



Executive Committee Meeting

Friday, March 13, 2015
8:30 AM

Advisory Board Conference Room
100 1st Avenue, Building 39-4
Boston, MA 02129

Attendees

Michael Rademacher	Arlington	Michael Coffey	Quincy	Joseph Favaloro	Staff
John Sullivan	Boston	Nick Rystrom	Revere	Matthew Romero	Staff
Tim MacDonald	Cambridge	Brendan O’Regan	Saugus	Cornelia Potter	Staff
Andy DeSantis	Chelsea	John DeAmicis	Stoneham	Travis Ahern	Staff
Katherine Dunphy	Milton	Carol Antonelli	Wakefield	Mary Ann McClellan	Staff
Andy Pappastergion	MWRA Board				

MINUTES APPROVED AT THE APRIL 10, 2015 MEETING

I. Approval of the January 9, 2015 Minutes of the Executive Committee

The meeting was called to order at 8:30 a.m. A Motion was made **TO APPROVE THE JANUARY 9, 2015 MINUTES OF THE EXECUTIVE COMMITTEE**. It was seconded and passed by unanimous vote.

II. Action Item: Letter to MWRA on Regulating Molybdenum Entering the Authority’s Sewer System

MWRA Advisory Board Executive Director Joseph Favaloro stated that developing a plan that allows the beneficial reuse of pellets in state “24/7” is the Advisory Board’s goal. The problem is molybdenum levels in MWRA pellets.

The question is how can we best achieve this goal? Staff tried to work with the Patrick Administration to adjust the Massachusetts Department of Environmental Protection’s (DEP’s) molybdenum level up from the 25 mg/kg to bring it closer to the United States Environmental Protection Agency’s (EPA’s) standard of 75 mg/kg. DEP staff did not seem interested in adjusting the level. DEP has the most stringent level in the country, without any clear rationale behind it.

Staff continues to try to keep the line of communication open and has reached out to the new DEP Administrator Martin Suuberg.

In the meantime, Advisory Board staff continues to “turn up the heat.” This begins with the draft letter that staff has put together, which essentially says there are other solutions out there; we don’t understand how Massachusetts established its requirement but we do know that New York has a scientifically developed approach and is the second most stringent requirement in the country at 40 mg/kg. Massachusetts is three times more stringent than the federal government.

What are the resolutions? First, molybdenum could be banned. Second, the MWRA’s Toxic Reduction and Control (TRAC) Program could be put in place to begin the onerous approach of permitting and fines that the TRAC Program does with Significant Industrial Users (SIUs). Or, third, we could work to just raise the Massachusetts level from 25 mg/kg – a level they freely admit that they do not know how they come up with – to something that approaches the New York level. If the Massachusetts level were to be raised to 40 mg/kg, the issue of not being able to use the pellets within Massachusetts would go away.

As things stand right now, 96% of the pellets from Fore River get trucked or railroded to everywhere else but Massachusetts. This is a silly way to be “green” doing thousands of truck or train routes between Massachusetts and other parts of the country. The approach proposed by the Advisory Board at least makes it possible to use the pellets within the state.

Brendan O’Regan asked if the New York limit is technologically based. Mr. Favaloro said it is scientifically-based on a study by Cornell University. It could be disputed, but it is based on something.

Mr. O’Regan said his only comment to the letter would be to recommend the order in which we would like them to proceed.

Mr. Favaloro said another thing that stands out is that staff has now reached out to the providers of the products, there is a molybdenum-based inhibitor and a phosphorus-based inhibitor for the cooling towers. They seem to all go to the molybdenum-based product because it is comfortable and they know that if they use one gallon it gets a certain result as opposed to the phosphorous based product where there would be “trial and error” to get to a comfortable position. The other strikingly interesting point is that the phosphorus-based products are between 15% and 20% cheaper. Potentially some of the 15% to 20% may be eaten up by trial and error, but there is a product out there that they could have voluntarily used over the last 20 years but have not.

Andy DeSantis asked if staff is aware that the state is promulgating regulations on phosphorous levels. Mr. Favaloro said yes but in fact, Deer Island is so well under the phosphorous level the Authority would still remain under. Switching over to phosphorous-based products might make DEP agree to increase its molybdenum level to between 37 to 40 mg/kg to have the best of all worlds.

The last thing that staff has done is to reach out to two agencies that represent commercial businesses. One is NAIOP, the commercial real estate development association, and the Building Owners and Managers Association (BOMA). We have scheduled meetings with NAIOP and have a call into BOMA to ask them to work with us to get to where we need to go. If they work with us to get the regulatory level raised, the problem goes away. If they work with us to either ban molybdenum or have enough businesses use the phosphorous-based product, the problem will go away. They also could say they will go through the TRAC process with fines and regulations. Either way, it has to come out of the system.

Mike Coffey asked if there is a way to quantify this problem to the MWRA. Mr. Favaloro said it is currently rolled into the New England Fertilizer Co.’s (NEFCo’s) price. The contract is all-inclusive. NEFCo gets the product, makes the pellets and distributes it.

The argument staff is utilizing is that “green is green.” It doesn’t seem logical if you are going to continue to push for solar energy, wind energy, etc. to have trucks drive thousands of miles from Quincy to Missouri, Pennsylvania, and Maryland, etc.

Mr. Romero added, another argument that could be made down the road is the change of limit allows them to not have to test or separate. In five years, that could be a negotiating point for that cost. We don’t know

what that cost is, but NEFCo's cost of doing business will be less so the MWRA may be able to use that to its advantage in negotiating the next pellet contract.

Mr. Coffey said if we were to solve the molybdenum problem today, NEFCo would benefit, not the MWRA, correct? Mr. Favaloro said it could be renegotiated.

Mr. DeSantis asked if NEFCo has a five-year extension or is it up to five years. Mr. Favaloro said he believes it is a five-year extension.

The goal is to have a beneficial re-use of this product within Massachusetts year round. Mr. Favaloro said he would prefer not to prioritize the recommendations because he would like all of the different parties to think about it. There is a regulatory piece, a product change piece, etc. – all of these different elements that should be looked at.

The letter shows that there is a problem but that there are also multiple solutions to solve it.

Mike Rademacher asked if staff knows of any other authorities or communities that have banned this product from cooling towers. Mr. Favaloro said he did not know of any. The pellet process of the size of the MWRA is unique.

A motion was made **TO APPROVE THE LETTER TO MWRA ON REGULATING MOLYBDENUM ENTERING THE AUTHORITY'S SEWER SYSTEM.** It was seconded and passed by unanimous vote.

III. Action Item: Approval of the MWRA's 5-Year Report Citizens Panel

Mr. Favaloro stated every five years, by statute, the Authority has to impanel citizen experts/activists to assist MWRA staff in coming up with a five-year progress report. The panel must be approved by the Advisory Board.

The panel includes Vivien Li, a harbor activist; former EPA Regional Administrator Bob Varney; Marcis Kempe, former MWRA/MDC employee; the Mayor of Medford Michael McGlynn; Charlie Lyons, a member of the MWRA Board of Directors in the early years; and Senator Steve Brewer, who can provide a legislative perspective and he is from the watershed area.

A motion was made to **APPROVE THE MWRA'S RECOMMENDATION FOR ITS FIVE-YEAR REPORT CITIZENS PANEL.** It was seconded and passed by unanimous vote.

IV. Impacts of Governor Baker's FY16 State Budget on the MWRA

Mr. Favaloro noted that there were no surprises in the state budget. Staff knew that the Debt Service Assistance (DSA) had already been 9 c'd by the Governor, which would have been an offset to the FY16 budget through the "pay it forward" approach that has been put in place.

In the FY16 budget, there are probably four items that have some level of impact. First, there is no DSA. Staff has already scheduled meetings with the House and the Senate to continue to push for DSA.

The \$500,000 for the Clinton Wastewater Treatment Plant has been removed from the State Budget as well. The Advisory Board has already indicated to the Authority that it should put the lawsuit back in play against the Town of Clinton, remove the phosphorous removal project from the Clinton Wastewater Treatment Plant and staff will also call Hank Naughton, the legislator for Clinton, to have him take care of it in the House Budget.

The third item is an increase in the GIC. The increase is for the contributory piece of health insurance increasing the employee percentage from 20% to 25%.

Fourth, Mr. Laskey made it very clear at the Board of Directors' meeting that there will not be an early retirement program at the MWRA. The MWRA is not in a position, staffing-wise or senior- and mid-management-wise, to absorb an early retirement. Additionally, only one in five positions could be replaced; the Authority is currently below the number of employees recommended by its staffing study.

These are the four items from the State Budget that could have an impact on the MWRA.

V. Next Steps: Appeal of the Co-Permittee Provision of the Charles River Pollution Control District Permit

The Environmental Appeals Board of EPA rejected all of the arguments brought forward by the Charles River Pollution Control District Permit relating to co-permittees. This is not a shock since this is an internal board within EPA. A lot of good arguments were made and good questions submitted. The real question now is what are the next steps?

The Advisory Board provided \$5,000, which was a small piece of the \$50,000+ spent at this point. The communities from this District are unable to afford pursuing this matter with court action, which makes it impossible for any other entity to pursue the matter as well.

Chairman Dunphy asked if only EPA in New England and New York have co-permittees. Mr. Favaloro responded in the affirmative. He noted that lessons were learned from participating in this process.

Mr. Sullivan stated that he inquired from other communities if there was excitement or non-excitement about the Municipal Separate Storm Sewer System (MS4) permits. There is a group in central Massachusetts that are "up in arms" and have a website. Mr. Sullivan said he had the National Association of Clean Water Agencies write a letter on the MS4 permits so they would have standing in the future, but he doesn't believe that people understand how much money this is going to cost. It is outrageously expensive.

Mr. Favaloro said the hope was when staff brought Mr. Tedder from EPA in to attend the Advisory Board meeting a few months ago that questions would be answered; however, they gave pro forma responses.

Working in conjunction with the Authority, staff is in the process of putting together a survey on what communities believe their costs will be under the conditions that are in the MS4 permits.

Mr. Sullivan said he has been looking for a list of connections and everyone is saying that they don't have any. Now EPA will say go out and sample in wet weather and dry weather and all this money will be spent to find one bad sample. It will probably not be a direct connection; the Boston Water and Sewer Commission (BWSC) has repaired over 1,000 leaky laterals, which are pipes from the homes that look perfect on the TV camera but when you send a plug in the pipe and fill it up with a green dye that shows up in the drain and you have no idea how or where it came from and it will cost around \$13,000 to fix it. If you tell the homeowner that he/she needs to come up with \$13,000 because BWSC is chasing this, there will be legal and political expenses.

EPA will say prove it every year if you say that you don't have any of these connections.

Mr. Coffey said Quincy is also concerned about the costs but we are also hopeful that it will be delayed again; right now it looks like it will be in fiscal 2018. EPA has said it will be FY17 unless they have delays and comments, which is likely.

Mr. Sullivan said it is horribly expensive. By then, we will have data. BWSC has spent a lot of money but the problem still exists.

Travis Ahern asked if staff surveyed the communities, would they be able to tell the Advisory Board how much they have spent and how much they believe they will need to spend. Mr. Sullivan said we could tell you all the programs that we have already spent money on but could not give you any future guess. Mr. Romero said for future costs, could you give an order of magnitude or range? Mr. Sullivan said he could give the projections from the capital improvement plan. Additionally, BWSC has very good historical data. It is an enormous drain on financial resources.

Nick Rystrom noted that Revere is running into all of these problems as well.

VI. Emerging Budget Review Strategy

Matthew Romero stated that staff is in the process of meeting with Authority staff to review the budget and have all of the backup data. Tables and charts have been created and staff is beginning to put the words behind the tables and charts for the actual budget analysis portion.

Staff will be meeting next week to formulate the larger policy issues and recommendations.

Mr. Favaloro added that the Long-Range Rates Management Committee was originally scheduled to meet this coming Monday. Mr. Laskey just appointed the Board of Directors members, which consist of Henry Vitale, John Carroll and Andy Pappastergion. Mr. Carroll could not be at Monday's meeting, so staff is suggesting to hold the meeting after the Advisory Board meeting next Thursday. Chairman Dunphy and John DeAmicis, the Advisory Board's representatives on the Committee, agreed to be in attendance.

VII. Update and Revisions to the State's Water Conservation Standards

Mr. Favaloro said the state has revised its Water Conservation Standards. They actually have cut many sections out. Unaccounted for water and audits are still major components of their message but they are all

couched in terms like “best effort.” The message of “good faith effort” is the message coming from the standards.

VIII. Approval of the Advisory Board Agenda for March 19, 2015

Mr. Favaloro noted that the five-year panel action item has been added to the proposed agenda.

Additionally, the Senate has called a formal session for Thursday so Senator Petruccelli may not be able to attend.

Rachel Madden, Undersecretary for Administration and Finance, will be traveling to Florida next week to see her father so she will not be able to attend the Advisory Board meeting as well. She extended her apologies.

Secretary Matt Beaton will be unable to attend but he will be sending Undersecretary Ned Bartlett in his place.

A motion was made **TO APPROVE THE ADVISORY BOARD AGENDA FOR THE MARCH 15, 2015 MEETING**. It was seconded and passed by unanimous vote.

I. Adjournment

A motion was made **TO ADJOURN THE MEETING AT 9:29 A.M.** It was seconded and passed by unanimous vote.

Respectfully submitted,



William Hadley, Secretary