisory Board Appointments:

- Long-Term Rates Management Committee

A Motion was made **TO SELECT KATHERINE DUNPHY AND JOHN DEAMICIS TO SERVE AS MEMBERS ON THE LONG-TERM RATES MANAGEMENT COMMITTEE.** It was seconded and approved by unanimous vote.

- Construction Impact Review Board

A Motion was made **TO SELECT JAY FINK, LOU TAVERNA AND ZIG PERET AS MEMBERS AND MICHAEL COFFEY AS AN ALTERNATE ON THE CONSTRUCTION IMPACT REVIEW BOARD.** It was seconded and passed by unanimous vote.

V. Advisory Board Emerging Approach to CIP/CEB Review Process

Manager of Policy and Finance Matthew Romero provided members with an overview of the direction that staff is headed in its review to ensure that the Committee is in agreement with the direction that staff has chosen.

The scope of the Advisory Board's review has changed over time. At the height of the reviews in the mid to late 1990s, there were 150+ recommendations every year and proposed reductions of tens of millions of dollars in the Current Expense Budget (CEB) and as much as \$250 million in reductions to the Capital Improvement Program (CIP). At that time, double-digit rate increases were being projected and the Advisory Board's recommendations resulted in lessening these increases.

By contrast, the Advisory Board's review of the proposed FY12 document had 15 recommendations and four comments. Recommendations are items that staff would like the Authority to take a specific action on and comments are essentially actions or policies of the Authority that the Advisory Board is endorsing. There was only a \$2.5 million reduction recommended for the CEB last year because the Authority has already begun to anticipate the reductions that the Advisory Board would come forward with. Line item by line item, MWRA staff have been trying to consistently reduce where they can and turn in, on the front-end, a budget with the pieces that they can directly control as trim as possible; last year the MWRA had a 3.49% increase.

The reductions that the Advisory Board makes these days tend to focus on larger policy issues, such as Other Post-Employment Benefits.

On the CIP, last year staff recommended a \$25 million per year reduction.

To formalize the fact that the Advisory Board is focusing more on policy issues, staff plans to create a section after the detailed review in its *Comments and Recommendations* to flesh out policy recommendations in a more meaningful way.

Areas staff plans to focus on include residuals. The contract for the pelletizing plant is going to be ending in 2015. This is an opportunity for the Authority to take a look at the operations at this plant to determine if there is new technology available that can reduce the amount of pelletization, reduce costs or other technology that could provide another beneficial re-use aside from fertilizer pellets.

The Authority is now in the eleventh year of its five-year National Pollutant Discharge Elimination System (NPDES) permit. Staff is pushing for a recommendation that it hopes will engender some discussion on moving the NPDES permit forward.

Staff has tried to push System Expansion in many different fashions, including facilitated discussions. For this fiscal year, staff would like the system expansion discussions to be framed with a regional approach in mind and looking at a way to find external funding.

Staff would like to look at ways that the MWRA can partner with the communities to meet some consistency and consensus with regard to issues that face every community.

With the FY13 CIP, the MWRA is now looking to shape its third five-year spending cap. Staff has some ideas on ways to rethink what the next cap means.

Now that the Long-Term Rates Management Committee will be moving forward, there will be a better understanding where the released reserves can be used. In its planning projections out to FY2020, the Authority could never show where the reserves would go because the reserves have to be aligned with certain bond series. Now there will be a better picture of what the long-term picture is going to look like.

John DeAmicis asked if the staffing study results have come in and will it have an impact on next year's budget. Mr. Favaloro said staff has still not seen the report and his understanding is that there are plans to reconvene the small working group but that has not happened as of yet. The staffing study is supposed to impact the MWRA's Final FY13 Budget but as to how it is still unknown. The staffing study report will play a role in the Advisory Board's review.

Mr. DeAmicis asked where we stress cost reduction. Mr. Favaloro said on every page of our document.

Joe Foti noted that he planned to meet with Authority staff on the staffing study; he also noted that the Advisory Board works with the Authority to make sure that it is not over-buying and these budgets also go before the MWRA Board of Directors. Mr. Foti said he thinks we are all confident that the Advisory Board staff does a good job in managing that and the Board of Directors also weighs in; there is not a huge concern that costs are not being looked into. The Board also receives a quarterly Orange Notebook to review, which reports on the Authority's costs; indeed, the Board is aggressive in watching items like that.

Mr. DeAmicis said it is our job to reduce costs and rate increases. John Sullivan asked is it our job to constantly reduce or is it our job to be vigilant to make sure the money is being spent effectively to maintain the facilities that the ratepayers have paid for as we try to reduce our debt service and make sure there is no waste. The MWRA can do the best job in the world and then the Advisory Board could come along and say we are going to beat you down a little more. Then the MWRA could propose rate increases of 7% and we beat them down to 3%. They are already coming through with lower increases than the 7% on their own.

Mr. Sullivan said we are not out there to reduce; we are out there to make sure the MWRA is proposing the right things. If the Advisory Board can come up with some efficiencies, that is great.

Mr. Romero said for specific policy recommendations, on residuals, the recommendation will be to challenge the Authority to reduce its tons per day by an estimated number such as 20% by using new technology that didn't exist when the pellet plant was built and through process optimization. To put that into perspective, in the Proposed FY13 CEB the pelletizing costs are \$15.6 million for the Authority, which includes both the pelletizing process and the maintenance costs added together. Staff currently budgets for 106 tons per day. With the way the contract is currently structured, there is a set amount that the Authority has to pay up to 90 tons per day and for anything over the 90 tons per day, it costs the Authority \$100,000 per year for every ton over. Under the current terms of the contract, a 20% reduction would save the Authority about \$2.1 million.

When the contract for this service ends, in all likelihood, the cost for this service is going to go up. The contract was structured prior to the pipe that was constructed between the island and the pelletizing plant so the contract was very advantageous to the contractor early in the contract when all of the sludge had to be barged.

Mr. Favaloro said the goal is to garner some discussion. Throwing out the challenge might get them to think of ways to be more cost-effective and not just re-negotiating a contract.

In regard to NPDES permits, on the wastewater side, in 92% of the country, the states have primacy on wastewater regulatory issues. Why doesn't Massachusetts? The other three states that don't have primacy are Idaho, New Mexico and New Hampshire, so it is not just a regional reason. The recommendation will be to ask the Authority to start pushing and seeking ways to get the Massachusetts Department of Environmental Protection (DEP) primacy with regard to wastewater issues.

Andy DeSantis asked if DEP wants primacy. Mr. Favaloro said yes but the caveat is going to be that they will need to be provided with the resources to go along with it. Mr. DeSantis asked who would make the decision. Mr. Favaloro said the Commonwealth of Massachusetts would make the decision. Even DEP, on a recent appeal, sided with the Upper Blackstone and basically told EPA that their requirements for the NPDES permit were unrealistic. The MWRA should go on record and say enough is enough. DEP already has primacy on the water side.

Additionally, staff would recommend that the MWRA freeze its capital spending at the Clinton Wastewater Treatment Plant that has to do with phosphorus removal aimed at meeting the next NPDES permit that is still not ready. Based on the fact that DEP is supporting Worcester and the Upper Blackstone and that they recently scored a victory with the courts on this issue, it is really pushing for using measureable science versus arbitrary numbers. Our argument is that we don't really know that the next NPDES permit is going to include the phosphorous limits that MWRA is already gearing its capital program to; don't spend that money until it is known what the numbers are going to be.

For System Expansion, staff is going to recommend that legislation be filed to seek funding under the Economic Development category. Three regions could be approached – Tri-Town (Braintree, Holbrook and Randolph) and Southfield in Weymouth; the North Reading area; and the 495 communities (Ashland, Hopkinton) have all had active discussions about coming onto the MWRA water system. If one community comes in and pays the cost of installing a pipe and an entrance fee and in ten years a neighboring community wants to

come in, the pipe needs to be resized. The thought is to build the pipe large enough for any of these communities to come in, maybe not immediately, but somewhere down the line. Ashland has held discussions about coming in; Hopkinton may want to join at some point in the future. Staff proposes that funding be secured through the legislature for economic development that would allow the pipe to be sized correctly now with the costs paid upfront; staff plans to put a dollar value on this suggestion to show what it would mean to the communities and to the areas to have the ability to have more water and to develop out when they have this resource available to them.

Mr. Favaloro said a case could be made that if the Commonwealth were to give \$10 million to build out to 495, it could generate \$100 million the other way and provide potential jobs. Mr. Romero said in addition, we would seek a 20 MGD exemption so that these communities can join without getting caught up in the regulatory process.

Mr. Favaloro said the MWRA might also be considered insurance for communities that might have a need at some point in the future for water for parts of the district where MWRA can make some money by having standby fees. It is a win-win situation for the community and the MWRA. MWRA could be a back-up and this is what it is worth.

The Advisory Board endorses the inclusion of Phase 8 of the I/I Program. It is in the proposed FY14 budget. Staff would like to take advantage of the fact that the MWRA is under its capital spending cap. Perhaps Phase 8 can be moved forward to FY13, rather than FY14, so that communities can use that funding because there is room under the current cap.

Staff would like to create MWRA community task forces to look at areas that communities can come to consensus on things that will affect all of them.

Mr. Romero said on the Capital Improvement Program, as the Authority begins to look at the next cap calculation, staff suggests that the local loan programs be removed from that calculation. The Authority has consistently reported under-spending in the capital program and staff says it is because they assume that communities will be borrowing money from the MWRA under these programs at certain times but then the communities don't end up doing it during the time the MWRA has budgeted it for. It makes it difficult for the MWRA to predict capital spending accurately and causes wide swings and variations, particularly with under-spending. The Advisory Board's thought is to assist the MWRA by removing the local programs from the cap calculation so they can see what they can control.

The Authority can reduce its spending and can make decisions to ratchet the \$200 million/year it currently expects in capital spending down even more than just removing the local programs. Controlling the capital spending now can help in future years because the debt service on these projects is going to have to be paid back at some point in the future.

Current projections are unsupportable and unacceptable. In FY12 the rate revenue requirement is \$590 million, five years later in their projections it is \$804 million; the Advisory Board wants to go on record now saying this is not supportable. Where are the real problem years? Now that we know where the reserves can be used, take another look to see what can be done to bring the higher years down to get a more realistic picture.

Mr. Peret asked if something is being done to ensure that the pendulum doesn't swing too far in the other direction that won't allow them to sustain their facilities. Mr. Favaloro said the MWRA's mandate is to never allow that to happen. The goal is to allow the MWRA to have enough resources to move forward; it is not cut for the sake of cutting. Mr. Romero noted that the \$200 million benchmark also included mandated projects; now that those mandated projects are complete or nearing completion, the Advisory Board's argument is don't just replace those dollars that were mandated with asset protection dollars, lower that benchmark and figure out what is the right mix of projects.

Mr. Favaloro concluded the discussion stating that over the coming months, staff will continue to flush-out these areas, adding details and examples.

VI. Approval of the Advisory Board Agenda for February 16, 2012

A Motion was made **TO APPROVE THE ADVISORY BOARD AGENDA FOR THE FEBRUARY 16, 2012 MEETING**. It was seconded and passed by unanimous vote.

VII. Adjournment

A Motion was made **TO ADJOURN THE MEETING AT 10:06 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Lou Taverna, Secretary