EXECUTIVE COMMITTEE MEETING
FRIDAY, OCTOBER 9, 2009
ADVISORY BOARD OFFICE
Minutes Approved at the November 13, 2009 Meeting

Present: John Sanchez, BURLINGTON; Ed Sullivan, CANTON; Bill Hadley, LEXINGTON; Jay Fink, LYNN; Lou Taverna, NEWTON.

Also in attendance, Andrew Pappastergion and Joseph Foti, MWRA BOARD OF DIRECTORS; Joseph Favaloro, Cornelia Potter, Matthew Romero, Christine Hevelone-Byler and Mary Ann McClellan, MWRA ADVISORY BOARD STAFF.

I. Approval of the September 11, 2009 Minutes of the Executive Committee

In the absence of Chairman Katherine Haynes Dunphy, Vice-Chairman Jay Fink called the meeting to order at 8:37 a.m. A Motion was made **TO APPROVE THE SEPTEMBER 11, 2009 MINUTES OF THE EXECUTIVE COMMITTEE**. It was seconded and passed by unanimous vote.

II. Status: Invasive Species

MWRA Advisory Board Executive Director Joseph Favaloro stated that the MWRA Board of Directors will have another discussion regarding invasive species in November.

The Water Supply Protection Trust met a few weeks ago where the Department of Conservation and Recreation (DCR) gave a presentation. The real challenge, goal and opportunity will come when the Quabbin closes for the season to see where DCR/MWRA go from that point to when they reopen the Quabbin in the spring. There were 651 boats decontaminated from the time it reopened in mid-August until last week. No matter how it concludes, it is 100 times better than where it was. The drinking water supply must come first then others may be accommodated.

It is an interesting discussion on how many unfiltered systems do not allow any boating versus those that try to restrict it to some extent but allow it.

Vice-Chairman Fink said if an event occurs that requires the Quabbin to be sealed up, who gets to pull the trigger? Joe Foti said that is something that has been debated since this started. Mr. Favaloro said the legal determination is for drinking water purposes the MWRA has responsibility; for all other purposes, DCR has responsibility. In all cases, they have shared responsibility; they are all inter-related so it is very difficult. A draft legal opinion document was sent to Board members, which was provided to the Executive Committee as well.

Vice-Chairman Fink stated in the event something like this should happen, if it can't be determined whose responsibility it is, there should be some procedure or mechanism that within 24 hours this is the group that is going to assemble to make that decision as opposed to saying shared responsibility. Mr. Foti added that Joel Barrera was working on a resolution to this issue.

Even Steve Remsburg, MWRA legal counsel, didn't know if the MWRA had the sole authority to close the Quabbin. Our goal was to get through this boating season, which ends soon, and then spend the next few months trying to come up with a plan to be ready for the next boating season.

Vice-Chairman Fink said there could be some other act or issue that requires immediate action and we won't have three weeks to figure out who is going to make the call.

Mr. Favaloro added another issue with DCR could come into play. DCR is in the midst of massive lay offs. The better news is that the Trust, being off budget, has been successful and at this juncture, there will be no lay offs within the watershed division; however, because they are all state employees, because of bidding and bumping, could have watershed employees bid out of their jobs by other individuals who have a right to then take that same level position. The mix of employees at the watershed division may change; it is still unknown. It could have an impact on some of these programs because you could have some significant changes in the workforce a month or six weeks from now.

The Watershed Division of DCR and the controlling management of the watershed areas had the only green certified forest designation in the Commonwealth; however, the certification has been lost and DCR is now appealing. It could have significant ramifications along with the beetle, which is coming back and has now found its way to the edge of the watershed in West Boylston. The Watershed Division is now reviewing how they are going to deal with some of those issues to the extent that the only thing that might be allowed if they cannot cut the trees and sell them may be chipping; this may alter revenue. There are a lot of things that, on the surface, aren't related to invasive species but a deeper look could impact it, whether it is changes in personnel or changes in revenue.

Vice-Chairman Fink said if they start having to clear trees out of the watershed that is going to effect water quality so now the discussion of what entity calls the shots is back on the table.

III. Legislative Update / Bottle Bill Hearing

Mr. Favaloro stated that staff testified at the Bottle Bill Hearing this past week and provided written testimony. There were a lot of advocates in favor of expansion of the Bottle Bill; however, one challenge is that while it isn't a tax, it can be construed as a tax. If you redeem your bottle, you will get your nickel back; if you don't, somebody gets to share that nickel, be it the Environmental Trust, Debt Service Assistance (DSA), or an infrastructure account.

Secretary Bowles testified in favor of expansion of the bill, but did not speak about the Advisory Board's bill. Ms. Hevelone-Byler noted there were multiple versions of the bottle bill up for debate on Wednesday. Mr. Favaloro said in House 1, the Governor's version of the budget, expansion of the bottle bill also included language that a piece of it would go toward the Commonwealth Sewer Rate Relief Fund. Mr. Favaloro said he did not sense, from what the Secretary was saying, that this was a big part of where the Administration is currently at.

The Authority decided not to testify at the public hearing on Wednesday but rather hold private meetings with the two chairmen.

John Sanchez asked how many people testified against the expansion. Mr. Favaloro said there were probably three in favor to every two that were opposed. The redemption centers were looking for more money; the bottling industry, convenience stores and retailers were saying this is a tax. There are only ten states that actually have a bottle deposit. Most of the states just do some type of recycling program. There were a lot of lobbyists there and they are very good at advocating their clients' position.

IV. Discussion: Direction for FY11 Budget Review / Rate Revenue Requirements

Mr. Favaloro said today's State House News talks about the potential impacts that are around the corner for FY10; 9C cuts are coming. MWRA will be losing its $350,000 for DSA. The article talks about potential cuts, with levels up to $1 billion for FY10 and begins to put a number around FY11, which could be anywhere from $2 billion to $3 billion less than even the reduced FY10 number. If there is pain in cities and towns now, that pain is going to increase significantly in the next month and potentially could be excruciating come FY11.

Staff has been sitting down regularly to begin to talk about where we see the MWRA FY11 budget process. The Advisory Board has tried to focus that discussion in the context of what is fair and reasonable for cities and towns who are attempting to survive what is going to be a huge onslaught of reduced numbers from the state. There are less numbers for the cities and towns; there are less services for their constituents, along with higher fees and taxes and less services across the board.

As part of the FY10 budget discussions, staff recommended $100 million reductions from both capital and current budgets and talked about the toolbox approach. As opposed to saying to the Authority cut this and cut that, staff provided them with a significant number of tools on the current expense side and on the capital side that would get them to a multi-year reduction of $100 million on the operating side and $100 million on the capital side. Because of its newness and because of the timing of it (recommendations were adopted in May), it was easy for the Authority to say, and probably legitimately, it is May, what do you want us to do?

Mr. Favaloro said for this year, staff would like the Executive Committee's feedback on an approach for a 0% increase for the FY11 rate revenue requirement. With what is going on in cities and towns and the reality of the state budget, it might make sense to share with the Authority our concerns and as the Authority is building up to its budget process where they are planning for a 6% rate increase, it is only fair to let them know earlier if the Advisory Board plans to alter that approach.

The Authority can come up with a different recommendation; however, for the Advisory Board, the starting point should be zero for our communities' sake.

The first place the Authority should look to make up the differences should be the toolbox that the Advisory Board provided last year in the FY10 review. Many of the tools that can take the impact out of the FY11 sting can be accomplished by looking at their debt side. For example, as part of the FY10 budget, one of the tools provided was to reduce the variable rate debt assumptions, which they did. They took it from 4% down to 3.5% for the FY10 budget. The current rate on variable rate debt is under 1.0%. Interest rates will likely not be touched for the foreseeable future. Adjusting the variable rate debt assumption alone, just in FY10, gives you $10 million to $15 million of money they would be collecting from communities. They can use that money for bond redemption and defeasance and those types of things. They need to look at how they view their pension liabilities, how they view their GASB requirements, how they look at cash for capital – all tools that the Advisory Board laid out as part of its FY10 discussion and begin to utilize them in FY11.

Mr. Favaloro noted that Chairman Dunphy, John Carroll, Bernie Cooper and John Sullivan could not be in attendance but he wanted to include them in the discussion. Chairman Dunphy and Messrs. Carroll and Cooper thought it was an approach we should take. John Sullivan said it is the right place for the Advisory Board to be and it should be described as the right thing for the communities.

Bill Hadley said "it is the right thing to do and the right time; we represent the ratepayers and should make a stand publicly saying that the MWRA should start off with a zero. We need to show our stakeholders, which are the ratepayers, that we are serious about our task. We need to hold the MWRA accountable and let them be as creative as we are being asked in our positions in these communities. It is a good starting point and I think it is the right thing to do."

John Sanchez asked how many of the toolbox items were related to capital improvements. Ms. Potter said really not very much in the Current Expense Budget. There are some minor modifications such as the amount in current revenue for the capital program where you use cash from the current expense budget to fund capital projects. Staff has argued over the last few years to minimize that deposit into the construction fund to only the amount required to meet so-called coverage requirements in the bond covenants. The value is about $1 million to $2 million out of about $30 million that staying flat and going to a zero rate increase would represent. The lion's share is really out of the variable rate debt already issued and that the Authority is already paying. It is not about new borrowings and it is not about specifically reducing capital spending at all. It is all about this variable rate interest rate, which is really low.

Mr. Favaloro said on the capital side, one of the recommendations we made was to reduce capital spending in any given year by the amount of the reduced construction bid prices. It has a very small impact on the operating side. Most of the toolbox is related to the operating side of the budget.

Mr. Taverna said they want to take those savings and bid more jobs. Mr. Favaloro said one of the comments from last spring's budget review from a Board member was "let's expand capital spending because it is a great bid environment". While there is some truth to that, by the same token, it costs to do things. At the last meeting, a Board member wanted to talk about the pension liability and that it is really important for the MWRA to fund 100% of the deficit. Mr. Favaloro said communities can't fund their liabilities but the Authority wants to make sure the MWRA's are funded at 100%. Pension liability is on the Board's agenda for next week so it is important to weigh in before next week's Board meeting about what comes out of today because the Board could vote to fund 100% of the pension liability.

Vice-Chairman Fink agreed that the time is right and that it is the right thing to do. In an effort to not have the 0% dismissed, perhaps Advisory Board staff could come up with a toolbox with bullet points on the type of money that could be reduced to show that 0% is completely possible and attainable. Mr. Favaloro said as part of any recommendation, we always provide "the first place they can start", which, in this case, is the FY10 toolbox that was provided by the Advisory Board. Additionally, Advisory Board staff will use its budget review process to begin to further outline what those opportunities and tools and suggestions would be.

John Sanchez asked how attainable 0% is without hurting maintenance. Mr. Favaloro said that is an answer that the Authority would have to get itself to. It is not the Advisory Board's intention to cut maintenance. It would be up to Authority staff, as this process plays out over the next six months, to say here are the risks, here is what we are doing, and because of that we can't get to a zero, but we can get to this. There are ample opportunities provided in the Advisory Board's toolbox to get them to zero.

Ms. Potter said the significant tool is in variable rate debt. It is very conservatively estimated in this year's budget and in the projections for next year. Together with not putting additional deposits in the pension fund beyond what the actuarial study had implied that they should be doing to rebuild the fund that has been decimated by the downturn in the stock market; this year that is $2.8 million. Further, the Authority has projected $10 million for Other Post-Employment Benefits (GASB 45) in next year's budget projections for 2011. Also, shrinking by $1 million or $2 million the current revenue for capital in the current budget is an item that could be used. The sum of those four principal areas, none of them directs, will in Advisory Board staff's estimates meet this 0% capability in a combined way, which means that some of it is going to be surplus for this year that can be applied at the end of the fiscal year to defease debt for FY11 and possibly FY12 depending on how much there is, together with revising their budget proposal for 2011 to not include things like $10 million for GASB.

There will also be some naturally occurring surplus in the directs as well. The problem is that the Authority has been uncomfortable with tightening and reshaping their debt service budget and some of these other benefits because they feel they are obligated to budget for them at higher levels than we believe they need to.

Mr. Favaloro said the surplus for FY10 could be closer to $30 million than it is to $20 million. If things stay the same for FY11, and interest rates are left alone, there is the potential for an even greater surplus because the Authority has 4% in its planning projections for FY11 variable rate debt. With $20 million to $30 million in surplus for FY10 and potentially the same amount for FY11, can they really tell communities that they are going to raise rates by 6%?

Ms. Potter said at this time last year as the Authority was preparing the budget for FY10 they could anticipate some surplus with enough confidence that in the proposed budget they assumed $10 million of FY09 surplus to defease debt due in FY10. Vice Chairman Fink asked what the surplus ended up being. Ms. Potter said $20 million and they did defease debt that would benefit both FY10 and FY11 but there was room to put it all in FY10 if they had wanted to. The Authority could adopt the same strategy; they may not be comfortable to have a number bigger than $10 million for a bond defeasance transaction in their proposed budget because they would have to make that decision in January with still half a year to go, but by May they were confident enough to seek from the Board authorization for a defeasance transaction of $20 million.

Ed Sullivan asked if there are any capital projects on the books that could be deferred. Ms. Potter said so far the Authority's spending experience has been a natural sluggishness; the Authority spends less than what they budget. Also, to the Authority's benefit, more recently some of the CSO programs have been accelerated and will be finished before the court-ordered due date. Mr. Favaloro added that the Spot Pond Covered Storage project got moved up by four years in the CIP because they wanted to purchase the former hospital site. That was one project that we recommended they keep on its original schedule but that failed. The West Roxbury Tunnel Project is in design; the question is what the recommended solution will be and when the construction phase would really start; it is not mandated and it is a large one, budgeted at $80 million at this time and that number is associated with a guesstimate. The low service sewer and the West Roxbury Tunnel are the two most immediate projects that come to mind.

Mr. Taverna asked if union wage increases had already been negotiated. Mr. Favaloro said all the contracts are up for negotiation, and the offer should be zero. That is clearly the strategy the Authority will take. Beyond debt, the largest line item in the Authority's budget is Wages and Salaries.

Andrew Pappastergion said a zero increase in rate revenue does not necessarily mean 0% rate increases. You have to be very careful how you word that. For instance, I have an enterprise fund; I can hold the line with a zero increase in rate revenue; if my consumption drops and I lower my consumption estimates I have to raise the rate to keep the same amount of rate revenue. Ms. Potter said certainly we are talking about 0% increase on the wholesale side but we should re-word it so that it doesn't get misinterpreted. Mr. Favaloro said we all know for everybody that zero isn't a zero because you still have to put into play the methodology on the wastewater side and there will be communities that will have an increase and there will be some communities that actually have a negative rate increase.

A Motion was made **THAT THE ADVISORY BOARD REQUEST MWRA TO PREPARE AN FY2011 CURRENT EXPENSE BUDGET WITH A 0% WHOLESALE RATE REVENUE INCREASE TO THE COMMUNITIES.** It was seconded and passed by unanimous vote.

Mr. Sullivan asked to make a comment, stating that it is important that you know what happened to our community (Canton) in terms of our new ten-year permit coming up for sewer. Right now, Canton's permit allows it to draw 2.67 million gallons of water a day for use; that is an average over the course of the year. That is combined MWRA and local sources. Canton has been informed in writing that the new permit will allow 2.27 million gallons a day, which is a 400,000 gallon per day reduction, which in the course of a year is 146 million gallons. If Canton had to adjust its rate today, based on a combined sewer and water rate, it would be a 25% increase, in addition to the 10% we have already advised for FY10. Canton would be losing, in revenue, in a fiscal year based on the current rates $1,200,000.

John Sanchez asked if the reduction is on the permitted amount or the amount Canton actually uses. Mr. Sullivan said the reduction is on the permitted amount; however, Canton is drawing close to its permitted amount.

Mr. Favaloro said one of DEP's principal goals is to get the Authority to revisit its permit. The Authority, through the MDC many years ago, got a permit for 330 million gallons per day. At the very least, even if you are not at your permitted number, that is potentially somewhere down the line lost revenue. You have lost that opportunity for reasonable and responsible growth.

Mr. Sullivan said right now Canton is at about 68 gallons per capita per day (gpcpd) and that is without any rules and regulations; they want to get it to 65 gpcpd.

Mr. Pappastergion said there was a time limit on the 65 gpcpd. Mr. Sanchez said if you didn't reach 65 gpcpd by 2009, then you had to submit a plan next year showing how you are going to reduce it over the next five years.

V. Upcoming Auditor's Report

Mr. Favaloro said the State Auditor has done a draft report on the odor control facility that points out concerns the auditor had that the Board went into Executive Session and voted to put the facility underground.

VI. Other Business

Bill Hadley stated that Jeff Zager, the Director of Public Works in Reading, is interested in joining the Executive Committee. Vice-Chairman Fink said the nomination could be addressed under "New Business" at the Advisory Board meeting upon receipt of Mr. Zager's letter declaring his interest.

VII. Approval of the Advisory Board Agenda for October 15, 2009

A Motion was made **TO APPROVE THE ADVISORY BOARD AGENDA FOR THE OCTOBER 15, 2009 MEETING.** It was seconded and passed by unanimous vote.

VIII. Adjournment

A Motion was made **TO ADJOURN THE MEETING AT 9:45 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Edward Sullivan, Secretary