



MWRA Advisory Board Summary
Of the
MWRA Board of Directors Meeting
Wednesday, February 16, 2011

A meeting of the Board of Directors of the Massachusetts Water Resources Authority was held on February 16, 2010 at the Charlestown Navy Yard. **Present:** Chair Rick Sullivan, Joel Barrera and Michael Gove, Gubernatorial Appointees; John Carroll, Advisory Board Representative; Vincent Mannering, Kevin Cotter and James Hunt III, City of Boston Representatives; Jack Walsh, City of Quincy Representative. **Absent:** Marie Turner, Town of Winthrop Representative; Andrew Pappastergion and Joseph Foti, Advisory Board Representatives.

Report of the Chair

The new Chairman of the MWRA Board of Directors, Rick Sullivan called the meeting to order. Chairman Sullivan thanked Fred Laskey and his staff for their professionalism and kindness they have shown him during the transition into his new role. He stated that being Mayor of Westfield for many years along with his work as Commissioner of DCR has exposed him to the great work the Authority has done over time. He stated that he believes the Authority is an international award winning operation. As a former mayor, he is able to fully understand a lot of the infrastructure issues the Authority is facing and eager to work on that with the Authority. He stated that he is honored to be coming into the organization and looks forward to working more closely with everyone.

Report of the Executive Director

MWRA Executive Director, Fred Laskey welcomed Chairman Sullivan and proceeded to conduct formal business. Mr. Laskey acknowledged that during the water main break, there was a lot of earth washed into the Charles River. He said that it was dredged out to the best of the Authority's abilities without using barges. However, it now appears that there are still some spots where earth needs to be removed. The Authority is getting pressure to take care of it despite not knowing if it is a result of the Authority's work or the floods that caused it. This project could potentially cost around \$300-400K. The Authority is currently taking a look at this item and seeking other alternative in resolve it.

Mr. Laskey also noted that there are also requirements for earthen dams which are barriers that obstruct the flow of fluid. The rules have been modified to eliminate any trees on earthen dams. As a result, the trees that have been planted along Wachusett will have to come down. The Authority is currently working with its legislative delegation and other folks so they are aware of the upcoming changes.

Mr. Laskey mentioned mitigation agreements in Quincy and Winthrop. The agreement in Quincy would be expiring in June and Mr. Laskey would like to have a discussion with Mayor Koch about extending that agreement. The Board agreed with him in doing so.

APPROVALS

Transmittal of Proposed FY12 Current Expense Budget to the Advisory Board

The Board voted to approve the transmittal of the FY12 proposed Current Expense Budget to the MWRA Advisory Board for its 60 day review and comment period. There was a three year strategy approved to give significant relief in FY11 with a 1.49% increase and continued relief in FY12 and FY13 with moderate 3.9% rate increases.

The MWRA staff proposed FY12 Current Expense Budget reflects MWRA's commitment to adhere to that three year strategy by putting forth a combined rate increase of 3.9%. These low rate increases are achieved by cutting spending, restructuring debt, temporarily suspending commitments to fund growing liabilities, and defeasing debt in targeted years using surplus created by unprecedented low variable interest rates. However, these short-term actions are not sustainable: historic low interest rates cannot be relied on to produce sizable surpluses; Debt Service Assistance is unlikely to be restored; federal budget cuts will reduce our allocation of SRF funding; and at the same time, there is a massive debt service increase, a sizable pension liability and a mounting OPEB liability.

The MWRA staff will work collaboratively with the Advisory Board during its review of the Proposed FY12 budget to identify additional cost savings. MWRA believes it is important that any savings be applied to the massive unfunded liabilities ominously looming on the horizon.

Approval of the Fifty-Ninth General Revenue Bond Supplemental and Issuance Resolutions

The Board voted to adopt the Fifty-Ninth Supplemental Resolution authorizing the issuance of up to \$350,000,000 of Massachusetts Water Resources Authority General Revenue Bonds and Massachusetts Water Resources Authority General Revenue Refunding Bonds and the supporting Issuance Resolution.

The bonds to be issued under this authorization include both new money and refunding bonds. Staff anticipates that the bonds to be issued under this authorization would be sold in April, with a closing on the transaction in early May. The new money issuance accounts for \$150 million of the \$350 million authorization and will be used to fund ongoing capital improvements and permanently finance a portion of the outstanding tax-exempt commercial paper. In addition to the \$150 million new money, this authorization would allow for the authorization of up to \$200 million in General Revenue Refunding Bonds, giving Authority staff the ability to respond to any favorable changes in market conditions.

Approval of the Sixtieth General Revenue Bond Supplemental and Issuance Resolutions

The Board voted to adopt the Sixtieth Supplemental Resolution authorizing the issuance of up to \$85,000,000 of Massachusetts Water Resources Authority Subordinated General Revenue Bonds and the supporting issuance resolution. The borrowing would be through the Massachusetts Water Pollution Abatement Trust ("MWPAT").

In Fiscal Year 2011, MWRA anticipates receiving up to \$85 million in new low interest loans from both the Pool 16 proceeds and replacement loans to fund several water and wastewater projects. The final

distribution of MWPAT funding for this year is expected to be approximately 22% for water projects and 78% for wastewater projects.

Draft CSO Annual Progress Report for 2010

The Board voted to authorize the MWRA staff to submit the Combined Sewer Overflow Annual Progress Report 2010 to the Federal District Court by March 15, 2011, in compliance with Schedule Seven of the Boston Harbor case.

The CSO Annual Progress Report for 2010 (the "Annual Report") describes the progress made by MWRA, in cooperation with Boston Water and Sewer Commission (BWSC), the cities of Cambridge, Chelsea and Somerville, and the Town of Brookline, to implement the projects in MWRA's long term CSO control plan in compliance with Schedule Seven. In addition to progress made in 2010, the report includes projected quarterly progress in the period December 16, 2010 through March 15, 2011. Updated schedules, cost estimates and spending projections for the CSO program are also included.

Memorandum of Understanding and Financial Assistance Agreement with Town of Brookline for Implementation of CSO Control Projects, Amendment 2

The Board voted to authorize the Executive Director, on behalf of the Authority, to execute Amendment 2 to the Memorandum of Understanding and Financial Assistance Agreement with the Town of Brookline for Implementation of a CSO Control Project, increasing the award amount by \$2,436,000.00 to \$22,919,000.00, with no change to the term of the agreements.

Approval of the 2011 Affirmative Action Plan

The Board voted to approve the Massachusetts Water Resource Authority Affirmative Action Plan effective for a one-year period from January 1, 2011 through December 31, 2011.

February PCR Amendments-FY11

The Board voted to approve amendments to the Position Control Register.

Appointment of Program Manager, Instrumentation and Controls, Deer Island Treatment Plant

The Board voted to approve the Executive Director's recommendation to appoint Phillip D. Szotfried to the position of Program Manager, Instrumentation & Controls, Deer Island Treatment Plant, Operations Division (Unit 9, Grade 29), at an annual salary of \$92,661.45 to be effective on the date designated by the Executive Director.

Appointment of Director, Management Information Systems, Administration & Finance

The Board voted to approve the Executive Director's recommendation to appoint Russell Murray to the position of Director, Management Information Systems, Administration & Finance Division (Non-Union, Grade 16), at an annual salary of \$128,000.00 to be effective on the date designated by the Executive Director.

CONTRACT AWARDS

NPDES Compliance Program Aquatic Toxicity Testing: Bio-Aquatic Testing, Contract S490

The Board voted to approve the award of Contract S490, NPDES Compliance Program-Aquatic Toxicity Testing, to the lowest eligible and responsive bidder, Bio-Aquatic Testing, and to authorize the Executive Director, on behalf of the Authority, to execute and deliver said contract in the bid amount of \$58,050.00 for a term of 730 calendar days from the Notice to Proceed.

Nut Island Headworks Electrical and Conveyor Improvements: Malcolm Pirnie, Inc., Contract 7312

The Board voted to approve the recommendation of the Consultant Selection Committee to select Malcolm Pirnie, Inc. to provide design, construction administration and resident engineering services for the Nut Island Headworks Electrical and Conveyors Improvements project and to authorize the Executive Director, on behalf of the Authority, to execute Contract 7312 with Malcolm Pirnie, Inc. in an amount not to exceed \$1,024,877.00 for a term of 1,338 calendar days from the Notice to Proceed.

Oxygen Generation Facility Services, Deer Island Treatment Plant: Solutionwerks, Inc., Contract S491

The Board voted to approve the award of Contract S491, Oxygen Generation Facility Services, Deer Island Treatment Plant, to the lowest responsive bidder, Solutionwerks, Inc., and to authorize the Executive Director, on behalf of the Authority, to execute and deliver said contract in the bid amount of \$1,718,021.00 for a term of 1,095 calendar days from the Notice to Proceed.

Installation of Second Gaseous Oxygen Line, Ozone Building, Carroll Water Treatment Plant: William M. Collins Co., Inc., Contract 7085A

The Board voted to approve the award of Contract No. 7085A, Installation of Second Gaseous Oxygen Line at the Carroll Water Treatment Plant, to the lowest eligible and responsible bidder, William M. Collins Co., Inc., and to authorize the Executive Director, on behalf of the Authority, to execute and deliver said contract in the bid amount of \$1,229,000.00, for a contract term of 500 calendar days from the Notice to Proceed.

CONTRACT AMENDMENTS/CHANGE ORDERS

Security Guard Services for Various MWRA Facilities: U.S. Security Associates, Inc., Contract EXE-025, Amendment 5

The Board authorized the Executive Director, on behalf of the Authority, to approve Amendment No. 5 to increase the amount of Contract EXE-025, Security Guard Services for various MWRA facilities, with U.S. Security Associates, Inc., the contract by an amount of \$1,775,292 and increasing the total price from \$6,333,295.74 to \$8,108,587.74 and reallocating certain unexpended funds within the contract, and extending the contract term by 18 months from February 5, 2011 to August 4, 2012.

Heat Loop Construction 3: Interstate Engineering Corp., Contract 7063, Change Order 7

The Board voted to authorize the Executive Director, on behalf of the Authority, to approve Change Order No. 7 to increase the amount of Contract No. 7063 with Interstate Engineering Corp., Heat Loop Construction 3, in a lump sum amount of \$42,797.00.

The Board also voted to authorize the Executive Director to approve additional change orders as may be needed to Contract No. 7063 in amounts not to exceed the aggregate of \$250,000.00 and 180 days.

Fuel Storage Tank Maintenance Service: Pennoni Associates, Inc., Contract OP-48, Change Order 3

The Board voted to authorize the Executive Director, on behalf of the Authority, to approve Change Order No. 3 to increase the amount of Contract No. OP-48 with Pennoni Associates, Inc., Fuel Storage Tank Maintenance Service, in a lump sum amount of \$7,205.16, with no increase in contract term.

Hultman Interconnections Final Design, Construction Administration/Inspection Services: Jacobs Civil, Inc. Contract 6911, Amendment 2

The Board voted to authorize the Executive Director, on behalf of the Authority, to approve Amendment No. 2 to increase the amount of Contract No. 6911 with Jacobs Civil, Inc., Hultman Interconnections Final Design, Construction Administration/Inspection Services, in an amount not to exceed \$314,604.00. This would increase the contract amount from \$5,573,215 to \$5,887,819 with no extension of contract term.

Southern Extra High Distribution Storage and Redundancy Plan: SEA Consultants, Inc., Contract 6452, Amendment 4

The Board voted to authorize the Executive Director, on behalf of the Authority, to approve Amendment No. 4 to extend the term of Contract No. 6452 with SEA Consultants, Inc., Southern Extra High Distribution Storage and Redundancy Plan, by 12 months to February 28, 2012, with no increase in contract amount.

INFORMATION

Delegated Authority Report-December 2010 and January 2011

The Board had a brief discussion recognizing that the January meeting had been cancelled due to a snowstorm so as a result the list of delegated authority items was larger than usual.

Fiscal Year 2011 Mid-Year Capital Project Performance Report

MWRA Chief Operating Officer, Michael Hornbrook reported that the total Capital Improvement Program (CIP) budget for FY11, including contingency of \$10.3 million is \$218.3 million. In the first half of FY11, spending was \$70.0 million which is \$26.2 million or 27.3% less than the year-to-date budget of \$96.2 million. After accounting for programs which are not directly under MWRA's control, most notably the Local Water Pipeline Assistance Program, the Inflow and Infiltration (I/I) Program, and the community managed Combined Sewer Overflow (CSO's) projects, the variance is \$9.2 million or 9.6% below budget.

This \$26.2 million variance is the net of \$34.0 million in less than budgeted spending on 37 projects offset by \$7.8 million in more than budgeted spending on 15 projects.

FY11 Financial Update and Summary as of January 2011

The Administration and Finance staff reported the total year-to-date expenses are lower than budget by \$15.4 million or 4.5% and total revenues are below budget by \$155,000 for a net variance of \$15.2 million.

The January results reflect lower Debt Service Expense of \$11.2 million due to lower variable rate debt expense, primarily related to lower interest rates, and \$3.5 million in lower Direct Expenses, driven by lower maintenance and wages and salaries.

The staff projected the year-end surplus to grow to approximately \$27.1 million based on the year-to-date actual spending. If market conditions remain unchanged for the remainder of the fiscal year, Debt Service expense is projected to be \$22.0 million below budget and direct expenses are projected to be \$3.3 million under budget.

The staff will be requesting Board approval to use the projected surplus to defease debt in June 2011 which will provide targeted rate relief in the future years. This approach is consistent with the Authority's multi-year strategy to provide predictable, sustainable and reasonable rate increases to its communities.

Administration and Finance Director, Rachel Madden stated that the MWRA is trending along the same lines as last fiscal year. There is a net variance of 4.5% overall. Debt Service and Variable Rate Debt is driving the under spending.

Board Member, Vincent Mannering asked a question about the Watershed Budget and more specifically wanted to know if it is trending up or down? Mr. Laskey responded that the watershed budget is funded through the Water Supply Protection Trust. There are quarterly updates given and the Water Supply Division is being handled well. Budget Director, Kathy Soni followed by stating that there were some variations in comparison to detailed spending but overall they are currently under spending to about \$150,000 to \$200,000 due to understaffing. Mr. Laskey believed that Pilot payments accounted for a good chunk of that as well. .

Mr. Mannering inquired about who has the ability to increase the Water Supply Division's budget? Mr. Laskey explained they are regulated through the Trust but the Authority exerts pressure on them. Ms. Madden followed by explaining that a few years back the Trust had instituted the control that the Division had to get Trust approval before transferring and over spending items. There has also been a financial staffer to help them take care of spending items, which has strengthened the relationship. Mr. Laskey & Ms. Madden followed by stating that the MWRA has some say in the approval process.

Mr. Mannering asked what was being done with the surplus from the Trust? Ms. Madden responded by stating that there is a 23.6 million defeasance and a vast majority is going toward FY14. Staff would come back to the Board regarding the remaining funds and seek approval for whatever the Board feels is the most appropriate allocation. Mr. Mannering stated that municipalities need to be taken into consideration because they have had an enormous surplus the last three years. This is problematic because it takes more management from cities to handle this from not only a financial angle but also the politics around it. Mr. Laskey acknowledged that that the current approach is not sustainable due to

OPEB and other challenges. The main objective right now is to position ourselves so we are not in a crisis in the next 5 to 6 years. Mr. Laskey noted that part of that did not happen because an effort that was made to pre-fund pensions and roll it into OPEB has not been sustainable. Ms. Madden also mentioned that in addition to that, debt was also restructured last year as well.

Include a sentence about OPEB/Pension Strategy? At least one of the Board members asked why we were putting money in OPEB instead of paying down the pension first.

Rate Basis Data Adjustments Affecting FY12 Assessments

The MWRA Administration and Finance staff annually determines preliminary water and sewer assessments in February and final assessments in June, before the beginning of the fiscal year. As part of the MWRA's Rate Basis Review and Comment Process, water and sewer customers are encouraged to review, comment on, and question the rate basis data that MWRA used to calculate preliminary assessments in February. In 1996, the Board approved a revision to the Rate Basis Review and Comment Process that permits adjustments to rate basis data following adoption of the current fiscal year's assessments. This change allows water and sewer customers to challenge rate basis data through the fiscal year impacted by data change. The MWRA staff also conducts supplementary quality assurance reviews of meter data during this period.

The Authority highlighted three communities-Milton, Newton, and Somerville-that had adjustments to their water assessments, and one community (Framingham) that had an adjustment to its sewer assessment.

Preliminary FY12 Water and Sewer Assessments

Ms. Madden reported that the Preliminary FY12 water and sewer assessments were based on a Rate Revenue Requirement of \$592,200,000, a 3.9% increase over the FY11 Rate Revenue Requirement.

Staff worked collaboratively with the Advisory Board in determining the Rate Revenue Requirement is allocated to MWRA communities based on their respective shares of CY10 MWRA water use, the average of CY08-CY10 wastewater flows and corresponding strength of lows, and total and sewer population. Both the preliminary and final FY12 assessments will be based on the 2009 population data released by the U.S. Census Bureau in July 2010.

Advisory Board Executive Director, Joe Favaloro explained that the best option was to use the 2000 census data updated to July 2010. He believes this is consistent with policy. The FY10 census numbers would be the basis for the FY13 assessments for communities. Mr. Favaloro believed this would be the most sensible approach.

Boston Water and Sewer Commission-CSO & Stormwater Project Update

Mr. Hornbrook made a presentation highlighting a few projects that demonstrated the BWSC's commitment to water quality over time. It was noted that in early 2010, the Conservation Law Foundation (CLF) filed suit against the Boston Water & Sewer Commission (BWSC) alleging deficiencies in BWSC's operation of its municipal separate storm sewer system and compliance with its NPDES MS4 Stormwater Permit. On December 21, 2010, the Federal Court denied CLF's motion for partial summary judgment on several counts in the suit. On December 22, EPA joined the lawsuit against BWSC.

It is important to note the commitment of BWSC and MWRA and the service area communities to the cleanup of Boston Harbor and improvements to all aspects of BWSC and MWRA-owned sewer systems, and BWSC's stormwater collection system. There have been extensive efforts by the BWSC and MWRA have over almost two decades related to control of sewer and stormwater discharges in the Boston system.

Municipalities in the MWRA service area and throughout Massachusetts need to note with concern this recent action by EPA since NPDES stormwater permits are held by most communities in Massachusetts. In addition, EPA has significantly increased enforcement action against numerous MWRA communities regarding stormwater discharges.

The recent action by EPA to join the CLF lawsuit against BWSC has been denounced by the MWRA Advisory Board. An editorial in the Advisory Board's December monthly newsletter stated "Despite the huge environmental successes and financial commitment by Boston and the MWRA ratepayers, it is hard to understand why EPA chooses to take this action now."

Mr. Mannering also noted that despite negative headlines, a recent article mentioned that New York desires to be in the same position as Boston currently by 2030. He stated that Boston is a generation ahead rather than behind. The plan is to continue to work with the State and Federal government to achieve the highest sustainable water quality at a sustainable price.

Change in Recommended Water Fluoridation Dose

MWRA Director of Planning, Stephen Estes-Smargiassi reported that on January 7, 2011, the US Department of Health and Human Services as well as the Environmental Protection Agency issued a draft report and draft recommendations that the dose of water fluoridation be reduced from a range of 0.7-1.2 milligrams per liter (mg/L), 1.0 mg/L for this region, down to a single number, 0.7 mg/L. There will be a 30-day comment period, followed by further government review. The final guidance for community water fluoridation is expected to be published in the Spring of 2011. MWRA will continue to follow its practice of relying on the advice of the Department of Health and Human Services (HHS) as well as the Center for Disease Control (CDC) for fluoridation, and will adjust its dose when the final recommendation is issued.

Update on Hexavalent Chromium

Mr. Estes-Smargiassi informed the Board that during the month of December 2010, the Environmental Working Group, a national advocacy group, issued a report on the Hexavalent Chromium based on limited testing that the group had conducted in 35 cities around the United States. The MWRA was among those tested (identified as Boston in the report) and had among the lowest levels detected nationwide. Hexavalent Chromium is not regulated by EPA and testing is not currently required. Subsequent to the report, EPA took the unusual step of issuing a guidance memorandum recommending testing protocols. MWRA staff is beginning a year of quarterly sampling in accordance with the EPA recommendations.

Report on 2010 Water Use Trends

The Total MWRA water withdrawals rose slightly in 2010, from 194 million gallons per day (mgd) in 2009 to 204 mgd in 2010 largely due to an increase in outdoor water use attributable to the hotter and dryer summer. Use in 2010 was lower than 2008's use of 206 mgd. Indoor water use continued its long term decline, and the five year running annual average of water use also continued to decline. This decline continues a trend that began when MWRA adopted its demand management policies in 1986, and

likely reflects the continued increase in water use efficiency in homes and businesses, as well as the effects of the economic slowdown.

A presentation was made that indicated a five-year average of withdrawals from 1980 to the present. The five-year averaging reduces the effects of year to year variability due to weather and provides a good indication of longer term trends.

This summary does not include every item discussed by the Board, nor the full extent of the discussions. Please contact Maggie Atanasov at the Advisory Board office with questions, comments or requests for more information.