

**EXECUTIVE COMMITTEE MEETING
FRIDAY, OCTOBER 15, 2010
ADVISORY BOARD OFFICE
8:30 A.M.**

MINUTES APPROVED AT THE JANUARY 14, 2011 MEETING

Present: John Sanchez, BURLINGTON; Bill Hadley, LEXINGTON; Jay Fink, LYNN; Katherine Dunphy, MILTON; Wiff Peterson, NATICK; Lou Taverna, NEWTON; Bernie Cooper, NORWOOD; Carol Antonelli, SOMERVILLE; John DeAmicis, STONEHAM; Zig Peret, WILBRAHAM.

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

I. Welcome

Chairman Katherine Haynes Dunphy called the meeting to order at 8:40 a.m.

II. Report of the Executive Director

MWRA Advisory Board Executive Director Joseph Favaloro stated that the Government/Media Coordinator position has been advertised in the *Boston Globe* and on *Monster.com* to fill the position vacated by Christine Byler. Staff will post the position on the Massachusetts Municipal Association's (MMA) website as well.

The 25th Anniversary celebration of the MWRA and Advisory Board has been pushed back indefinitely. MWRA has been preoccupied with the leak at Shaft 5A and it is not the best time for a celebration. The Advisory Board is planning a workshop/panel discussion regarding 25 years of the MWRA and Advisory Board to be held during the MMA conference. The title at this point is "An Environmental Success Story...MWRA's 25-Year Journey through Rates, Regulations and Ultimately Rebirth."

III. Clinton Pre-Draft NPDES Permit (Is the MWRA's next?)

Mr. Favaloro said the Clinton Wastewater Treatment Plant is now in possession of its draft National Pollutant Discharge Elimination System (NPDES) Permit. This permit may be a pre-cursor for what is going to come in the draft NPDES permit for the Deer Island Treatment Plant (DITP).

Clinton's draft NPDES permit included phosphorous level requirements that have been significantly lowered. The end result of the lower limits for phosphorous will mean a significant increase in capital costs of \$3 to \$4 million to bring the Clinton plant into compliance. The Advisory Board has already begun to advocate strongly for source reduction. Why should the Authority and its ratepayers be putting \$4 million at the end of

the process at the plant when Clinton isn't doing anything within its system? They are the ones creating the phosphorous as part of their water treatment process in which they use a phosphorous-based chemical. There are other products that could be used.

The Clinton plant produces 65 to 70 pounds of phosphorous per day and the new limit is 10 pounds per day. Even with source reduction, it is doubtful that the plant could get to the new limit. Perhaps Clinton could pick up some of the capital costs. Frankly, the Authority doesn't believe they will be able to object to the phosphorous limit because EPA has been applying the new limits to other facilities as well.

Flow limits are something the Authority will appeal along with co-permittees. Clinton is a co-permittee on this draft permit and the fear is, related to inflow and infiltration (I/I), that the Authority will be on the hook to take the I/I out of the Clinton Wastewater Treatment Plant when the only line that the Authority has responsibility for is relatively free of extraneous flow. The Authority intends to appeal on the I/I and co-permittee issues.

Bernie Cooper asked if the MWRA is on the hook as a co-permittee to these two towns, does that put an obligation on these two towns for MWRA as well. Mr. Favaloro said MWRA's Chief Operating Officer Michael Hornbrook said at this point he does not know. Part of the argument the MWRA and Advisory Board have set forth on the MWRA's NPDES permit for Deer Island is that EPA would love to have the 43 communities as co-permittees because it would be a lot easier to tell the Authority to fix a problem than to tell 43 communities individually to go through some kind of plan. What does that mean without a better definition? We don't have the answer to that question. As the permit reads now, the Authority would be on the hook to take the I/I out of the Clinton system.

On the flow limits, the Authority regularly exceeds the limits in the plant even though it is far below the plant's capacity. EPA made the Authority build the plant to a certain level; however, they won't allow them to use it to anywhere near its capacity. If they sign off on the permit, they will be in violation based on what the average flow is into the plant currently.

In order to reserve our right to appeal the permit, the Advisory Board has to notify EPA before the end of the month that it has concerns.

Chairman Dunphy asked if staff can find out if DEP or EPA are putting any pressure on Clinton and Lancaster for their local systems. Mr. Favaloro said the regulators are not putting any pressure on Clinton and Lancaster. Chairman Dunphy said they want MWRA to be the regulator again. Mr. Favaloro said exactly. Mr. Cooper asked if Clinton and Lancaster have standing to appeal as well. Mr. Favaloro said yes.

IV. Preview: 2011-2012 Legislative Package

Mr. Favaloro said over the years we have had significant successes and opportunities to advocate for our legislation. Last year, staff put together a thumb drive presentation that

went to every legislator to outline the Advisory Board's legislative package and also highlighted how the Advisory Board works. In this past legislative session, staff was able to make a change on how the City of Quincy and the Town of Winthrop appoint their representatives to the MWRA Board of Directors through a direct appointment rather than submitting names to the Governor to choose from.

While in this economic climate, it is not the best time to put new initiatives on the table. Staff plans to try to reinforce the concepts that have already been put out there and tweak the initiatives that might have a chance; therefore, there are no new initiatives.

For this session, staff will continue with the package from two years ago, updating how far the legislation got, where it currently stands and what staff hopes to accomplish over the next two-year legislative cycle.

The Bottle Bill has been an advocacy issue that goes well beyond the MWRA and the Advisory Board. Many have worked close to a decade to try to change the Bottle Bill to include water and juice containers, beyond what it currently covers.

Two years ago the State Administration and Finance Committee bought into the Bottle Bill approach that the Advisory Board had advanced and the Governor's Budget a few months later included the Advisory Board's language. The Bottle Bill didn't pass so the receipts never came for Debt Service Assistance (DSA). Last year's version of the Governor's Budget had Bottle Bill language but none of the receipts were going toward DSA.

The Water Resources Funding Act is basically an excise tax on bottled water.

The Act to Expand the Septic Tax Credit is language that would provide a set formula for DSA to get a guaranteed amount of money every year. MWRA has gone from nearly \$60 million in DSA to \$500,000 to zero. The Septic Tax Credit that is currently on the books does not have to go through the legislative process and automatically provides a 20% tax credit if a septic system is replaced, which is a significant tax break. Why not create similar language for ratepayers on their sewer bills?

The Bottle Bill language would expand the list of containers that would require the five-cent deposit. It takes the receipts from the unclaimed deposits and puts them into a dedicated fund for water and sewer infrastructure improvements. There is currently a committee at the State House made up of the Utility Contractors' Association of New England and legislators, Cape Cod Commission, DEP and others that are trying to come up with ways to deal with the water and sewer infrastructure. They want new funding sources. The SRF is wonderful, but it is pale in comparison to need. Beyond that, there is no other funding out there. This language at least puts the thought out there that the water and sewer infrastructure needs a dedicated funding mechanism.

John Carroll asked what part of that funding would wind up with the Authority. Mr. Favaloro said it would depend upon the version of the Bottle Bill that is passed. The Governor's version of two years ago put the money into the Sewer Rate Relief Fund. If it goes into the SRF, the Authority would get the predominant amount of those funds. If it went into a dedicated water and sewer infrastructure account, there would have to be some kind of point system. The vehicle they have used in the past in describing it put it into the Sewer Rate Relief Fund.

Mr. Favaloro said another option would be to put a tax on every bottle container sold and the funds would be put into a dedicated fund for infrastructure in the range of \$65 million per year. In many ways this is the lesser of two evils because the beverage industry would not have to deal with taking the bottles back and storing the bottles.

A lot of the legislative strategy is about creating opportunities to speak about legislation, to talk about need to try to build a coalition to get the legislation passed.

It would be harder to not fund something if it gains the structure of a statutory law.

Jay Fink said if there was a sunset clause that said the tax incentive is available for so long after you buy a house but there ought to be an end date. If it is going to go on forever, it should go on for the rest of us too.

Bernie Cooper asked what staff means by expand the septic tax credit. Mr. Favaloro said right now it talks about septic systems and how to get the credit. This language would expand the septic statutory language to include the capital portion to the homeowner on their water and sewer bill for wastewater construction. If the bill was \$840 and \$586 is for operating costs, the remainder is capital costs; the ratepayer would be able to get a credit on that portion of their bill. This would level the playing field and make the legislators aware that MWRA ratepayers should receive the same type of benefit that homeowners receive when they replace septic systems.

An Act Relative to the MWRA Fringe Rate has been an initiative that has been around for quite some time. MWRA pays 100% of the Division of Water Supply Protection's (DWSP) budget. The Water Supply Protection Trust is working well; there is accountability and transparency. Currently, over and above the actual costs for personnel, MWRA is paying 34% (as of last year) for fringe benefit costs, which includes their health insurance. There is no relationship to the salary a person makes and the cost of health insurance. Even the best GIC plan costs \$13,000 per year. If you are making \$100,000, MWRA has to pay \$34,000 for the insurance. Wiff Peterson asked if the \$34,000 would cover the pension as well. The Advisory Board is asking to have the MWRA pay actual costs. It is not an attempt to get around paying it, but rather to pay actual costs.

A few years ago, not only were we paying the fringe rate, but an overhead rate as well. The Advisory Board worked with Senator Brewer to create language to eliminate the fringe rate under the auspices of the overhead rate and the legislation passed.

V. Update: Census Data for Community Assessments / Timing of Community Assessments

Mr. Favaloro said the MWRA is now moving toward the use of new census data in the next month or two when the federal government releases it. This gives every community an opportunity to appeal their census numbers.

The methodology for community assessments, from which communities base their preliminary and final budgets, is based on flow and population. There has been some discussion on which population numbers to use; there could be very different outcomes.

In the past, MWRA used a think tank, part of state government, called MISER, short for Massachusetts Institute for Social and Economic Research. They would take the census data and try to make heads or tails of it and MWRA would ultimately use MISER's numbers during the swap between census records. In 2003, MISER was de-funded and no longer exists. The Authority has been using the census data, which may be tweaked from year to year. Communities still have the opportunity to appeal or not appeal.

Boston appeals every year and has been relatively successful in its appeals. Two years ago Boston appealed and that increased the rest of the population for the rest of Suffolk County. Revere, Winthrop and Chelsea got a major hit. Winthrop got an adjustment last year, though they did not appeal. This year there are new numbers without any set approach as to what numbers to use. This may come into play on the FY12 assessments.

There is a new group called the Donahue Institute, which is the reinvention of the MISER group that has been funded as part of the state budget. The Authority is now looking into what the Donahue Institute is doing with the census numbers and will also put that into the mix along with the 2010 census numbers. The Advisory Board or the Operations Committee may want to weigh in. Once preliminary assessments are generated it is hard to have a discussion where people's views don't fall where the numbers best benefit them.

Staff is putting this on the radar screen and will be looking for direction because normally the communities get preliminary assessments in February; they may get a preliminary assessment in February based on one set of population numbers and then a final assessment based on another set of population and budget numbers.

No one has seen the census data yet. Do the communities want their preliminary assessments in February when the census data will probably not take shape until later? Communities may rather have a later assessment. Lou Taverna noted that communities do their budget long before June and need a number. Mr. Favaloro said if they receive a bad number in February it might be worse.

Chairman Dunphy asked how soon we could get numbers based on the census alone without the Donahue Institute. Mr. Favaloro said he did not know. The Authority has received some of the Donahue numbers in the past couple of days, which Advisory Board staff has not yet seen. The census numbers don't come out until late November or early December but those numbers would be raw, absent any appeals. Staff believes there will be a large number of appeals because this is the one number that people want to see higher.

Mr. Favaloro said the MWRA has said the following: in the past the MWRA has used the MISER information to calculate assessments through FY04. Beginning in FY05, the MISER group was defunded and MWRA used census bureau numbers including accepted challenges. The Donahue Institute, which is part of the University of Massachusetts, is a reinstatement of the MISER group. MWRA recently received the Donahue Institute's 2000 and 2009 population estimates and staff is in the process of comparing the information.

VI. CIP/CEB Update

Cornelia Potter stated that already a quarter of the way through the fiscal year, the Authority is well into the preparation of next year's budgets. On the capital side, the Authority staff is updating its project and contract information and considering quite a few candidates for new projects to be introduced into the CIP, most of them from the Master Plan. Staff has indicated that initial drafts are due by the middle of next week and all reviews and final changes are scheduled for completion in just four more weeks. That will get them ready for a presentation on the proposed budget to the Board in December.

On the current expense side, the Authority has been working for the last month, first on the direct expense budget from all the departments, with drafts due in another month to six weeks. Initial targets are aiming to keep the growth in direct expenses to within one percent of this year's budgeted amounts.

At the same time, the Advisory Board is watching current spending for this fiscal year and through the first quarter of the year the Authority is reporting current expense budget spending of \$140 million, or \$7 million under budget. Much of this spending is due to the unprecedented low variable interest rates, which of course also impacts investment income which is low too but close to budget. It translates into a year-to-date surplus of \$5 million for variable rate debt service. While there is no guarantee that the rates will stay at these levels, there is no indication that they would go up more than 10 to 20 basis points, still a record low level for variable rate debt. It is possible that the Authority could end up with a measurable surplus.

With that in mind, Advisory Board staff has begun to talk about how it could influence the proposed budget, not only for fiscal year 2012 and 2013; staff didn't particularly close the timeframe to see how it could continue to keep the proposed rates down. Remember the Authority last year developed a three-year plan putting fiscal years 2012 and 2013 so far at

an increase of 3.95%. These conservative assumptions build the possibility of additional ways to keep the rates down.

Bernie Cooper asked what the peak year is projected to be still. Ms. Potter said the turning point is 2022, just off the ten-year projection radar screen. The Authority did push a certain amount of debt service to beyond 2022 so we have still got considerable challenges going forward even with the anticipated release of reserves around 2014. It is a bigger challenge to keep rates contained within a so-called window of a sustainable level. The building of this kind of surplus is a tool for making an impact at least until the release of the reserves.

Mr. Favaloro said staff will likely use November to put into focus the approach for the next integrated review. The Authority had a historic low of 1.49% for this fiscal year and is proposing 3.95% for fiscal years 2012 and 2013; however, staff has always countered with though the Advisory Board was happy with the 1.49% increase, it does not mean that it is receptive to 3.95% increases for FY12 and FY13. For everything we do, staff is cognizant that there is an impact in future years.

Mr. Peterson said there is a financial model behind the projection of the peak in 2022; it would be interesting to have a presentation that explains the components and a sensitivity analysis on what is pushing it up and also options for spreading or a strategic financial picture looking out about 12 years. Mr. Favaloro suggested dedicating an Executive Committee meeting in December to this topic. Members agreed.

VII. Approval of the Advisory Board Agenda for October 21, 2010

Mr. Favaloro requested to add an update on the status of the leak at Shaft 5A. A Motion was made **TO APPROVE THE ADVISORY BOARD AGENDA, AS AMENDED, FOR THE OCTOBER 21, 2010 MEETING.** It was seconded and passed by unanimous vote.

VIII. Adjournment

A Motion was made **TO ADJOURN THE MEETING AT 10:25 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Lou Taverna, Secretary