

**MWRA ADVISORY BOARD MEETING
MARCH 20, 2003
BRADLEY ESTATE
ROUTE 138, CANTON, MA**

MINUTES APPROVED AT THE APRIL 24, 2003 MEETING

Twenty-four members were present: John Sullivan, BOSTON; Charles Barry, BROOKLINE; Andrew DeSantis, CHELSEA; J. R. Greene and Barbara Wyatt, GUBERNATORIAL APPOINTEES; Ralph Pecora, LEXINGTON; Bruce Kenerson, LYNNFIELD; Doran Crouse, MARLBOROUGH; Lenny Riley, MEDFORD; Katherine Haynes Dunphy, MILTON; Lou Taverna, NEWTON; Bernie Cooper, NORWOOD; Jay Fink, QUINCY; Peter Smyrnios, PEABODY; Ted McIntire, READING; Rod Granese, REVERE; Joan Lastovica, SOMERVILLE; Silvio Baruzzi, SWAMPSCOTT; Patrick Fasanello, WALPOLE; Don McCabe, Jr., WALTHAM; Walter Woods, WELLESLEY; Al Renzi, WESTWOOD; Dan Annaccone, WEYMOUTH; Rob Antico, WILMINGTON.

Also present: Andrew Pappastergion, MWRA BOARD OF DIRECTORS; Elizabeth Smith, AVALON BAY COMMUNITIES, INC.; John MacKinnon, H. W. MOORE ASSOC.; Matt Boger, UCANE; David Savoy and John Bradley, WALTHAM; Mike McBride, Stephen Estes-Smargiassi and Pam Heidell, MWRA STAFF; Joe Favaloro, Ryan Ferrara, Cornelia Potter and Mary Ann McClellan, MWRA ADVISORY BOARD STAFF.

A. WELCOME

Chairman Katherine Haynes Dunphy called the meeting to order at 11:45 a.m.

B. APPROVAL OF THE MINUTES FROM JANUARY 30, 2003 AND FEBRUARY 27, 2003

A Motion was made **TO APPROVE THE MINUTES FROM THE JANUARY 30, 2003 AND FEBRUARY 27, 2003 ADVISORY BOARD MEETINGS.** It was seconded and passed by unanimous vote.

C. REPORT OF THE EXECUTIVE DIRECTOR

Joe Favaloro, MWRA Advisory Board Executive Director, stated that Wilmington will be coming before the Advisory Board to request an emergency connection to the Waterworks system because it had to close a major well and cannot reopen four of its nine wells.

Rob Antico reported that the wells tested positive for NMDA a chemical byproduct. Wilmington is currently able to meet demands, but with warmer weather coming, will not be able to accommodate increased demand. A consultant for Wilmington will provide more details at the next Advisory Board meeting.

D. PRESENTATION: COMPARING CONSULTANT PERFORMANCE REVIEW PROCEDURES BETWEEN THE MWRA PROJECTS AND THE CENTRAL ARTERY PROJECTS – Michael McBride, MWRA Deputy Chief Operating Officer

Michael McBride, Deputy Chief Operating Officer, stated that MWRA's overall Integrated Water Supply Improvement Program began in 1995. Its major components are the MetroWest Water Supply Tunnel (MWWST), the Walnut Hill Water Treatment Plant (WHWTP) and Norumbega Covered Storage. Within those projects, there are over 15 contracts; six have reached substantial completion. The projects total about \$1 billion worth of work. The Authority remains on the same schedule as set forth in 1995.

Change orders for programs of this size are generally in the 10% range; however, Mr. McBride expressed a preference for a 6 to 7% margin. As of today, the overall executed or potential change orders represent a 2.9% increase.

The Authority is entering the start up phase of the entire program. Over the next nine months, MWRA will bring online the new MWWST, but will have to rely on an alternative system to replace disinfection facilities to tie the new WHWTP in. It will be set up to supply Walnut Hill and the Hultman in either direction. MWRA anticipates that it will take five months to do the tie-in, double-shifting the work over the course of October through May. Program schedule restrictions are due to the fact that the Wachusett Aqueduct, which has recently been rehabilitated, has capacity of 240 mgd. The average daily flow in winter (October to May) is 212 mgd. After May, the average can go up to 300 to 350 mgd demand.

The MWWST is 99% complete. If the Authority had to move water through the system today, it could be done. Final testing and clean up of the tunnel is underway and MWRA is also proceeding with plans for disinfection. To put the system online, the new tunnel and the rehabilitated aqueduct have to be conditioned to be able to move potable water. The conditioning will take about 30 days.

The last phase of the work will be reactivating the Cosgrove Tunnel, which will be inspected while it is down. Water will flow through the Cosgrove to test the new treatment plant. Ozonated water will be in the system by December 2004.

The FY04 CIP notes \$1.1 billion for these programs, which represents a reduction of \$300 million from FY98. Of that \$300 million, \$180 million is related to constructing the non-filtration option.

MWRA manages the program through a Program Management Group from the Capital Engineering and Construction Department. Additionally, there are two separate sets of consultants: the Construction Management team (who act as MWRA's staff) and Design Teams. These consultants work along with MWRA, but are separate entities. The construction contracts are run on a day to day basis by the team, with MWRA having direct oversight and input. There are also support groups from the Procurement and Legal departments to aid in managing the Program.

The biggest difference between MWRA and the Central Artery Projects is that MWRA has independent management of the construction activities from the design teams. The Central Artery is set up under the Massachusetts Highway Department with only one team responsible. That is where a lot of the conflicts and issues have been brought forth. There is an inherent difference in the way MWRA does business.

Change orders are identified by a number of areas: the contractor, designer, MWRA or the construction manager can identify a needed change. The construction management team prepares the proposed change order, identifying the problem, where it came from and whose responsibility it is. Change orders are approved by the Capital and Engineering Construction Group, submitted to Procurement for its independent review and, based on that review, can go in two different directions: 1) the change order is issued or prepared and approved under delegated authority or by the Board; 2) the change order gets put aside for an Independent Review Committee set up to do quality checks.

The Independent Review Committee is made up of five members from the Capital and Engineering Department, Procurement and other MWRA personnel without a project role to create an independent look at the change order. Something egregious will be referred to the Law Division for recovery right away. For other changes where responsibility is less clear, the consultant will be put on notice and go through the overall review to determine if MWRA will attempt to recover funds or not.

All of MWRA's design consultants and contracts include a standard of care to which the design firms are held that is appropriate within the industry for a similar piece of work. Was there rework? Did the Authority end up paying for things twice? If something has to be ripped out and done again,

then MWRA has paid for it twice. Another consideration is how much money will be spent to recover these costs. A similar methodology was used for the Boston Harbor Project – after review, MWRA recovered \$8.5 million from the design teams.

Mr. Sullivan inquired whether a redesign is done for free or if the design team gets paid and MWRA tries to recoup the costs. Mr. McBride stated that it depends if the change was identified beforehand or after. When things are coming through as a change clarification request from the contractor and the work has already been done, it is already in the bill so it would have to be recovered. Others are negotiated where the designer will do a percentage for free. MWRA shouldn't pay for anything twice.

Walter Woods asked if the Hultman Aqueduct would be serviceable in the future. Mr. McBride stated that MWRA's long-term goal is to have two systems, primary through MetroWest and secondary through the Hultman, which will be rehabilitated. Therefore, it will be live and online and if there is a problem, the Hultman could be brought up if necessary.

Don McCabe asked the difference between unforeseen or differing site conditions. Mr. McBride stated that differing site conditions deal with sub-surface conditions, such as utilities, hard rock or the amount of water in a trench. Unforeseen conditions are more along the lines of MWRA giving the location of utilities, which turn out to be in a different location.

Mr. McBride noted that communities will be invited to attend a meeting to discuss a Contingency Plan to deal with any impacts to the communities should MWRA not meet the timeframe for Shaft C.

E. COMMITTEE REPORTS

Finance Committee – Albert Renzi, Jr.

❖ ACTION ITEM: ADVISORY BOARD COMMENTS AND RECOMMENDATIONS TO THE AUTHORITY'S PROPOSED FY04-06 CAPITAL IMPROVEMENT PROGRAM

Cornelia Potter stated that over the past two months, staff has conducted a review of every contract and had consultations with various members of the Authority staff to explain change orders, amendments and schedules. The Authority's budget was put together in late summer and early fall, long before debt service assistance was eliminated; it is a continuation of previous budgets with \$1.5 billion in scheduled spending over the next decade, more than half to be spent in the next three years. More than half is for wastewater projects and 42% for water projects.

Over the next three years the big projects will still be the WHWTP, Braintree-Weymouth Relief Facilities project and three CSO projects. Over ten years, the CSO Control Program is the dominant feature at more than 30% of all spending. The West Roxbury Tunnel is now included in the Authority's budget at over \$75 million. The Deer Island Equipment Replacement Project includes over \$130 million for equipment and process improvements and maintenance at Deer Island. Completion of the WHWTP is also a dominant feature of the ten-year program.

The Authority lost all debt service assistance and its budgeting approach needs to reflect the very different financial atmosphere. As recently as a year ago the Authority assumed that with a fully funded debt service program it would have been eligible for \$350 million in state debt service assistance over this current year and the next five years. Now it is assuming zero money for that program in its planning projections, which look out over ten years.

The rates for FY03 and FY04 combined are 11% greater than the FY02 rate revenue requirement. The revised FY03 rate increase is the largest in ten years, since the start of the debt service assistance program, so the impact is quite clear. Depending on estimates and assumptions, staff estimates that \$50 million translates into debt service payments on more than \$1 billion worth of capital spending.

In December the Authority adopted a balanced approach for dealing with the gap for this fiscal

year, drawing equally from rate stabilization money, reducing operating expenses and refinancing existing debt and a supplemental rate increase. The Authority will continue to use these three major categories to modify its projections of rate revenue requirements. Even with these steps to ease the gap, the Authority is projecting rate revenue increases greater than any of the last ten years.

Staff reiterates a familiar theme, but with even greater emphasis, that reconfiguring the ten-year budget and program will have to be part of the picture. In fact, the Authority already started a review of the Capital Program in January and recommended that \$63 million in planned spending over the next three years be deferred to the period beyond FY05. Since then, there has been additional updating and rescheduling of some projects to make the schedule more realistic. These changes and updates now total later and lower spending of \$112 million for the first three years of the budget. The Authority also agreed to give specific attention to the CSO program, looking at ways of modifying the impact on the capital budget because it represents so much of all capital spending.

This is the third year that the budget has been prepared under the provisions of the capital spending cap; however, as noted last year, and even more notably this year, in order to stay under the ten year cap the Authority continues to borrow from the out years to cover spending in the early and mid years of the ten-year program. This time the Authority has used up virtually every dollar in that cap and is just barely \$1 million under the rolling cap. The Advisory Board continues to be concerned about the spirit and intent of the original cap, which was set for FY01-10. Staff argues that dollars set aside for years beyond 2010 should be reserved for those years.

If the Authority were to meet the recommendation, it would have to reschedule and reduce spending for the next seven years by at least \$286 million. Staff advises that the Master Planning Process be reactivated with goals and schedules set.

Staff further recommends that the Authority give priority to the CSO Control Program and the Deer Island Asset Protection and Optimization Project, which have the highest future spending. In particular, the Authority must be able to demonstrate that any spending on the South Boston CSO project benefits the ratepayers.

Staff recommends that the Authority put on hold all new contract awards until the Master Planning Process is in place. The Authority should demonstrate how each project fits in the Master Plan before going to the Board. Total dollar recommendations come to \$34 million.

Rod Granese stated that ratepayers in Revere complain that MWRA is not pro-active enough. The state and federal governments mandated a lot of these projects. Since federal and state grants have been cut back, ratepayers are asking why MWRA doesn't go back and fight the battle again. Why should 60 cities and towns be responsible for the Harbor clean up when there are 350 cities and towns in the state that should bear some of the costs, especially when state and federal assistance were supposed to offset the charges?

Mr. Favaloro stated that many of the things mentioned relate back to the Capital Budget. The one battleground that is emerging as it relates to dealing with federal mandates is precisely where MWRA is heading on Combined Sewer Overflows. Hundreds of millions of dollars in costs for the CSO Program, much of them without significant benefit, which are being advocated by the federal government, is an area that the Authority, at the strong urging of the Advisory Board, has finally taken on. As for debt service assistance, both the Advisory Board and Authority are working diligently for restoration.

Don McCabe asked if there is some type of communication the Advisory Board can give to the Authority to put a moratorium on those projects until there is a relook. Mr. Favaloro stated that the Authority is under court order, but there are a few different levels to engage in debate. The Authority has begun to sit down with DEP and EPA.

A Motion was made **TO APPROVE THE ADVISORY BOARD COMMENTS AND RECOMMENDATIONS TO THE AUTHORITY'S PROPOSED FY04-06 CAPITAL IMPROVEMENT PROGRAM.** It was seconded and passed by unanimous vote.

Operations Committee – Jay Fink

❖ **ACTION ITEM: RECOMMENDATIONS REGARDING ANTICIPATED COMMUNITY IMPACTS RESULTING FROM THE MWRA'S REPLACEMENT OF THE WASTEWATER METER COLLECTION SYSTEM**

Jay Fink stated that the replacement of the wastewater meter collection system and its impacts to the communities have been discussed at numerous Operations Committee meetings. A methodology was developed for averaging flow numbers during the implementation phase of the program. Because the wastewater meter flows are the only aspect that a community can affect in its sewer assessments, the need for accuracy in the meters is paramount.

A policy is in place if structural problems are discovered to adjust for a one-year timeframe. No changes will occur on flow numbers. MWRA will provide bimonthly data for flows during this time period.

A Motion was made **TO APPROVE THE OPERATIONS COMMITTEE'S RECOMMENDATIONS REGARDING ANTICIPATED COMMUNITY IMPACTS RESULTING FROM THE MWRA'S REPLACEMENT OF THE WASTEWATER METER COLLECTION SYSTEM.** It was seconded and passed by unanimous vote.

❖ **ACTION ITEM: STRADDLE REQUEST BY AVALON BAY COMMUNITIES, INC. TO CONNECT TO THE MWRA WATERWORKS SYSTEM THROUGH PEABODY**

Mr. Favaloro stated that the final Avalon Bay motion addresses the concerns expressed by members at the last Advisory Board meeting. The original 20,000 gallons per day (GPD) has been reduced to 12,000 GPD. No MWRA water will be used for irrigation purposes in Danvers and Peabody.

John Sullivan asked if Avalon Bay would report its usage and who would be the monitor. Mr. Favaloro stated that an annual report on water usage has been added as a condition for approval. Avalon Bay will be monitored by the Authority through Peabody.

A Motion was made **TO APPROVE A NEW WATER CONNECTION TO SERVE THE PROPOSED AVALON BAY RESIDENTIAL COMMUNITY, PARTIALLY LOCATED WITHIN THE TOWN OF DANVERS. THIS MOTION IS SUBJECT TO THE GUIDELINES SET FORTH IN MWRA POLICY #OP-09, "WATER CONNECTIONS SERVING PROPERTY PARTIALLY LOCATED IN A NON-MWRA COMMUNITY". THIS INCLUDES PROVISIONS TO 1) EXCLUDE ADDITIONAL CONNECTIONS OR THE RESALE OF WATER; 2) PARTICIPATION IN ALL WATER CONSERVATION AND DEMAND MANAGEMENT PROGRAMS IMPLEMENTED BY THE MWRA USER COMMUNITY AND THOSE REQUIRED BY MWRA REGULATIONS; 3) AN ENTRANCE FEE TO ENSURE THAT THE SPONSORING PARTY, AVALON BAY COMMUNITIES, INC., WILL PAY A FAIR SHARE OF THE COST OF THE WATERWORKS SYSTEM IN PLACE AT THE TIME OF ENTRANCE; 4) SUBMIT AN ASSESSMENT OF HOW THE REQUESTED CONNECTION IS CONSISTENT WITH THE OBJECTIVES OF DANVERS' (NON-MWRA COMMUNITY) AND PEABODY'S (MWRA COMMUNITY) RESPECTIVE COMPREHENSIVE PLANS, INCLUDING AN ALTERNATIVES ANALYSIS AND BUILD-OUT ANALYSIS RELATED TO THE COMMUNITY'S WATER AND WASTEWATER COLLECTION SYSTEMS; 5) PROPONENT SHALL PROVIDE AN ANNUAL REPORT TO THE MWRA DETAILING THE AMOUNT OF METERED WATER USE FOR THE PRECEDING CALENDAR YEAR FOR THE PORTION OF THE AVALON VILLAGE DEVELOPMENT LOCATED IN THE TOWN OF DANVERS; 6) TOTAL WATER USE FOR THE ENTIRE AVALON VILLAGE DEVELOPMENT IS 77,198 GALLONS PER DAY(GPD)/28,177,280 GALLONS PER YEAR (GPY), FOR WHICH THE STRADDLE CONNECTION IS LIMITED TO 12,000 GPD/4,380,000 GPY. NO PORTION OF THE**

STRADDLE CONNECTION CAN BE UTILIZED FOR OUTDOOR MAINTENANCE OF LAWNS AND LANDSCAPES. AN ENTRANCE FEE WILL BE DEVELOPED BASED UPON PROJECTED ACTUAL WATER DEMAND INCLUDING MEASURES TO BE TAKEN BY THE PROPONENT TO PROMOTE WATER CONSERVATION, LEAK DETECTION OR OTHER DEMAND MANAGEMENT, CONSERVATION OR PROTECTION MEASURES. THE ASSESSMENT OF AN ENTRANCE FEE ENSURES THAT THE PROPONENT PAYS ITS FAIR SHARE OF THE COST OF THE WATERWORKS SYSTEM IN PLACE AT THE TIME OF ENTRANCE. It was seconded and passed by unanimous vote.

❖ **ACTION ITEM: REQUEST BY DEDHAM-WESTWOOD WATER DISTRICT FOR A SIX MONTH EMERGENCY CONNECTION**

A Motion was made **TO ALLOW THE DEDHAM-WESTWOOD WATER DISTRICT TO ACTIVATE ITS CONNECTION TO THE MWRA WATERWORKS SYSTEM FOR A SIX-MONTH PERIOD BEGINNING ON MAY 1, 2003, EXTENDING THROUGH OCTOBER 31, 2003. THE DISTRICT WILL ABIDE BY THE RULES STIPULATED UNDER THE RECENTLY REVISED MWRA EMERGENCY WATER SUPPLY WITHDRAWALS (POLICY #OP.05) INCLUDING PAYMENT OF A 10% SURCHARGE OF THE MWRA'S PREVAILING RATE. IF THE PROPONENT WERE TO SEEK WATER FOR A SECOND WATER WITHDRAWAL PERIOD, MWRA SHALL ALSO ASSESS AN ASSET VALUE CONTRIBUTION CHARGE. RULES GOVERNING PREMIUM CHARGES AND ASSET VALUE CONTRIBUTION ARE INVOKED WHEN WATER IS TRANSFERRED FROM THE MWRA TO THE APPLICANT COMMUNITY. THE TRANSFER OF WATER FROM THE MWRA TO THE APPLICANT COMMUNITY SERVES AS A TRIGGER TO INITIATE THE CORRESPONDING PREMIUM CHARGE AND ASSET VALUE CONTRIBUTION. PERIODS WHEN THERE IS NO WATER WITHDRAWAL SHALL HAVE NO EFFECT ON THE SCHEDULE OF CHARGES.** It was seconded and passed by unanimous vote.

Executive Committee – Katherine Haynes Dunphy

❖ **LEGISLATIVE UPDATE**

Mr. Favaloro stated that staff met with the Chairwoman of Natural Resources, Senator Pam Resor, to discuss the pros of transferring the MDC Division of Watershed Management to MWRA. In the past month, MWRA Executive Director, Fred Laskey, appeared before the Ware and Quabbin Advisory Committees, with Senators Brewer and Rosenberg, where they were well received. This past week, there were stories in the *Boston Herald* about shady land dealings of the MDC.

The other significant effort will be to work for the restoration of debt service assistance. Both House and Senate Ways and Means have kept the issue on the table for discussion. Staff's principal effort for debt service assistance is to keep the line item open so that it won't have to start from square one next year. It took five years to get the line item in the first time.

F. **QUESTIONS AND COMMENTS**

G. **ADJOURNMENT**

A MOTION WAS MADE TO ADJOURN THE MEETING AT 1:10 P.M. It was seconded and passed by unanimous vote.

Respectfully submitted,

Edward Sullivan, Secretary