



# Executive Committee Meeting

Friday, March 10, 2017  
8:30 AM

Advisory Board Conference Room  
100 1<sup>st</sup> Avenue, Building 39-4  
Boston, MA 02129

## Attendees

Lou Taverna	Chairman; Newton	Carol Antonelli	Wakefield
Michael Rademacher	Secretary; Arlington	Fred Laskey	MWRA Staff
Bernie Cooper	Vice Chairman of Finance; Norwood	Matt Horan	MWRA Staff
David Manugian	Bedford	Andrew Pappastergion	MWRA Board of Directors
Timothy MacDonald	Cambridge	John Carroll	MWRA Board of Directors
Ralph Pecora	Lexington	Joe Favaloro	Advisory Board Staff
Nick Rystrom	Revere	Matt Romero	Advisory Board Staff
Brendan O’Regan	Saugus	James Guiod	Advisory Board Staff
Rob King	Somerville	Lenna Ostrodka	Advisory Board Staff
John DeAmicis	Stoneham	Cornelia Potter	Advisory Board Staff

## DRAFT MINUTES

### Executive Session

Executive Session: It was moved to enter Executive Session for the purpose of discussing strategies with respect to security. Roll Call for the purpose of going into Executive Session:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Antonelli		
Cooper		
DeAmicis		
King		
MacDonald		
Manugian		
O’Regan		
Pecora		
Rystrom		
Taverna		

There were no votes taken in the Executive Session. The Executive Committee returned to open session to continue with the remainder of the meeting.

### Approval of Executive Committee Minutes, January 13, 2017

A motion was made and seconded to approve the minutes of the January 13, 2017 meeting of the Executive Committee. The motion passed.

### Executive Director’s Report

#### **State Primacy**

Mr. Favaloro reported that the discussion on primacy has moved forward this week, with DEP to take over the responsibilities for NPDES permits from EPA. The Governor refiled his bill from last year, which would give DEP

those responsibilities. Still to be resolved is the issue of funding – the bill still has funding coming from the General Fund of the Commonwealth, an approach which is unlikely to be passed. The concern is that funding priorities vary from year to year, and that a dedicated source of funding would prove to be more reliable from year to year. The Advisory Board staff has a good relationship with key staff at DEP, and we are hopeful that we will be fully engaged. A press event was held this past Wednesday.

Mr. Taverna asked if there was a preferred mechanism for funding DEPs expanded responsibilities, to which Mr. Favaloro observed that there are 46 other states across the country that do this, and arriving at an agreed upon funding source can be expected to be a combination of approaches, as opposed to one, specific answer. There does need to be a state component as a part of a funding structure. Most of the other sources, including fees, are assessed through the POTWs. The stumbling block is how to assess stormwater; when you work with the local communities and private connections, how do you assess those fees? MMA has been very supportive of primacy, yet has been cautious about setting another fee for the communities. The environmental community continues to voice concern that the state has not been funding these tasks. Recently, an article in the Boston Globe reported that enforcement of environmental programs and requirements has been sharply reduced in recent years due to reduced funding for DEP. What is needed is some kind of fee structure outside the General Fund of the Commonwealth, which may garner support from the environmental community. The Advisory Board will weigh in again with our budget comments.

### **Update of Legislative Strategy and State Budget**

**Debt Service Assistance:** February numbers for the state budget showed a shortfall of another \$188 million. The \$500,000 is in the FY17 budget. DOR has already gone through the process and the paperwork to bring that funding in, so between now and the end of June, unless there is another round of 9C cuts, the \$400+ thousand (that would represent the MWRA share of the \$500,000 statewide program amount) would be coming in to the Authority. There is also \$500,000 in the Governor's FY18 budget. Mr. Laskey and Mr. Favaloro will be speaking with legislative leadership later this month to discuss the possibility of bringing that number up to the \$1.1 million that had been in previous year's budgets. Mr. Favaloro also noted that given these annual uncertainties about the eventual receipt of debt service assistance fund, that the funds that are received are "paid forward" to the next year's budget, so that budget will reflect a firm number for the debt service assistance category.

### **Update on Watershed Protection and Mountain Biking**

Mr. Favaloro reported that the Division of Watershed Protection has been working hard to call attention to the issue of mountain biking in the watershed. The mountain bikers have been aggressive in trying to advocate for their position, resulting in the Advisory Board's need to get involved in the discussion. We have gotten to the point where the Secretary wants to get involved and see where there is common ground. We are now in the process of scheduling a meeting with the Secretary himself, Mr. Laskey, Mr. Taverna, and Mr. Pappastergion to sit with the Secretary to see if this can be settled once and for all. Mr. Favaloro noted that DEP, a department organized under the Secretary, commented in two recent watershed reports that this is an issue (these reports have been provided in the Executive Committee meeting package). Further, DEP has primacy and dictates whether filtration is required. Mr. Romero also noted that two years ago, DEP made these reports a requirement for the Division of Water Supply Protection (DWSP) based on concerns about illegal trail cutting. So, the reality is, why is this a debate? As part of the discussion, Mr. Favaloro reminded attendees to review the recent video produced by the Advisory Board staff.

### **Preview of Advisory Board Budget Review: Policy and Finance Highlights**

Mr. Favaloro introduced the topic by noting that the review will highlight a couple of issues this year with respect to policy/budget components. Mr. Romero noted that primacy would be one of the issues to be discussed in the

budget review report. Staff anticipates putting together a fee structure proposal (and referred to the remarks from the State Auditor's representative at the previous meeting of the Advisory Board). In response to a question from Mr. DeAmicis concerning whether a user-based fee would be forced on the communities should an initial funding structure via the General Fund fail to be sustained, staff indicated that an Advisory Board recommendation would be worded to be proactive and find a blended approach. This recommendation would suggest an amount from the state and an assessment by community to help pay for this. This approach has been successful on the water side. Mr. Favaloro emphasized that DEP, the Governor, and MMA are cognizant of that. In answer to a question about the cost of primacy, the Governor's estimate is about \$4.7 million, although that number is probably closer, statewide, to about \$6-plus million.

This may come down to the issue of whether we do get a new (NPDES) permit, because it comes down to primacy and the issue of enterococcus treatment as it applies to the Authority.

### **Enterococcus**

Right now, the proposed budget includes about \$600,000 for enterococcus treatment for FY18-related costs, for six months of the year. But the requirement for enterococcus treatment relates to a level of treatment for an outfall area where swimming takes place. However, the Authority's outfall is nine miles off shore. The question becomes, can the Authority be issued a waiver from this discharge requirement given the location of the outfall?

Transporting the additional chemical supply to provide this level of treatment will add a significant number of truck trips through Winthrop. Furthermore, the Authority's twenty-plus years of studies and data show that there is no negative impact on the marine life at the outfall site.

### **HEEC/Harbor Cable Costs**

Mr. Romero observed that the Authority has already paid for the cable when it was originally laid, so the Authority is not going to pay to have it relocated. The Advisory Board maintains that the costs should be recouped. The court battle is already ongoing. In the meantime, the cable needs to be relocated in order to qualify for federal funding from the Army Corps of Engineers. In the short term, there will be costs associated with the reinforcement and protection of the cable for which the Authority must pay. The proposed budget for FY18 includes funds for alternative utility costs when the cable is not available for the regular delivery of electricity. The proposed costs may be higher, since most of the cable work is expected to occur during August through November, the prime hurricane season. Cost estimates could grow significantly. The assumption for these costs is about \$4.5 million in the proposed budget. Costs may be higher, so the Advisory Board comments can be expected to include some risk analysis so that updated assumptions for rate revenue needs will reflect these issues.

This assessment can also be expected to target variable interest rate assumptions and the impacts on assumptions for the benefits of defeasance transactions related to those assumptions. Also anticipated for reassessment are the pension, OPEB assumptions, and other areas where there are "back-ups on top of back-ups" including payments of current revenue for the capital program. Other assumptions that can be addressed are wages and salaries, chemicals, operational assumptions, or even some of the indirect expense assumptions. We expect to take the proposed rate revenue requirement below the proposed 3.8%, certainly keeping the recommendation below 4.0% but to a number that is reasonable.

One more topic to highlight is the issue of design contracts and the lack of competition. It is cost and labor intensive for the firms to bid on these contracts, so they have to decide if they have a chance of winning given the expense. This has created the impression that there is not a lot of competition for the work. A lot of the firms have been pushing for a qualifications-based procurement. Staff have also met with Abbie Goodman of the American Council of Engineering Companies. Staff expect to do a pilot with two similar projects: one will be selected based

on the way the Authority's usual procurement process, and the other will employ a qualifications-based selection. This approach would qualify firms based on predetermined metrics and rank them according to the weighted categories. Based on that process, the most qualified firm meets with the committee to better define project specifics, including cost. This approach gets you to the most qualified firm at the price that you think will work and it reduces that amount of change orders. Separately, Mr. Carroll cautioned participants to be careful, in that prequalification in its perfect form works perfectly, but in the case of a lowest bidder that he had worked with, while the bidder had poor references, but had the lowest bid, it was felt he had to be awarded the contract. It was a disaster. So, as a precaution, the approach does not always work.

### **Process and Timeline to elect an Advisory Board Representative to the MWRA Board of Directors**

Mr. Favaloro noted that every year, the Advisory Board has a member that comes up for election. This year, John Carroll's term is up for vote of the Advisory Board at the May meeting. We like to start the process in March to give members enough time to address the issue. The vote is one vote per community (as compared to most other votes which are based on a weighted vote). The materials for the Executive Committee meeting included a timeline for the election. The Executive Committee serves as the agent for receiving applications and interviewing candidates at the Executive Committee meeting in May and a vote is taken at the May meeting of the Advisory Board. This will be included in the packet to the full Advisory Board in today's mailing. Mr. Favaloro stated that Mr. Carroll has informed the Advisory Board that he will stand for reelection.

### **Approval of Advisory Board Meeting Agenda for March 16, 2017**

**A motion was made and seconded to approve the agenda for the March 16, 2017, meeting of the Advisory Board to be held in Lexington. The motion was approved.**

### **Adjournment**

A motion was made **TO ADJOURN THE MEETING AT 10:02 A.M.**

Respectfully submitted,

Michael W. Rademacher, Secretary