

**MWRA ADVISORY BOARD MEETING AND PUBLIC HEARING  
APRIL 17, 2008  
WELLESLEY FREE LIBRARY  
530 WASHINGTON STREET, WELLESLEY, MA – 11:30 A.M.  
MINUTES APPROVED AT THE JUNE 19, 2008 MEETING**

Forty people were in attendance, including twenty-five voting members: E. A. Maguire, ASHLAND; Peter Castanino, BELMONT; Greg Riley, BRAINTREE; Ed Sullivan, CANTON; Jon Norton, EVERETT; Peter Sellers, FRAMINGHAM; J.R. Greene, GUBERNATORIAL APPOINTEE; Edmund Demko, HINGHAM; Barbara Stevens, LEXINGTON; Jay Fink, LYNN; Bruce Kenerson, LYNNFIELD; Cassandra Koutalidis, MEDFORD; Ron Seaboyer, MELROSE; Katherine Haynes Dunphy, MILTON; John Cosgrove, NEEDHAM; Lou Taverna, NEWTON; Bernie Cooper, NORWOOD; Arthur G. Markos, READING; Walter Woods, WELLESLEY; Earl Forman, WESTON; Bob Angelo, WESTWOOD; Michael Chiasson, WEYMOUTH; Michael Woods, WILMINGTON; Anthony Blazejowski, WOBURN; Robert Moylan, WORCESTER.

Also present: John Carroll, MWRA BOARD OF DIRECTORS; Ralph Pecora, EVERETT; Tom Holder, FRAMINGHAM; Ryan Ferrara, NEWTON; William Shaughnessy, WELLESLEY; Jon Beekman, SEA Consultants; Ed Bretschneider, WAC; Eileen Simonson, WSCAC; Pam Heidell, Dave Whelan and Jim Coyne, MWRA STAFF; Joe Favaloro, Cornelia Potter, Matthew Romero and Christine Hevelone-Byler, MWRA ADVISORY BOARD STAFF.

**ADVISORY BOARD PUBLIC HEARING ON MWRA'S PROPOSED FY09 CURRENT EXPENSE BUDGET**

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FY09 CURRENT EXPENSE BUDGET**

Chairman Katherine Haynes Dunphy called the public hearing to order at 11:30 a.m.

For the record, Chairman Dunphy read the official notice of the public hearing: The MWRA Advisory Board will hold a public meeting and hearing on Thursday, April 17, 2008 at the Wellesley Free Library, 530 Washington Street, Wellesley, MA at 11:30 a.m. After a presentation on the components of the Authority's proposed \$586.8 million FY09 Current Expense Budget, community officials and members of the public will have an opportunity to offer their comments on the budget. The Authority must adopt the proposed budget on or before June 30, 2008, as set forth in Chapter 372 of the Acts of 1984. The Advisory Board is empowered by statute to make comments and recommendations on the proposed budget. Copies can be examined at the offices of the Authority at 100 First Avenue in Charlestown. Written comments received at the office of the MWRA Advisory Board, 11 Beacon Street, Suite 1010, Boston, MA 02108-3020, no later than May 8, 2008 will also be considered. For further information, call (617) 742-7561.

Notice of the public hearing was given by publication in the Boston Herald on March 29, 2008.

MWRA Budget Manager David Whelan gave an overview of the MWRA's proposed FY09 Current Expense Budget, stating that the proposed total expense budget is \$598 million, offset by anticipated Debt Service Assistance of \$11.3 million (assuming receipt of a statewide DSA allocation of \$15 million, of which the MWRA is estimated to be eligible for 75% of the funding).

Of the \$586 million, \$262 million is for operating expenses and \$325 million is for debt service. For FY09, the operating budget has increased by \$8.7 million; the largest drivers are wages, utilities and maintenance. Debt service has increased by \$11.5 million in FY09. The cost of debt continues to grow and is anticipated this year to be increasing by \$5 million.

The rate revenue requirement anticipated for FY09 is about \$548 million, which equates to approximately a 5.9% rate increase. The Authority is anticipating a decrease of approximately \$13.9 million in investment income due to the variable market rate. The Authority is in the process of refinancing a large amount of debt to stabilize this situation.

The Authority is now in the process of revisiting these budgets to update the final proposed budget. Particular attention is being paid on the operating side on utility and chemical expenses; there are indicators that those prices may be increasing more.

On the investment side, given the current market, staff must revisit its assumptions with respect to the amounts of monies the MWRA will be receiving for interest rates.

A Motion was made **TO CLOSE THE PUBLIC HEARING AT 11:35 A.M.** It was seconded and passed by unanimous vote.

### **ADVISORY BOARD MEETING**

#### **A. WELCOME**

Chairman Dunphy called the meeting to order at 11:35 a.m.

#### **B. REPORT OF THE EXECUTIVE DIRECTOR**

MWRA Executive Director Joseph Favaloro stated that an election for the MWRA Board of Directors will be held next month in Canton. Anyone interested in running for a seat on the Board should submit a letter of intent and resume. John Carroll plans to run for another term.

#### **C. PRESENTATION: THE CASE FOR ENVIRONMENTAL REGULATORY REFORM / CLEAN WATER ACT / NPDES PERMITTING – Robert Moylan, Commissioner of Public Works (Worcester) / Massachusetts Coalition for Water Resources Stewardship**

Mr. Favaloro stated that the Worcester Commissioner of Public Works and Parks, Robert Moylan, has put a coalition together to initiate a better dialogue with environmental regulating agencies. Commissioner Moylan stated the Massachusetts Coalition for Water Resources Stewardship is a group of cities and towns that have an interest in the regulatory process, whether it be EPA or DEP, and particularly how they issue and enforce National Pollutant Discharge Elimination System (NPDES) permits.

There are three types of NPDES permits that the Coalition is particularly interested in: regular discharge permits from a publicly operated treatment works, CSO compliance and stormwater permits.

Coalition membership includes Worcester, Marlborough, Springfield, New Bedford, Haverhill, Chicopee, Holyoke, Gloucester, South Essex Sanitary District, the Upper Blackstone District and resolutions to support the cause from the National Association of Clean Water Agencies, as well as the New England American Public Works Association and a host of other smaller communities who are joined together.

The Coalition's purpose is to speak with one voice concerning what it believes is a flawed approach by EPA and DEP. This is not a denunciation of the regulators, but rather of the process. The Coalition believes that the regulators can do a better job in reaching out to those that are being regulated and understanding the issues. Further, the Coalition's purpose is to highlight the major failings of the regulators' current approach and to form partnerships with the regulators.

The Coalition was formed out of frustration by the unwillingness of EPA to enter into a dialogue with communities about various permits. EPA does not take into consideration that water and sewer rates are astronomically high nor does it consider the cost benefit of a project. The Coalition believes there is a better approach; permits must be looked at more comprehensively and holistically and must include cost benefit and affordability as part of the equation.

MWRA and the Advisory Board should consider joining the Coalition for a number of reasons. There is no organization or voice currently in Massachusetts that speaks to these issues. As the Coalition organization grows, so grows its influence and hopefully a better process from EPA. Benefits have already been realized just in the past six months of the Coalition's existence. The group met last week in Washington DC with the Regional Administrator of EPA and his team; six Congressmen from Massachusetts also attended, along with staff members for the remaining Massachusetts Congressmen and two Senators.

Mr. Moylan expressed hope that the MWRA and the Advisory Board would consider endorsing the Coalition; The MWRA would add great credibility to what the Coalition is trying to do. Ten recommendations have been published in a "white paper" by the Coalition, which can be made available electronically. The Coalition is seeking common sense and reasonableness through the process of complying with the Clean Water Act, while also understanding the affordability issue.

John Carroll asked if the Coalition was seeking an endorsement from the MWRA and/or the Advisory Board or a membership connection. Mr. Moylan responded that the Coalition would certainly like the Advisory Board and the MWRA to endorse the organization. There has been some discussion with the MWRA administration directly about becoming a member, which the Coalition would like; it is important to have as many members as possible to add credibility to the organization.

As a result of the meeting in Washington DC, a task force is being formed comprised of members of the Coalition to meet with EPA officials over the next six months. Mr. Moylan will chair the task force. In the fall, the task force will report back to the congressional delegation as to what advancements have been made.

Eileen Simonson said one of the Coalition's recommendations is for Massachusetts to gain primacy. What will that provide? Mr. Moylan said there is some question about the benefit of primacy; we put it on the table as something to be debated. The distinct benefit in at least debating the idea of primacy going to the state is that there may be greater sensitivity in talking about solutions and ways that we need to comply with the Clean Water Act but also understanding the affordability issue that is so prevalent.

Ms. Simonson said the river downstream of Holyoke does not meet the standards because of CSOs and so on. Is the Coalition proposing a methodology to help these communities catch up? Is it seeking federal funding? Mr. Moylan said I understand that EPA is in a tight spot but it is unacceptable to legislate themselves out of the funding equation, which they did back in 1987. They simply said this is no longer a federal problem; it is a state and local problem. The state quickly latched onto that notion and said it is not a state problem it is a local problem. When you look at the EPA estimates on what compliance will take over the next twenty years, it is anywhere from \$500 million to \$1 trillion. Do the federal and state governments expect the locals to pick up that tab? If federal funding could come back, it would solve a lot of the problems. The days of 75 federal/15 state/10 local are gone; however, one-third splits would make it far more palatable.

John Carroll asked if the number one goal of the Coalition is to get the federal government to participate in funding like they did years ago. Is the second basic goal to get them to agree in some formal fashion to look at cost benefit? Mr. Moylan said funding would be nice but it is a huge proposition. The Coalition is looking for an open dialogue with EPA. When EPA gives us a permit, we would like to be able to talk about the permit.

Mr. Carroll asked if cost benefit is a formal factor in the stormwater permit now. Mr. Moylan stated as far as he knows, cost benefit is not a formal factor in any of the NPDES permits.

Mr. Favaloro said clearly this is a critical issue. With the next NPDES permit, EPA will be attempting to incorporate language that will make all of the wastewater communities co-permittees with the MWRA; EPA will then have easy access to all of the wastewater communities. Mr. Favaloro noted that he told EPA Regional Administrator Robert Varney that if EPA tries to make the communities co-permittees, there will be 44 appeals that will hold up the new NPDES permit. The reality is, EPA will either make the wastewater communities co-permittees through the Authority's NPDES permit or they will write 43 individual NPDES permits to begin the process of adding additional layers of regulations and cost onto the bottom line of all of the local entities. EPA intends to have the next draft NPDES five-year permit and regulations out for review and a NPDES permit in place by the end of the federal fiscal year (September 30).

Jay Fink asked if MWRA staff has looked at this organization. Mr. Favaloro said Michael Hornbrook, MWRA's Chief Operating Officer, serves on the Committee. Mr. Favaloro added that he, along with MWRA Executive Director Fred Laskey and Mr. Hornbrook, deemed the Coalition's mission important enough to fly to Washington DC to stand with all of the mayors and the coalition members in that meeting with the delegation and to raise their voices in some level of frustration.

Mr. Fink asked if there is a process to join the coalition. Mr. Favaloro said an Operations Committee meeting can be held early next month and, if it is the pleasure of the members, can be brought before the Advisory Board for further discussion.

Chairman Dunphy expressed concern that the relationship between the MWRA and the communities could be severely compromised if the MWRA became a regulator. This is a serious issue and the Advisory Board should take a serious look at whether to join the Coalition.

Jay Fink requested that the Operations Committee meet to take a serious look at the topic.

#### **D. COMMITTEE REPORTS**

##### **Operations Committee** – Jay Fink

##### **❖ ACTION ITEM: WILMINGTON’S REQUEST FOR A SIX-MONTH EMERGENCY WATER CONNECTION**

Wilmington Water & Sewer Superintendent Michael Woods stated that this is the sixth year that the Town of Wilmington has requested an emergency water connection from the MWRA during the summer months when the Town is unable to make it with its own water supply due to contamination of five of its wells and a lack of water in the Ipswich River.

SEA Consultant Jon Beekman noted that the Town of Wilmington began its Comprehensive Water Management Plan several years ago; it has been approved by DEP and permission has been gained through the Inter-Basin Transfer Act from the Water Resources Commission. MEPA has also approved this project.

In previous emergency water connections, the water has been routed through the City of Woburn. Within the next two to three weeks the Town expects to have approval and final construction and completion of water flowing through a direct pipeline connection to a meter vault. Wilmington representatives expressed appreciation for the Advisory Board’s support during the long process to join the MWRA as a partial user.

Mr. Fink noted that a favorable action was taken on the proposed motion at both the Operations and Executive Committee meetings. Mr. Favaloro added that an emergency declaration from DEP triggers the beginning point of the six-month timeframe. Wilmington needs to begin drawing water in mid May. It made logical sense to hold off in seeking the declaration; however, the Advisory Board’s approval is conditioned on the DEP declaration.

A Motion was made **SUBJECT TO A DEP DECLARATION OF STATE WATER SUPPLY EMERGENCY AND MWRA BOARD OF DIRECTORS APPROVAL, TO ALLOW THE TOWN OF WILMINGTON (WILMINGTON) TO ACTIVATE A DIRECT CONNECTION\* TO THE MWRA WATERWORKS SYSTEM FOR A SIX-MONTH PERIOD, WITH A START DATE IN MAY 2008. AVERAGE DAILY DEMAND SHALL NOT EXCEED ONE (1) MILLION GALLONS PER DAY. WILMINGTON WILL ABIDE BY THE RULES STIPULATED UNDER MWRA EMERGENCY WATER SUPPLY WITHDRAWALS (POLICY #OP.05), INCLUDING PAYMENT OF A 130% SURCHARGE OF THE MWRA’S PREVAILING RATE PLUS 130% OF THE ANNUAL PAYMENT ASSOCIATED WITH THE ASSET VALUE CONTRIBUTION PAYMENT (ENTRANCE FEE EQUIVALENT) AMORTIZED WITH INTEREST OVER 15 YEARS. PREMIUM CHARGES AND ASSET VALUE CONTRIBUTION ARE TRIGGERED WHEN WATER IS TRANSFERRED FROM THE MWRA TO WILMINGTON.** It was seconded and passed by unanimous vote.

**Finance Committee** – Bernard Cooper

**❖ ACTION ITEM: MWRA ADVISORY BOARD DRAFT COMMENTS AND RECOMMENDATIONS TO THE TO THE AUTHORITY'S PROPOSED FY09 CAPITAL IMPROVEMENT PROGRAM**

Cornelia Potter stated over the last several weeks staff has been reviewing the Authority's proposed FY09 Capital Improvement Program (CIP) and Budget. With this budget process the Authority will be setting the next five-year capital spending cap for FY09-13.

Over the last several years, Advisory Board staff has focused on reductions it could make to the capital program. These cuts, over the years, have totaled over \$1 billion and included the elimination or reduction of Battery D of secondary treatment on Deer Island and related elimination of the fourth digester module, the egg shaped digesters at the island. Advisory Board analysis had shown that the Authority's original engineering assumptions were conservative enough to warrant revisiting and resizing this project.

Staff also pursued a whole series of questions on the CSO Control Program related to the Authority's use of particularly conservative assumptions about flows and the level of control that is needed to control very high levels of flow. These questions led to a revised CSO program in 1994. More recently, further reassessment for the Charles and the Alewife yielded an agreement to issue five three-year variances for the next fifteen years allowing the Authority to experience a pause from what had been continuing increases, a strategy that further supported the sustainable and predictable rates policy that the Advisory Board has been pursuing for a number of years.

The Advisory Board also advocated for the creation of a Master Plan, which was used for the first time as the basis for developing the FY08 CIP process. In addition to pursuing elements of rates management, Advisory Board staff made a specific and much more detailed set of recommendations having to do with pursuing major restructuring of principal repayments on the Authority's existing debt; this was at a time when long-term rates had declined and the yield curve was fairly flat. It offered the Authority the opportunity to reposition some of the debt service payments that were coming due, particularly in the next several years as rate revenue needs were predicted to peak. As a result, the Authority issued a major restructuring transaction in January 2007 in which \$650 million in existing debt was restructured providing \$425 million in rate relief over the ten-year period to immediately follow.

With the proposed budget for the FY09 CEB the Authority shows projections that demonstrate that the rate revenue requirement will go up between \$30 and \$40 million every year for the next seven years. The debt service is still formidable and other costs are rising. The Authority, despite efforts to control direct expenses, continues to face pressures that are well beyond the Authority's control, most notable are energy costs, pressures on certain chemical costs together with the entire impact of the sub-prime crisis. Rate revenue is expected to rise by \$100 million in just the next three years and by another \$100 million in the next couple of years and over the ten-year period by about \$300 million between FY08-18. Even though the Authority has taken steps to ease the impact on future rate revenue requirements, the pressures are still there.

With this proposed budget the Authority is proposing a cap for the next five-year period. The first five-year period cap was just over \$1 billion, with projected expenditures set at \$1.023 billion. The formula for setting the cap included a contingency allowance, inflation on

unawarded construction contracts and netted out Chicopee Valley Aqueduct (CVA) projects. The first spending cap was \$1.134 billion for the first five years. The next cap is remarkably similar. The Authority is proposing spending for the next five years at just under \$1.06 billion together with a contingency allowance that is somewhat higher than the previous one, a function of the fact that the Authority is pursuing several big tunnel projects for which the contingency allowance is 15% instead of the usual 10%, plus inflation for unawarded construction less the CVA projects yield a proposed spending cap of \$1.16 billion.

In the last several years the Advisory Board has made observations on the Authority's ability to spend what it proposes in the cap. Over the last five years the Authority has spent about \$200 to \$210 million less than what the cap would have allowed the Authority to spend and certainly right at the plus or minus 20% formula that the Authority is allowed for each of the five years as long as the total does not change.

The Authority has pointed out the reasons for lower than budgeted spending are varied having to do with shifts in project schedules, changes in project costs and awards that were below what had been assumed in the original budget when the cap was set; however, because the Authority is entering a period of extended construction, particularly for CSO projects that are court mandated, the Authority is likely to be a lot closer in the next five years to its stated cap needs.

The CSO Program, which is dominant at 30% of the budget over the next five years, is facing a series of cost updates and increases. The Authority has noted that several projects (the Reserved Channel Project in South Boston; the Bulfinch Triangle Sewer Separation Project; the Brookline Sewer Separation Project and elements of Cambridge) are yielding total increases of around \$80 million. Because of the cost pressures on the overall capital budget and the implications of such changes for spending in the early part of the cap period, the Advisory Board has advocated through its comments the setting of a "cap within the cap" with particular reference to the CSO program. The Authority is now spending fully half the capital program costs of over \$800 million on the CSO Control Program (\$300 million in the next five-year period and the other \$100 million to follow) to capture the last fraction of environmental benefits to be gained from these projects.

The CSO Program and the distribution and pumping projects total 50% of all five-year spending; if Deer Island treatment, as well as transmission projects are added, it accounts for more than 80% of all spending that is concentrated in these particular areas of the proposed budget.

The Advisory Board further recommends that the Authority complete the Master Plan; the Business and Operations sections of the capital program, which include MIS, as well as the energy and alternative energy program, have yet to be completed. There is language in the Authority's CSO Annual Report supporting the Authority staff's intent to reassess the cost effectiveness of the four CSO projects that are yielding these measurable cost increases. The Authority has indicated that assessment will not only address the cost benefit of these projects but whether these projects should continue to be recommended.

A Motion was made **TO APPROVE THE ADVISORY BOARD'S COMMENTS AND RECOMMENDATIONS ON THE MWRA'S PROPOSED FY09 CAPITAL IMPROVEMENT PROGRAM.** It was seconded and passed by unanimous vote.

Mr. Favaloro recognized the efforts of Cornelia Potter and Matthew Romero.

❖ **UPDATE: CURRENT EXPENSE BUDGET REVIEW**

Ms. Potter stated that staff has conducted a number of meetings with Authority staff to review not only the departmental budgets but also the complex and difficult subject areas of capital financing, assumptions around investment income and policy issues having to do with GASB 45 pre-funding of post-employment health benefits.

Discussion and final vote on the Current Expense Budget is expected at the May 15 Advisory Board meeting.

**Executive Committee** – Katherine Haynes Dunphy

❖ **LEGISLATIVE UPDATE**

Mr. Favaloro stated that Governor Deval Patrick included \$15 million in statewide Debt Service Assistance (DSA) within his version of the State Budget. The House Budget also included \$15 million; further, Chairman of House Ways & Means Bob DeLeo has stated that he may accept an amendment to increase the number. Staff of the Advisory Board and the MWRA will be working to get as many signatories on the amendment as possible. The two lead sponsors will be MWRA Caucus Chairman Ron Mariano and Representative Katherine Clark from Melrose/Wakefield.

The Advisory Board's strategy is to focus on the Senate side to match the House number to try to keep DSA out of Conference Committee negotiations.

**E. ADJOURNMENT**

**A MOTION WAS MADE TO ADJOURN THE MEETING AT 12:47 P.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Edward Sullivan, Secretary