

**EXECUTIVE COMMITTEE MEETING
FRIDAY, JANUARY 14, 2011
ADVISORY BOARD OFFICE
8:30 A.M.**

MINUTES APPROVED AT THE MARCH 11, 2011 MEETING

Present: John Sullivan, BOSTON; John Sanchez, BURLINGTON; Andrew DeSantis, CHELSEA; Bill Hadley, LEXINGTON; Katherine Dunphy, MILTON; Wiff Peterson, NATICK; Lou Taverna, NEWTON; John DeAmicis, STONEHAM.

Also in attendance, Andrew Pappastergion and Joseph Foti, MWRA BOARD OF DIRECTORS; Harvey Boshart, WESTON; Joseph Favaloro, Matthew Romero, Maggie Atanasov and Mary Ann McClellan, MWRA ADVISORY BOARD STAFF; Cornelia Potter, MWRA ADVISORY BOARD CONSULTANT.

I. Approval of the October 15, 2010 and November 12, 2010 Minutes of the Executive Committee

Chairman Katherine Haynes Dunphy called the meeting to order at 8:37 a.m. Wiff Peterson requested that a change be made to the October 15, 2010 minutes. A Motion was made **TO APPROVE THE OCTOBER 15, 2010 (WITH CORRECTION MADE) AND NOVEMBER 12, 2010 MINUTES OF THE EXECUTIVE COMMITTEE**. It was seconded and passed by unanimous vote.

II. Presentation: Application for Sewer Connection from a Residence at 24 Dean Road, Weston through a Local Connection in the Town of Wellesley Under System Expansion Policy OP.#4, Sewer Connections Serving Property Partially Located in a Non-MWRA Community (the Straddle Policy) – Harvey Boshart, Property Owner

MWRA Advisory Board Executive Director Joseph Favaloro stated as part of the System Expansion Policy there is a straddle policy that allows a hook up to the wastewater system for a property that straddles an MWRA wastewater community. Before us for a presentation is a home in Weston that has at least two bedrooms in Wellesley. This application will come before the Executive Committee for a vote next month. It is a single-family home that straddles the MWRA system.

Harvey Boshart, owner of the residence at 24 Dean Road in Weston, stated that the residence has a non-performing cess pool, original to the house in 1927, that recently failed and because of ground water levels, he felt his best option was to join the MWRA sewer system.

The rule requires that part of the residence be in a sewer community. Additionally, Weston has a town bylaw that says no residence can hook up to a sewer system without a Town vote so permission was sought and granted from the Town of Weston. There are seven

homes in Weston that meet the criteria and four of them have hooked up. Currently there are two bedrooms in Wellesley. There is a four to one reduction in inflow requirement and the MWRA and Joe Duggan from the Town of Wellesley have agreed on the projects to accomplish this goal. Mr. Boshart will provide \$7,000 to the Town of Wellesley for the I/I removal and pay an entrance fee of \$18,000.00 to the MWRA.

III. NPDES Permit Update

Mr. Favaloro said to further illustrate where the Environmental Protection Agency (EPA) seems to be heading, the Advisory Board included an editorial in its *News & Notes* that talked about EPA's actions in joining the Conservation Law Foundation's lawsuit against the Boston Water and Sewer Commission (BWSC) relating to Sanitary Sewer Overflows (SSOs), claiming that BWSC has not done enough, despite having spent hundreds of millions of dollars.

Mr. Favaloro provided members with a copy of the editorial, Boston's response to the lawsuit and a very pointed communication from Robert Moylan, who in dealing with these issues in the City of Worcester was told to use Boston's plan as an example of a community that is doing things correctly. EPA's goal is to get to zero discharges, which is impossible.

As one court was deciding that hundreds of millions of dollars was not enough of an investment to reduce CSOs, another court ruled against the Town of Saugus for assessing I/I fees to developers on new developments within the Town. The developers took it to court and won; Saugus appealed and the appeals court has now ruled in favor of the developers.

There will be more enforcement of SSOs and the ramifications of that may be different for every community. Now the only remaining funding source is gone so they are getting the communities both ways. They want you to do more but they want to make sure you don't have the resources to do it.

Andrew DeSantis said it could be a quirk in how Saugus set up its I/I Program because these programs exist in other communities. Mr. Favaloro said it could be a language issue with the Saugus program but still the message was "if it looks like a tax, it is a tax." That is the broader issue. The Authority at this point thinks there will be no impact on the MWRA from this.

Mr. Favaloro said that it is unfortunate in these economic times that aggressive enforcement is taking place when there are reduced revenue streams. That is another revenue stream that could be potentially impacted for the other communities.

Wiff Peterson asked what Saugus's options would be; could they put it as part of its real estate tax? Mr. Favaloro said in reading the judgment, it seems that is what the court is telling Saugus to do.

Andrew DeSantis said a storm water utility fee is one way to address it. With developers that say they can't do any sort of infiltration, Chelsea requires an analysis of the outgoing drain line; if it doesn't have the capacity, they have to increase it. That is a big obstacle. Chairman Dunphy said they would probably want to pay the fee rather than do the work. Mr. DeSantis agreed saying the engineering study alone is going to be a significant project.

John Sullivan said in general, the lawsuit says that BWSC didn't repair the illegal connections quickly enough. In the city, you can't just dig a whole, some engineering is required so the repairs are difficult to schedule within the timeframe that EPA wants them done. BWSC reported these connections to EPA and told them what was being done; EPA has to respond within a certain timeframe as well if it wishes to reprimand BWSC. If no reprimand was received, it means EPA agrees with BWSC, which is part of BWSC's defense. BWSC's permit ran out in 2005 and EPA still has not given a new permit.

EPA wants BWSC to do construction site monitoring, which staff believes is a building department issue. EPA also wants BWSC to look at commercial/industrial areas and pick up storm water impacts. BWSC hasn't been doing that because EPA needs to tell BWSC where these areas are because EPA is in charge of the big industrial ones and they are supposed to be giving a NPDES permit. Those are the major focuses.

Additionally, EPA wants BWSC to go after the homeowner for dishwashers, laundry machines and perhaps a basement toilet that may be illegally tied in. They may not be polluting every day but BWSC really hasn't gone after the homeowners to enforce it. EPA is correct but the reason they know about these illegal connection is because BWSC told them about it.

Ironically, BWSC has a \$5.5 million study to look at the entire wastewater system and figure out all the problems. All the things they want BWSC to do are inside the study but the study takes three years and EPA wants it done more quickly.

IV. Census Data for FY12 Community Assessments

Mr. Favaloro said one outstanding issue that needs to be addressed before the community assessments can be issued is that this is a transition year. At this point, the 2000 Census data has been used, updated each year, to calculate assessments. The 2010 Census data will be released between the end of January through March. No appeals will be allowed on those numbers for 18 months and then for the next nine years they will be the basis for calculating community assessments.

Currently the Authority uses the 2000 Census data that was updated in 2008 and was first available in 2009 as the basis for the FY11 assessment. An appeal process has been played throughout on population numbers. The 2000 census data was updated again in

2009 and was available as of July 2010. The census is not doing appeals on those numbers because it is the last time those numbers will be used.

The third set of numbers that could be used is the 2010 raw census data, which, in the worst case scenario, might not be available until the April timeline for preliminary assessments.

With any of these three options, there are pros and cons. Clearly the cons on the raw census data will be that everyone would have to agree that there would be no preliminary assessments until April and there is no idea on what those numbers will look like. Additionally, Boston appeals every year and there are wild swings in those numbers.

There is the 2000 census data that was updated as of 2009, which at this point, may be the most accurate. These numbers would allow preliminary assessments to go out in February, but these numbers are based on the 2000 census that has been updated.

Advisory Board staff plans to bring this topic up at the full Advisory Board meeting because it is important to speak with one voice. It would be unfair to put out one set of preliminary numbers that may drastically change.

John Sullivan asked what the policy says; Mr. Favaloro said the policy states the best numbers available.

The consensus of the Executive Committee was to use the 2000 census data updated in 2009 because communities need those numbers as soon as possible to determine their own budgets.

V. CIP/CEB Budget Strategies

Cornelia Potter stated that the MWRA Board of Directors approved transmittal of the Proposed FY12 CIP to the Advisory Board for its 60-day review at its December meeting. The Authority has begun to provide some of the backup that staff needs for its review. Authority staff will be making a presentation at the full Advisory Board meeting next week on the key elements of this proposed budget.

Interestingly, there will be measureable change between the current year and next year. CSO spending this year is fully 30% of the budgeted amount and next year it will be 18%. Fast growing are the water redundancy projects and asset management on both the water and sewer side.

MWRA is hitting year four of the current five-year cap period so there will be a focus on the last two years with restatements about the current cap. For setting the next cap, there will be some attention paid to the kind of spending and program makeup that is beginning to emerge for the next five-year period.

On the Current Expense Budget side, the Authority has been looking at its operating expenses and turning to developing scenarios for the rate revenue because debt service is the primary driver of where rates are going.

Last year the Authority included a more realistic three-year forecast as part of its approach to the FY11 budget and while it worked to not only keep FY11 to very narrow record-setting boundaries with a 1.49% rate increase, staff also looked to FY12 and FY13 and brought their earlier projections down to 3.9%. The Authority did some targeted restructuring as part of the FY11 preparation process to put a shorter and narrower boundary where FY12 and FY13 rates could be going.

Matthew Romero added that staff pushed the MWRA on changing its assumptions in those near years. MWRA staff used to put in high “plug” numbers for variable rate debt and the Advisory Board said they could bring those numbers down. While the Authority has been attempting to allege that the Advisory Board has bought into the three-year plan, staff has reiterated to the Authority multiple times that it fully intends to tweak that 3.95% downward for the upcoming fiscal year. The scope of the Advisory Board’s review will target tweaking next year rather than a major reduction and trying to bridge that small multi-year gap between now and FY14.

John DeAmicis noted that the Authority frequently tries to begin to fund the Other Post-Employment Benefits (OPEB) line item when no one else in the state has done so, with the exception of Massport. Stoneham doesn’t want to pay for the Authority to fund its OPEB liability when Stoneham can’t fund its own.

Ms. Potter said that is why the recently created Task Force of Advisory Board and Authority staff, along with Executive Committee members and financial advisers, will be helpful because it can put questions like that in context and not get stuck on one issue. Tools will be offered and discussed to deal with these types of issues.

Mr. Favaloro said with these types of projections and costs coming down the road, we may want to reconvene the Finance Committee and let them, in conjunction with the Task Force, participate in these discussions. The Finance Committee meetings could be held prior to the full Advisory Board meeting to make it easier for members to attend. Chairman Dunphy agreed stating that having the Finance Committee become active could be useful.

VI. MMA Conference

The Massachusetts Municipal Association’s (MMA) Annual Conference will be held on January 21, at which the Advisory Board will be hosting a panel discussion made up of the Chairman of the Advisory Board Katherine Dunphy, Speaker of the House Robert DeLeo, MWRA Executive Director Fred Laskey, Former EPA Regional Administrator Robert Varney and William Golden, the attorney that filed the original lawsuit that was the basis of the Boston Harbor Project and resulted in the MWRA and MWRA Advisory Board being formed. John Carroll will serve as the moderator.

VII. Legislative Update

Mr. Favaloro said staff is meeting with Caucus Chairman Ron Mariano next Wednesday to begin the process of filing the initial round of bills. House 1 comes out on January 26. Staff has met with Administration and Finance staff and Executive Office of Energy and Environmental Affairs staff to make the pitch for the Bottle Bill language to be inserted in House 1, as well as reaching out to the remaining coalition on the Bottle Bill. In fairness, if staff cannot influence House 1, the ability to influence the remaining coalition is nil.

VIII. Approval of the Advisory Board Agenda for January 20, 2011

A Motion was made **TO APPROVE THE ADVISORY BOARD AGENDA FOR THE JANUARY 11, 2011 MEETING.** It was seconded and passed by unanimous vote.

IX. Adjournment

A Motion was made **TO ADJOURN THE MEETING AT 10:00 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,

Lou Taverna, Secretary