

**EXECUTIVE COMMITTEE MEETING  
FRIDAY, MARCH 12, 2010  
ADVISORY BOARD OFFICE**

**Minutes Approved at the April 9, 2010 Executive Committee Meeting**

Present: John Sullivan, BOSTON; Bill Hadley, LEXINGTON; Jay Fink, LYNN; Katherine Dunphy, MILTON; Wiff Peterson, NATICK; Lou Taverna, NEWTON; John DeAmicis, STONEHAM; Zig Peret, WILBRAHAM.

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

**I. Approval of the January 15, 2010 and February 12, 2010 Minutes of the Executive Committee**

Chairman Katherine Haynes Dunphy called the meeting to order at 8:38 a.m. A Motion was made **TO APPROVE THE JANUARY 15, 2010 AND FEBRUARY 12, 2010 MINUTES OF THE EXECUTIVE COMMITTEE**. It was seconded and passed by unanimous vote.

**II. Report of the Executive Director**

MWRA Advisory Board Executive Director Joseph Favaloro stated that Christine Byler, the Advisory Board's Government and Media Coordinator, and her husband Steven welcomed their son, Eben Samuel Byler, born on February 20, and both mother and son are doing well.

**III. Legislative Update**

Mr. Favaloro stated the Clinton Wastewater Treatment Plant reimbursement of \$500,000 was not included in the Governor's budget but has been consolidated into the Department of Conservation and Recreation line item. More than likely, if it isn't specifically identified, it won't be reimbursed. Staff has met with the House Chairman of Ways and Means and spoken to Clinton area Representative Naughton to aggressively pursue the reimbursement in the House Budget.

The Authority, through its Counsel Steve Remsberg, is already looking at ways to remedy this by looking at local aid intercept or, further down the road, legal action.

Every day the news grows more ominous from the House and Senate. The Governor attempted not to make further cuts from local aid; however, staff has heard that there could be as much as a 5% cut. If that is the case, \$500,000 for Clinton may even be more doubtful.

Mr. Peterson asked if the \$500,000 doesn't come through, who is on the hook, MWRA or Clinton? Mr. Favaloro said the legislation says that Clinton will pay up to \$500,000. Eventually, Clinton will be responsible for the \$500,000 but it takes a few steps for that to happen.

#### **IV. Status: Facilitated Discussion on Water System Expansion**

Mr. Favaloro said that he, Chairman Dunphy, John Carroll and Andrew Pappastergion had an opportunity to participate in a facilitated discussion last week on Water System Expansion to try to develop a streamlined process for communities or entities to enter the MWRA water system in a timely manner. (It took Reading five-plus years to get through the regulatory process.)

Mr. Carroll suggested doing the facilitated discussion with all of the stakeholders, including representatives of the water basins, EOEEA, the Advisory Board, WSCAC, MAPC, in addition to Messrs. Carroll and Pappastergion, Board of Directors Members Joel Barrera and Jim Hunt were also in attendance, along with representatives of smart growth, to try to come to a consensus on how to streamline the process, take care of system releases and how to potentially sell more water. There was a good dialogue but the issue of “smart growth” has been a stumbling block.

Chairman Dunphy said smart growth is the big issue because there was a consensus that there should be an expedited review for communities that are built out instead of going through the long process but the smart growth people made it clear that if they don’t get what they want in smart growth, they won’t support the expedited review and will “torpedo” it at the MEPA level. Smart growth will be a hard package for many communities to buy. If you want to get water, then you would have to change your zoning in ways that many communities might not be able to get through their Town Meetings.

Mr. Carroll said at any facilitated discussion there is no vote, it is a consensus. Even though there was no closure on smart growth, the key thing is that we had two other issues that there was no opposition to, one on how much water would be released into the rivers and another on fisheries. The issue of smart growth definitely didn’t reach closure.

Mr. Pappastergion stated that he thought there was a sense of willingness to compromise because they were setting up three separate tiers of communities. There are communities that could be eligible for inclusion that already meet some basic smart growth criteria. Communities that meet a certain set of criteria would not have to deal with the smart growth issue at all in terms of applying for admission.

The second tier of communities that are not quite built out would have a set process and the third tier that isn’t even close would have to go through the entire MEPA process.

Chairman Dunphy said she thought she saw a lot of compromise in that direction and then at the end the smart growth people were saying “we could block you”.

Mr. Favaloro said the devil is in the details noting that Chairman Dunphy had asked staff to look into some of the words that MAPC’s representative used to advocate their position. They were talking about tying smart growth into the Land Use Protection Act (LUPA). The Massachusetts Municipal Association (MMA) and other municipal advocacy groups are ADAMANTLY opposed to the LUPA. MMA has said that essentially the LUPA “uses the stick to get you the carrot”. Municipalities are opposed to it.

Mr. Favaloro said his recommendation for the Executive Committee and Advisory Board if there is no streamlining, would be not to support the other items such as fisheries and system releases.

Chairman Dunphy said she looked at a summary of the Land Use Protection Act and the letter that MMA sent to the legislature last May and they did not support it. To be tied to the language that we are seeing proposed for system expansion is something that would be difficult for municipalities and goes in the direction of regional government. The regional agency, Metropolitan Area Planning Council, would have a very strong role to play and everything would have to get their approval. It is probably up to MWRA to take the lead.

**V. Action Item: Report from Operations Committee Regarding Guidelines for Phase II of the Local Water System Assistance Program**

Jay Fink, Chairman of the Operations Committee, stated that the summary of the vote of the Operations Committee was accurate but he requested that more information and clarification be included on the rationale behind the vote. Mr. Favaloro agreed to include more information from the MWRA's staff summary, along with the allocation for each community.

Mr. Pappastergion asked what happens to a community that has already done the tier 1 items, yet didn't spend any of its allocated money; does that mean they cannot spend any of their tier 2 money? Mr. Favaloro said that was discussed at the meeting and the community can show that they have in fact done the work. Mr. Pappastergion requested that the vote include that if a community has cleaned/relined its pipes up to 95%, then it would be eligible to use the funds.

Mr. Sullivan requested that the GIS mapping should state that it is for water distribution systems only.

Mr. Fink made a **MOTION THAT THE MOTION BE FORWARDED TO THE FULL ADVISORY BOARD FOR CONSIDERATION PENDING THE MODIFICATIONS DISCUSSED AT THE EXECUTIVE COMMITTEE MEETING.** It was seconded and passed, with Mr. Sullivan opposed.

Mr. Favaloro noted if Boston votes opposed at the full Advisory Board meeting, this motion will likely not pass because votes of the Advisory Board are weighted votes, other than a vote for the Board of Directors. Boston's vote counts as 29+%; if the other communities at the full Board meeting don't all show up, it is possible that Boston's vote could result in the motion failing.

The sense of the Executive Committee was to have staff contact the MWRA water communities to ask them to send a designee to vote on their community's behalf for the Local Water System Assistance Program and to ask the community's CEO to contact the Hon. Thomas Menino, Mayor of the City of Boston, to request reconsideration of Boston's opposition to this program and point out that the negatives to the communities would be severe.

**VI. Status: Advisory Board Lease**

Mr. Favaloro said at the last Advisory Board meeting, we further refined the discussion as relates to Chelsea and Charlestown, having determined that there is no potential for the Advisory Board to remain at 11 Beacon Street.

The sense of last month's meeting was to further negotiations on a move to Charlestown. The move would be to approximately 2,199 square feet on the fourth floor of 100 First Avenue in Charlestown. The first two years would be at \$18.50 and then it would appreciate over the next three years of the lease.

In the years that are most critical at this point, years one and two, there is a considerable savings off of the existing lease at 11 Beacon Street. As the price goes up, those savings are whittled down and finally on the fifth year, it would be about \$1,700 more than the current lease.

Other pieces of the "gentlemen's agreement" that won't be in the actual agreement are for 15 parking spaces in the empty lot next to the Charlestown headquarters for Executive Committee meetings and one spot for an Advisory Board vehicle every day.

The lease period would start in August and the first lease payment would occur in November. The worst case scenario, if the Advisory Board moved there on October 1, with the expiration of the 11 Beacon Street lease on September 30, would be one month's rent free. The goal would be to begin the move over the summer because the building is now under a purchase and sale agreement. If staff is able to work out a deal to get out of the 11 Beacon Street lease in whole or in part sometime in August or September, it could realize some additional savings.

Mr. Fink said the bottom line speaks for itself unless the new owner of 11 Beacon wants to match what is on the table here. Mr. Taverna asked if there is a chance the new owner would go down on the rate. Mr. Favaloro said the best we would be able to do here under any scenario would be to get it backed off from the \$29.75 per square foot or so that Mr. Miller has set as the rate here. Under the new owner we might be able to get a blended rate, going up every year, probably no better than \$26.75, then \$27.75, \$28.75 and \$29.75 and so forth. The new owner, with a mortgage, is likely going to be less able to do a good long-term deal.

Mr. Peret asked what the cost of moving will be and how does that compare with the five-year savings. Mr. Favaloro said the one-time moving costs would be in the \$5,000 range because moving to an MWRA facility would eliminate the phone costs because we would directly tie into the MWRA's phone system. The MIS lines are already there, so there will be no cost to move lines one floor up. Electricity costs are already paid for by the Authority and they will get a small credit for the space they don't use. It would be approximately \$2 per square foot for the first year.

The sense of the Executive Committee was to continue negotiations with the landlord of Charlestown to bring the lease to the Committee next month. Mr. Taverna said discussions should continue with the new landlord at 11 Beacon Street as well.

Mr. Favaloro noted, for due diligence and full disclosure, staff is working with the landlord of Charlestown, Bob Kenney, on language that in the event that Massachusetts General Hospital eventually wants to rent the entire fourth floor, Mr. Kenney will pay the costs to move the Advisory Board and find comparable space.

**VII. Update: Stormwater Regulations (Public Hearing – March 18)**

Mr. Favaloro said he wants to reiterate that the hearing on storm water regulations is on March 18. Mr. Favaloro asked if the Executive Committee wants to have formal comments from the Advisory Board or leave it to the cities and towns.

Mr. DeAmicis asked if the MWRA will be submitting comments. Mr. Favaloro said he would ask Mr. Hornbrook. Though there is some discussion with the Authority on how it interrelates, at this point this is a community issue; however, the Advisory Board represents those communities. Mike Hornbrook has raised some concerns because nothing is totally quite separate. If you impact one piece, it impacts the other piece.

Chairman Dunphy asked what members felt the major issue is relating to the water and sewer component. Mr. Hadley said with Lexington, it is a lot of testing on the outfalls and reducing chloride and having to put in a phosphorous plan because Lexington is in the Charles River Watershed, additionally, it is the funding. Mr. Favaloro said it represents another mandate without money. Mr. Taverna said finding the illicit discharges into the drain directly relates to what is happening with the sewer system.

Mr. Fink asked if the Coalition will be submitting comments. Mr. Favaloro said he emailed and talked directly with Ms. Barrett who is their staff person at Regina Villa; she said she didn't know if she would have anything before the 18<sup>th</sup> but she would provide them when available.

Mr. Sullivan said Boston is a Phase 1 community and therefore is in direct negotiations. Further, the Conservation Law Foundation (CLF) has filed suit against the Boston Water and Sewer Commission (BWSC) about not meeting phosphorous levels. Boston asked them how they allocated the amount that needs to be removed and they said a computer model allocated it. BWSC staff has been in a huge debate with them about where it is coming from and they said that it is up to BWSC to figure it out. The problem is a plant is consistent and can be measured; storm water can't be measured. If everybody comments and there is enough uproar, EPA may have to come back with something that says this is what you have to do so you can figure out what it is going to cost.

Mr. Sullivan said EPA is saying that the Clean Water Act mandates that we do this so all they are doing is following the law. In Boston's case, CLF is saying that EPA didn't push hard enough on Boston and wants the federal order to be imposed on Boston exactly the way they interpret it.

Chairman Dunphy asked if members want the Advisory Board to send a comment letter. Mr. Sullivan said it is a resource issue. If you want to keep the sewer systems working the way they should, there are only so many resources in any given town. If you are going to be spending money chasing dreams on storm water, you better have good science behind it before you start chasing them. Mr. Sullivan said he has a real problem trying to make pristine waterways when there isn't enough money for the firefighters, the teachers and the roads.

Mr. Peret said the Advisory Board should have a position on it. The sense of the Board was to have staff work on a comment letter.

**VIII. Approval of the Advisory Board Agenda for March 18, 2010**

A Motion was made **TO APPROVE THE ADVISORY BOARD AGENDA FOR THE MARCH 18, 2010 MEETING.** It was seconded and passed by unanimous vote.

**IX. Executive Session**

**A MOTION WAS MADE TO GO INTO EXECUTIVE SESSION AT 10:05 A.M. FOR THE PURPOSE OF STRATEGY SESSIONS IN PREPARATION FOR NEGOTIATIONS WITH NON-UNION PERSONNEL ACCORDING TO SECTION 3 OF THE OPEN MEETING LAW.** It was seconded. A roll call vote was taken:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
DeAmicis		
Dunphy		
Fink		
Hadley		
Peret		
Peterson		
Sullivan		
Taverna		

After discussion pertaining to strategy sessions in preparation for negotiations with non-union personnel, **A MOTION WAS MADE TO RETURN TO OPEN SESSION AT 10:28 A.M.** It was seconded. A roll call vote was taken:

<u>Yes</u>	<u>No</u>	<u>Abstain</u>
DeAmicis		
Dunphy		
Fink		
Hadley		
Peret		
Peterson		
Sullivan		
Taverna		

**X. Adjournment**

A Motion was made **TO ADJOURN THE MEETING AT 10:32 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Edward Sullivan, Secretary