MWRA ADVISORY BOARD MEETING
NOVEMBER 20, 2008
BRADLEY ESTATE
2468B WASHINGTON STREET, CANTON, MA – 11:30 A.M.
MINUTES APPROVED AT THE JANUARY 15, 2009 MEETING

Forty-four people were in attendance, including twenty-six voting members: Peter Castanino, BELMONT; John Sullivan, BOSTON; Ed Sullivan, CANTON; Andrew DeSantis, CHELSEA; J. R. Greene and Barbara Wyatt, GUBERNATORIAL APPOINTEES; Ed Demko, HINGHAM; Bill Hadley, LEXINGTON; Jay Fink, LYNN; Bruce Kenerson, LYNNFIELD; Dana Snow, MARBLEHEAD; Doran Crouse, MARLBOROUGH; Cassandra Koutalidis, MEDFORD; Katherine Haynes Dunphy, MILTON; John Cosgrove, NEEDHAM; Lou Taverna, NEWTON; Bernie Cooper, NORWOOD; Brian Carlisle, QUINCY; Ted McIntire, READING; Carol Antonelli, SOMERVILLE; Michael Martello, WAKEFIELD; Patrick Fasanello, WALPOLE; Walter Woods, WELLESLEY; Earl Forman, WESTON; Bob Angelo, WESTWOOD; Anthony Blazejowski, WOBURN.

Also present: John Carroll, Andrew Pappastergion and Joe Foti, MWRA BOARD OF DIRECTORS; Avril Elkort, Bob Burr, Carl D. Lavin, CANTON; Mike Galli, QUINCY; Ed Bretschneider, WAC; Phil Jasset, UCANE; Michael Ralph, Rachel Madden, Kathy Soni and Pam Heidell, MWRA STAFF; Joe Favaloro, Cornelia Potter, Matthew Romero, Christine Hevelone-Byler and Mary Ann McClellan, MWRA ADVISORY BOARD STAFF.

A. WELCOME

Chairman Katherine Haynes Dunphy called the meeting to order at 11:36 a.m. and introduced Canton Board of Selectmen Member Avril Elkort, who welcomed everyone to Canton.

Chairman Dunphy recognized Michael Ralph, MWRA Director of Public Affairs, for more than 23 years of dedicated service on behalf of ratepayers. Mr. Ralph recently announced his retirement. MWRA Advisory Board Executive Director Joseph Favaloro stated if there is one person at the MWRA that goes beyond being a colleague to being a friend, it is Michael Ralph. Late nights in the House Session and the Senate Session trying to figure out where we are going to go next; I don't think people appreciate, nor could they, the abilities that Michael has brought to the job. On behalf of the Advisory Board and on a personal basis, Mr. Favaloro thanked Mr. Ralph for his service.

Mr. Ralph noted that Joe and he have become friends and that they have begged and cajoled about every member of the legislature over the last twenty years, both House and Senate, to try to get funding to mitigate the rates.

Mr. Ralph said the MWRA was created to be the agency to fail and the agency to be hated; however, due to the understanding that the members of the MWRA Advisory Board had of the MWRA's mission, and the transparency with which the Board has demanded that we run the place, you hear the print and electronic media say that the MWRA is the best run organization in the Commonwealth. That is a tribute to the fact that the Advisory Board and the member communities have put up with a lot, whether it is the rates or the inconveniences of their streets being dug. We wouldn't be there without the cooperation of the communities.

Chairman Dunphy said we all understand how much Mike has done to benefit our communities, not only advancing the mission of the Authority to provide the water and wastewater services, but providing it at an affordable cost. He has done a lot for our towns and for our budgets.

B. APPROVAL OF THE MINUTES FROM THE SEPTEMBER 18, 2008 ADVISORY BOARD MEETING

A Motion was made **TO APPROVE THE MINUTES FROM THE SEPTEMBER 18, 2008 ADVISORY BOARD MEETING.** It was seconded and passed by unanimous vote.

C. REPORT OF THE EXECUTIVE DIRECTOR

Mr. Favaloro reminded sewer communities that on December 4th in Wellesley, the Advisory Board Operations Committee will hold a special meeting to discuss the topic of the three-year averaging component of the sewer rate methodology.

Three-year averaging on flows will be discussed based on the intensive work of Walter Woods. He has put together an analysis of three-year averaging versus one-year averaging and how it has impacted communities over the years. The Executive Committee felt strongly that the topic deserved a meeting of its own to have a good discussion on the methodology and specifically on the impacts of three-year averaging.

D. PRESENTATIONS:

❖ UPDATE: IMPACTS OF FIRE AT THE MWRA'S RESIDUALS PROCESSING PLANT LOCATED IN QUINCY

Mr. Favaloro stated a couple of weeks ago there was a fire in the duct work at the New England Fertilizer Company's (NEFCo) pelletizing plant. It was a stubborn, smoldering fire that has shut down the Authority's ability to create pellets and has changed the manner in which sludge cake is being transported. There are now between 15 and 18 trucks per day leaving the pelletizing plant going to landfills throughout New England.

About 750 feet of duct work has to be replaced and all of the duct work will be cleaned; those contracts have been executed. Additionally, the Quincy Fire Department has requested that NEFCo put in a fire suppression system within the duct work, which is currently being designed. When all is said and done, the expectation is that by the end of December NEFCo will be back to doing business as it normally does.

There has been some give and take on the expenses but the cost to replace and or clean the duct work is in the range of $500,000. The additional transportation costs of moving the sludge cake to the landfills is $30,000 per day, which is mitigated to some extent by not heating the pellets so electrical costs will go down somewhat.

Jay Fink asked if these costs are covered by insurance. Mr. Favaloro said the insurance companies were there the following day and whatever the cost is, be it the replacement and cleaning of duct work and the transport of the sludge cake, it will be borne by NEFCo.

❖ **AUTHORITY'S PROPOSED BUDGET CUTS TO AVOID MID-YEAR COMMUNITY ASSESSMENT INCREASES** – Rachel Madden, MWRA Chief Financial Officer

MWRA Chief Financial Officer Rachel Madden said everyone in the Commonwealth is seeing the same downturns in the economy and shortfalls in revenue. As a result, the Debt Service Assistance (DSA) line item has been eliminated from the State Budget.

MWRA staff has been doing an extensive amount of work to reduce expenses and develop methods to realize savings in perhaps some of its variable rate debt and a few other areas that will absorb the loss of the DSA and have no impact on the communities.

The MWRA rolled out a combined 4.5% rate increase at the beginning of the fiscal year and is committed to maintaining that through the remainder of FY09. The Board of Directors issued a clear directive that there would be no mid-year rate increase because the MWRA is clearly not the only one feeling the pains of these financial times. MWRA staff has identified nearly $6 million in direct expense reductions and has gone to a great level of detail to find any form of savings to result in the capacity to absorb this hit without impacting the communities.

The Authority has experienced some favorable trends thus far through the fiscal year, such as electricity and oil costs, which have come down and continue to stay at those lower levels. Staff is also looking at implementing an ongoing hiring freeze, only hiring absolutely mission critical staff. It has been a tough exercise.

By December, staff must come forward with a budget amendment to the Board of Directors; with their approval at that session, it will then be transmitted to the Advisory Board for its 30-day review and comment. Advisory Board staff has indicated that they will be as helpful as possible throughout this process. A series of preliminary meetings will be scheduled with the Advisory Board to brief them prior to the transmittal to try to speed up the process to make sure staff is ready by January to have the amended budget.

In these tough economic times, the MWRA was unable to issue debt so it is realizing some savings having not issued debt because it did not have to make principal and interest payments on that first series of bonds. Authority staff hopes to go forward with that transaction in January when an amendment is on the books.

Chairman Dunphy said the last time that MWRA staff spoke to the Advisory Board it reported an issue of some concern regarding the Lehman Brothers failure, which might lead to a possible large payment. Ms. Madden said actually staff has good news on that topic. Lehman Brothers bankruptcy had some effect on the Authority as far as they were remarketing agents on some of the MWRA's variable rate debt and the MWRA had two swap agreements with them as well. As a result of their bankruptcy, the Authority was in a predicament where a termination payment was due. Under the contract, staff moved forward with a bidding process for the value of those swaps to other banks. The first swap was large and the termination payment was $49 million. What actually transpired ended up being in favor of the MWRA. The value of the swap in this marketplace was actually about $1.7

million higher than what the Authority had to pay to Lehman to get out of the original contract, so there was an actual net favorable return to the MWRA of $1.7 million that the MWRA was able to deposit into the bank.

The second swap was relatively smaller and the size of the termination fee with that swap should be about $3 million in these market conditions. Staff is moving forward with a similar bidding process. Because of the size, staff does not expect to receive the kind of return that it did on the larger transaction.

Ed Sullivan asked Ms. Madden to comment on where the Agency's credit rating stands with respect to borrowing. Ms. Madden said every bank that staff has talked to, as well as all of the rating agencies, are calling it a case of "the haves and the have nots". The entities that have a great credit rating can have their debt sold so they will be able to continue to operate almost seamlessly in this marketplace, though clearly some of the dynamics have changed. The have nots are struggling to be able to borrow money because the investors are nervous. The Authority has a pure "AA" rating, which is the second highest rating you can have, and is well situated to be able to issue debt. The Authority has a very strong financial condition.

- **2008 WATER AND SEWER RETAIL RATE SURVEY** – Matthew Romero, MWRA Advisory Board Senior Finance and Policy Analyst

Matthew Romero said the Advisory Board took seriously comments that people made regarding the use of the 120 hundred cubic feet (HCF) benchmark that is used to track retail rates from year to year; there was some question if there is a better way to do it. Over the summer, staff put together a focus group to look into this issue. The focus group included John Sullivan from the City of Boston, Jay Fink from the City of Lynn and Authority and Advisory Board staffs.

In anticipation of the focus group meeting, a two-fold inquiry was sent to the American Water Works Association (AWWA). One inquiry was to all the member communities in the AWWA; staff received a myriad of different answers as to how and if they tracked their retail rates from year to year. Fifteen communities responded and many of them do use the 120 HCF, some of them use a different methodology germane to their area, and some of the others used different methodologies. The AWWA's consultant, who puts together their bi-annual water and sewer retail rate survey, also uses the 120 HCF benchmark because changing it would make historical comparisons more difficult.

The Advisory Board has been tracking retail rates for 21 years and it would be very difficult to change it mid-stream. Staff decided to give more prominence to Appendix C within the document, which uses data that the communities provide to DEP about their actual water usage but the heart and soul of the report would still continue to use the 120 HCF standard.

A new questionnaire format was utilized this year to give it a more user friendly approach. Some of the questions that didn't get a lot of responses were removed or re-worked and new questions were added. Many of the questions were multiple choice to make it easier for people that didn't have the exact dollar amount in front of them but could tell us that it was definitely within a certain range. Staff received some wonderful feedback from the respondents about the new format and staff fells that it received better and additional data. Within a week of the deadline, 80% of the surveys had been returned.

Looking back at last year's survey, MWRA final wholesale assessments to communities increased 4.5% for FY08. The average MWRA community household charge ranged from $725 to $1,070. The $1,070 was based on the use of 120 HCF. In response to some of our Executive Committee members, staff decided to provide a range using the benchmark that the Authority typically uses of 61,000 gallons up to the 90,000 gallons that the Advisory Board uses to reflect the dollar range. The average MWRA community retail rate increase was 6.3% last year and in a ten-year capture from 1997 to 2007 retail rates have increased 65% (based on 120 HCF).

Taking a look at this year with the preliminary data, MWRA final wholesale assessments increased 4.45% in FY09. The average MWRA community household charge ranging from 61,000 to 90,000 gallons is $766 to $1,130. The average MWRA community retail rate increase is 5.6%. From the ten-year capture from 1998 to 2008, retail rates have increased 68% representing a $456 increase, again using that 120 HCF benchmark.

In response to John Carroll who, at the Executive Committee meeting, said he would like to see a ten-year capture in comparison to some other costs that are facing our ratepayers, staff took a look at some key utility data. It is important to realize that our ratepayers face many other increases as well. For example, electricity in 1998 was being sold for an average of 10.7 cents per kilowatt hour (kWh) for residential use; in 2008, the average rate is 15.9 cents per kWh, making that an increase of about 48% over that ten-year period.

Taking a look at natural gas, in 1998 it was being sold for $7.49 per thousand cubic feet and in 2008 the same amount is being sold for $15.74 on average, an increase of about 110%.

In 1998, the nationwide average for gasoline was $1.06 per gallon; in 2008, there was a nationwide average of $3.48 per gallon, which would be a 228% increase. Mr. Favaloro added that the importance of this information is that it is not just water and sewer rates going up. The same homeowner paying the water and sewer bill is also paying the electricity increase and the natural gas increase and the gasoline increase.

For 2008, the MWRA system's residential costs compared to other U.S. cities comes in fourth behind Seattle, Portland and San Francisco. The average across the nation is $801 for combined residential costs.

To capture actual capital needs for the 60 MWRA communities, staff received 51 responses identifying needs between $575 million to $1.1 billion in the next five years; contrasted by what they actually plan to spend over the next five years is $190 million to $330 million. Taking the best case scenario of the highest amount of projected capital spending ($330 million) and applying it to even the lowball estimate of capital needs identified of $575 million, only 57% of the actual needs would be met.

Mr. Favaloro said these numbers are important. Staff held discussions with Marian Orfeo from the MWRA and John Sullivan from the City of Boston and other national agencies that are involved with water and sewer projects in anticipation of an economic stimulus bill. Staff is trying to determine if it makes good sense to try to get the communities together, working with the national organizations and the expertise of John and Marian, to try to give everyone a head start so that their "ready-to-go projects" will, in fact, be ready to go in the event there will be some type of water/sewer grant program coming out of the economic stimulus bill.

Mr. Romero stated that Jay Fink had requested that the Advisory Board include a question on the survey ascertaining how communities are recovering their stormwater costs. Of the 60 MWRA communities, 50 responses were received; 30 are recovering their stormwater costs through the DPW budget (General Fund), ten are recovering through their water and sewer rates and the remaining ten were a mixture of people that checked off not applicable, other, or multiple boxes.

Water consumption across the system has been declining. Communities are setting their budgets based on water consumption. When they do not sell the water they projected they would, they are bringing in less revenue than they had expected resulting in budget shortfalls. Of the 60 member communities, 49 responses were received; 24 communities (or 40%) in FY2008 said they were experiencing revenue shortfalls.

E. COMMITTEE REPORTS

Executive Committee – Katherine Haynes Dunphy

❖ **ACTION ITEM: 2009/2010 ADVISORY BOARD LEGISLATIVE PACKAGE**

Mr. Favaloro said last month we talked at length on our legislative strategy as we move forward into 2009 and 2010.

An *Act to Expand the Septic Tax Credit* was developed as the MWRA was losing DSA. The *Septic Tax Credit* is an existing tax credit and is an important environmental program. If you replace your septic system in the Commonwealth of Massachusetts, in the next seven years you can get up to $15,000 in septic tax credits. That is in the tax code; therefore, whatever the number is from year to year is what you get. It is never discussed, debated or cut during the budget process. Staff amended the *Septic Tax Credit* to include the capital portion of sewer bills and provide a tax credit to every homeowner that gets a bill that breaks out the capital costs from the local costs on their sewer bill.

Staff met with MWRA Caucus Chairman Ron Mariano and he has committed his support. Another bill that the Chairman was interested in was the five-cent tax per unit on any bottled water container to fund a dedicated water and sewer infrastructure replacement fund. It would generate approximately $65 million per year for cities and towns and other agencies to fund water and sewer infrastructure projects. It helps the economy by getting public works projects going. Another dividend is if people are paying a tax on bottled water, maybe they will go back to the tap. If they go back to the tap, it is better for the cities and towns.

Those are just two of the initiatives that staff has highlighted.

Avril Elkort asked if Mr. Favaloro believes DSA will ever be restored. Mr. Favaloro said in the short-term, no; definitely not for FY10. If the economy begins to turn, staff can begin in FY11 to once again have real discussions about DSA. In the interim, staff is trying to fill that void with other ideas.

A motion was made **TO APPROVE THE 2009/2010 ADVISORY BOARD LEGISLATIVE PACKAGE.** It was seconded and passed. J. R. Greene was opposed to this vote.

Finance Committee – Bernard Cooper

❖ **UPDATE: CIP/CEB**

Cornelia Potter said the Authority staff, in the midst of trying to manage its way through this year's budget in light of the DSA cuts, is already well underway in the preparation of Capital and Current Expense Budgets for next year.

In the coming weeks, the Proposed Capital Improvement Program (CIP) will be ready for mailing to the MWRA Board of Directors who will be asked to authorize transmittal of the document to the Advisory Board in less than one month at their December 17 Board meeting.

Authority staff is also preparing initial budget requests for the Current Expense Budget (CEB) spending for FY10, with direct expense proposals due in just the coming weeks.

Getting through this year is really a multi-year process because clearly FY10 will also feel the pinch of no DSA at all, together with the need to keep the budget within certain boundaries recognizing the pressures on community budgets as well.

The Authority will be monitoring the development of this year's spending as it goes forward, particularly in light of reviewing the amendment that will be transmitted to the Advisory Board, also at that December Board meeting. The Advisory Board is statutorily required to have a minimum 30-day review and will try to keep its review within those boundaries because of the Authority's need to borrow to support capital budget spending. The Advisory Board will be voting on the comments at its January meeting, which will be one day after the Authority's January Board meeting. Staff is offering the thought that the Authority might make its approval of the amendment conditional on the vote of the full Advisory Board the next day. It is also important to note that the Executive Committee will have met the previous week and will have discussed these positions before the Board votes.

Operations Committee – Jay Fink

❖ **UPDATE: ODOR CONTROL FACILITY FOR THE NORTH DORCHESTER BAY CSO FACILITIES PROJECT**

Mr. Favaloro said the Advisory Board has had an ongoing debate with an abutter to the Authority's Odor Control Facility project, Corcoran Jennison Companies, located at the Bayside Exposition Center in Dorchester. The major question is: what is the responsibility of ratepayers and what is not? On a $300 million plus project to clean the beaches of South Boston, the Authority had to site an odor control facility, which it did in 1997. About six weeks ago, the Authority was ready to go out for final design and bid of the odor control facility. Though it is on Commonwealth land and the legislature voted with a two-thirds vote under Article 97, Mr. Corcoran has objected. He has requested that the Authority place the facility underground, which would cost an additional $4 million.

Mr. Corcoran believes that ratepayers should pay to put the facility underground because he is in the process of doing a billion dollar development on the site.

There has been a lot of back and forth, including Congressman Lynch and Senator Hart, and recently the press became involved as well. Mr. Corcoran has gone to the press and said that because of the odor control facility he will be dropping the project and costing billions of dollars to the City of Boston, taking jobs from union workers as well. However, every development in the City of Boston is facing the same credit crunch that all of us are facing.

Ed Bretschneider said as I understand it, the Authority played by the rules and had a transparent process, met with the abutters, went through the Legislature and received approvals and it is not clear to me the power of one individual to wait until the very end of the process and potentially put something like this on hold or put a cost on it if it goes ahead that the developer should bare rather than the Authority, especially with all of the economic challenges. "It makes zero sense to me and to the Wastewater Advisory Committee (WAC)." Mr. Favaloro said he is appreciative of the Wastewater Advisory Committee sending a letter in support of the Advisory Board and the MWRA's Board of Directors basically saying it should not be the responsibility of the ratepayers. That is why the Advisory Board has kept this issue alive.

- **PUTTING COMMUNITIES IN LINE TO BENEFIT FROM "INFRASTRUCTURE" COMPONENT OF THE ECONOMIC STIMULUS PACKAGE**

This item was addressed in the Water and Sewer Retail Rate Survey presentation.

F. OTHER BUSINESS

Jay Fink noted that on November 6 a joint meeting of the Wastewater Advisory Committee, Water Supply Citizens Advisory Committee and Advisory Board Operations Committee was held and areas of commonality were determined, including budget, legislative support and other items. The meeting was well attended. The three organizations are entering an era of new cooperation and are heading in the right direction.

G. ADJOURNMENT

A MOTION WAS MADE TO ADJOURN THE MEETING AT 12:42 P.M. It was seconded and passed by unanimous vote.

Respectfully submitted,

Edward Sullivan, Secretary