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MWRA ADVISORY BOARD MEETING
JUNE 20, 2013
BRADLEY ESTATE
2468B WASHINGTON STREET, CANTON, MA – 11:30 A.M.
Minutes Approved at the September 19, 2013 Meeting

Forty people were in attendance, including twenty-one voting members: John Sullivan, BOSTON; Jay Hersey, BROOKLINE; John Sanchez, BURLINGTON; Tim MacDonald, CAMBRIDGE; Andrew DeSantis, CHELSEA; J. R. Greene, GUBERNATORIAL APPOINTEE; Ed Demko, HINGHAM; Bill Hadley, LEXINGTON; Cassandra Koutalidis, MEDFORD; Katherine Haynes Dunphy, MILTON; F. Thom Donahue, NAHANT; Craig Leiner, NATICK; Vincent Roy, NEEDHAM; Lou Taverna, NEWTON; Bernie Cooper, NORWOOD; Jeff Zager, READING; John DeAmicis, STONEHAM; Patrick Fasanello, WALPOLE; Walter Woods, WELLESLEY; Zig Peret, WILBRAHAM; Joe Lobao, WILMINGTON.

Also present: John Carroll and Joseph Foti, MWRA BOARD OF DIRECTORS; Avril Elkort, CANTON; Rick Mattson, WALPOLE; Bill Shaughnessy, WELLESLEY; Phil Jasset, UCANE; Andreae Downs, WAC; Lexi Dewey, WSCAC; Fred Laskey, Michael Hornbrook, Rachel Madden, Kathy Soni, Tom Durkin and Kevin McCluskey, MWRA STAFF; Joe Favaloro, Matthew Romero, Maggie Kenneally, Cornelia Potter and Mary Ann McClellan, MWRA ADVISORY BOARD STAFF.

A. APPROVAL OF THE APRIL 18, 2013 MINUTES OF THE ADVISORY BOARD

Chairman Katherine Haynes Dunphy called the MWRA Advisory Board meeting to order at 11:36 a.m. Chairman Dunphy introduced Canton Selectwoman Avril Elkort who welcomed everyone to Canton. A motion was made **TO APPROVE THE APRIL 18, 2013 MINUTES OF THE ADVISORY BOARD**. It was seconded and passed by unanimous vote.

B. PRESENTATION: MWRA YEAR IN REVIEW – Fred Laskey, MWRA Executive Director

MWRA Executive Director Fred Laskey stated that on Wednesday, staff will ask the MWRA Board of Directors to approve its final FY14 budget. The MWRA held its official Public Hearing on its proposed budget on June 5th. The rate increase initially proposed was 3.9%; however, staff believes it can meet the Advisory Board's challenge to bring the rate increase to 3.49%.

Craig Leiner asked what the MWRA's bond rating is. Mr. Laskey stated that it is AA+ on senior debt. Because the Authority has a heavy debt load, it cannot get AAA until the debt is brought down. The Authority has taken important steps in the last fiscal year to get where it needs to be.

Historically, a very significant development has occurred. For the first time, the MWRA now have complete redundancy and interconnections from Marlborough and the Carroll Water Treatment Plant into Route 128.

The rehabilitation of the Hultman Aqueduct is now complete and is currently in test mode. It is a great relief. To put it into perspective, if this were in place during the main break of 2010, staff

would simply have bypassed it and kept going while it was being repaired. After the break, the Board of Directors and the Advisory Board understood the importance of speeding up the Hultman rehabilitation project that allowed for completion of the project nearly 18 months ahead of schedule.

Other weaknesses are that there is no redundancy from the Wachusett Reservoir down to Marlborough. Design is underway for the Wachusett Pump Station, which will allow the MWRA to run water from the Wachusett Reservoir through the old Wachusett Aqueduct. The problem is that it comes in at a lower elevation than the treatment plant; it needs to be lifted up into the plant to be treated.

The Lynnfield/Saugus pipeline was a difficult project but there is now redundancy up to Lynnfield. This is a theme you will see in the Advisory Board's project with UMass. This project has allowed the redevelopment of the Colonial Golf Course.

Construction of the 20 million gallon Spot Pond Storage Tank is coming along, which will give the MWRA storage that is desperately needed in the northern low system that includes Somerville, Chelsea, parts of Boston and Medford. It will provide a back-up pump station at Gillis, which is one of the most vulnerable locations for the MWRA. If the Gillis Pump Station went down, most of the communities would be affected in a negative way.

The trespassing incident was a major issue that has caused staff to reexamine what we have out at Quabbin. Frankly, some of the key infrastructure at Quabbin has no electricity or security systems. Staff is now in the process of assessing whether the MWRA should, for relatively short money, accelerate getting power down to Shaft 12. The main intake for the system here in the east has no electricity or security system and is in an isolated location. Staff wants to get a camera on the Chicopee Valley Aqueduct as well. This work will be expedited to ensure this infrastructure is protected.

Ultraviolet (UV) at the CWTP is moving along and is on schedule to meet the federal deadline. Incredible progress has been made in the last 12 months.

The Cambridge CSO work has been completed. The Brookline Sewer separation is complete and was a major component of the Justice Department agreement that was approved by the federal court. The goal is to reduce the flows into Ward Street and reduce the overflows at Cottage Farm. It also has some impact on Prison Point. The goal is to reduce the inflow by doing sewer separation.

At the start of the fiscal year staff talked about the aging of the MWRA employees (average age 52) and how we are going to deal with some key people who are going to retire. In fact, Dr. Andrea Rex, Director of ENQUAD, retired this week. She has been replaced by Betsey Reilley. Over the past year, 51 people have retired and 40 people have been hired. The head count is down and staff believes it can reach the 1,150 goal, set by the Board, in three years. An intern program of engineering students will be going on this summer. The MWRA will try to maintain and improve its diversity.

In terms of system expansion, the MWRA is surrounded by communities that could use its water. At a symposium yesterday, the DEP commissioner again stated that they will be clamping down on well withdrawals along the rivers. Staff continues to meet with Tri-Town to encourage them to join the MWRA waterworks system.

One way communities sometimes come in is through an emergency connection. Hudson had issues with its wells and is now using MWRA water through Marlborough. Staff plans to meet with Hudson officials to discuss the possibility of taking MWRA water on a more permanent basis.

The major issue that occurred in New Jersey and New York City has created a stir. Brian Swett, who represents the City of Boston on the MWRA Board of Directors, is leading the charge in Boston, and almost for the region, for hurricane planning. But for eight hours of timing having to do with low tide versus high tide, Massachusetts could have had 200-year events, which would have been crippling to the Authority and its communities.

The Authority's drinking water system is in very good shape, with two reservoirs and the treatment plant in Marlborough; 85% of the water is being delivered via gravity and does not rely on pump stations in the low areas. Tanks are in good shape and the Quabbin is full.

There was eight inches of rain in an eight-day period and the MWRA didn't have any SSOs, which is a tribute to the men and women that work for us.

Deer Island is two feet above the flood plain. It has extra sea walls and self-generation of electricity and the same with Nut Island, so those facilities are in good shape. However, there are 21 facilities that are very close to sea level. A new policy that was instituted this year says that any new construction or renovation is going to have to be completely vetted for storm protection going forward. The MWRA will be renovating the Alewife Pump Station in Somerville and that project will go through this vetting process.

Additionally, there are a whole series of short-term things that staff has done. For instance, staff has created an emergency operations center (EOC) at the Carroll Water Treatment Plant so that if the Chelsea EOC is flooded out, staff can move to Marlborough and part of it could be moved to Deer Island.

Mr. Laskey stated that there has been \$7 billion in construction and the MWRA has only paid for \$1.5 billion, with a bond indebtedness of \$5.6 billion. For years we have seen what seemed to be an insurmountable mountain of debt coming at us. Staff believes with this fiscal year and what will go on if the budget is approved is going to mark a change. The Authority is finally paying more in principal than in interest.

Also, for the first time, staff has really cut the capital budget. In last year's Comments, the Advisory Board set the challenge to size the next capital spending cap at no greater than \$800 million for the next five years and staff has met that challenge in coming in at \$793.5 million. However, this also cuts some of the flexibility that the Authority has if an issue were to arise.

With this cap, the Authority's total indebtedness will begin the downward slope as long the MWRA continues to have responsible rate increases, holds the operational spending down and continues to hold the line on outstanding debt. The spending over the next five years is the lowest since the Authority really got ramped up and running in some 20-odd years.

The MWRA will maintain the I/I and Pipeline Assistance Programs to help the communities.

For many years staff has come before the Advisory Board with no answer as to how the Authority would get through this. The strategy of using defeasance and the Advisory Board's push a few

years ago to change its bond indentures to allow the MWRA to get at the reserves is coming into play. If we can hold the line with low interest rates and hold spending, we can get through this without any catastrophic rate revolt or any double-digit rate increase. It will take good discipline and good, fiscally conservative approaches at every turn.

C. COMMITTEE REPORTS

Finance Committee – Bernard Cooper

❖ STATUS: FY14 BUDGET REVIEW

Mr. Favaloro stated that the MWRA was able to meet the 3.49% rate increase that the Advisory Board put forward in its FY14 *Integrated Comments and Recommendations on the Authority's Proposed FY14 CIP/CEB*. The Advisory Board calls its Comments and Recommendations a living document because it will be updated regularly. The document can be accessed in its entirety or by section at: <http://sdrv.ms/104u1Rg>. Mr. Favaloro commended Matthew Romero and Cornelia Potter for their efforts in creating the document.

Operations Committee – Lou Taverna

❖ HOW CO-PERMITTEE LANGUAGE IN NPDES PERMIT IMPACTS COMMUNITIES – Michael Hornbrook, MWRA Chief Operating Officer

Mr. Favaloro stated that if there is one issue that is coming down the road that scares him, it is the National Pollutant Discharge Elimination System (NPDES) permit and its potential for co-permittee language.

MWRA Chief Operating Officer Michael Hornbrook offered a “forewarning” about what is coming “down the pike.” It will impact MWRA communities directly and will give communities new requirements. It will also provide the Environmental Protection Agency (EPA) with a direct enforcement link to individual communities that they don’t have currently; EPA intends to use that link. EPA has been clear that this is the purpose for doing this.

A NPDES permit is issued to a publicly owned treatment works (POTW) discharger under the Clean Water Act and it gives the MWRA the right to discharge pollutants, even post-treatment, into the receiving waters. Traditionally, for the Boston area, the NPDES permit is issued to the MWRA for its Deer Island Treatment Plant and for its CSO discharges and it has named the CSO communities in the permit; but it has not named member communities that have their own collection systems. EPA and DEP refer to them as satellite systems.

EPA has been laying the groundwork for adding community-owned collection systems into NPDES permits for eight to ten years. Co-permittees will be included in the next MWRA Deer Island permit.

The EPA has been issuing NPDES permits with co-permittees across the country and in New England; with every permit issued, they have expanded their legal foundation. With each legal challenge, EPA has been adding new responsibilities.

The current Clinton NPDES permit includes co-permittees, which are Clinton and Lancaster. The MWRA permit for Deer Island never has.

EPA is trying to determine the department name within each municipality that has the responsibility for the collection system, which will be named on the permit. They say they are doing this for two reasons. First, they want to go after SSOs because SSOs lead to water quality impairment and are a public health issue; second, for potential permit violations at the POTW because of high wet weather flows. At the MWRA, that has not been an issue; the Authority has easily met its permit requirements under high flow conditions; however, the SSO issue is where they are really going. They are getting to it through operation and maintenance (O&M) of local collection systems.

The Charles River Pollution Control District has one of the most recent permits with co-permittees. Within it, EPA names the towns that own the collection systems that are tributary to the POTW. In the permit, they require notification for unauthorized discharges (SSOs) and O&M plans of the locally owned collection systems.

EPA wants your plan to include what your staffing is, your funding source and how you will assure that funding source, preventive maintenance, infiltration and inflow programs, collection system mapping, with deadline dates. For collection system mapping, EPA gives a long list of what they want to see.

Collection System Operations and Maintenance Plans will have annual reporting requirements and will require an update on how your community did with its O&M plan. Further, alternative power sources for pump stations and other facilities that need power will be required.

In summary, EPA will now have a direct enforcement and regulatory means to come into your communities. Now, EPA can do enforcement if you have an SSO. This allows them to come into your community and do enforcement before you have an SSO, or in their words, to prevent an SSO. It gives them that direct permitting authority to come right in.

DEP already has SSO reporting requirements for being notified within 24 hours and a written notice within five days giving details of the SSO. Now in an EPA permit you have to do SSO reporting as well.

An I/I Plan is required and it has to focus on private inflow sources, sump pump removals, downspout removals, etc. Communities have to tell EPA how they will address these issues.

Walter Woods asked if there is any funding coming in with any of these requirements. Mr. Hornbrook said there is no funding. Mr. Laskey said Mr. Woods raised an important point. If this incident comes upon your community, make sure the “powers that be” above you on the chain within your community know what is going on because, frankly, a couple of mayors have said that they had no idea this was happening. You need to make sure you fully understand the impact on the community and its budget. Please keep the communication going up.

John Sullivan said the Boston Water and Sewer Commission has all the same permits that the MWRA has, such as NPDES, CSO, etc. Has EPA said anything about what is going to take precedent? If you have a permit that tells me I have to do something, and I have my own permit, which should be followed? Mr. Hornbrook said they have not said anything about it. As a matter of fact, they really don't address CSO communities so far in this discussion.

MWRA Advisory Board Executive Director Joseph Favaloro said EPA is out of touch; they are heartless and they just don't get it. The scary part is that there are two instances going on as we

speak. You have Upper Blackstone and Worcester, where it is upwards of \$300 million on Worcester to try to keep up with the Clean Water Act. Mr. Favaloro said recently he was listening to Mayor Rizzo in Revere where \$100 million of work needs to be done under a consent decree. Now the fear that jumps out is that these are two examples of what EPA is willing to do without any regard for the cost to communities and ratepayers.

The other fear, first and foremost, is for the communities because we all will be impacted. How are they going to use and manipulate the Authority to do their work for them? Eventually, will they “pass the entire buck” onto the MWRA? They could say, Revere is your town, make sure they do this work, you are a co-permittee as well. Mr. Hornbrook said in the 15 to 20 pages of fact sheets, they do iterate that they are naming the co-permittees for the collection system O&M and the POTWs for the POTW. In the MWRA’s last permit, which was nearly ten years ago, EPA wanted the MWRA to enforce O&M requirements on its member communities; the MWRA said no. The Authority has a cooperative working relationship with its communities, technically, financially and operationally. They backed off at that time and are now going with the co-permittees where they will have the direct enforcement.

Once the permit is issued, EPA will say, for example, “Milton, you have excessive I/I, you violated your permit, so you can either pay a “gazillion dollar fine” or you can enter this consent order to do \$15 million worth of work.” That is the way it works.

Bernie Cooper said presuming that this scenario comes to pass, what standing do the individual communities have in the initial negotiation process? If the order is on the MWRA, the Board of Directors speaks for the MWRA. How does that process work for the co-permittees? What has happened in Clinton, for example? Have they had any input? Mr. Hornbrook said he believes Clinton has had input; however, they only have four communities. Four communities can be brought to the table and EPA would negotiate with those four on collection system items.

Mr. Cooper asked if the community’s signature is going to be on the document. Mr. Hornbrook said that is a great question because you were not on the MWRA’s application. MWRA signed an application for its POTW and CSO discharges; the communities did not. They must have to sign the permits if they are issued to them in those names. Your “standing” is that you also have the right to appeal if you are issued that permit, as well as the MWRA. How we would do that is a great discussion. Is it a collective group? Is it a smaller group that represents the whole group? The Operations Committee and the Advisory Board should think about how they want to handle that moving forward.

Cassandra Koutalidis said EPA’s constituency is not just the environmental organizations, which they seem to be very tight with. You see these joint meetings with the Mystic River Watershed Association (MyRWA) and EPA and EPA is sponsoring things. The constituency is everybody, including the communities. Somebody needs to point that out as a group. It is like they are using MyRWA as a tool to agitate for different things. It makes this permit undoable. It can’t be met. Ms. Koutalidis said it bothers her that she is as much a constituent as MyRWA and yet she has no voice because she works for the city. The Advisory Board should push back and tell the EPA that it is not being balanced at all.

Mr. Hornbrook said at the National Association of Clean Water Agencies conferences, they talked about national litigation. They are talking about it in California in the San Francisco Bay estuary area and San Francisco Bay. The POTWs that were sued under consent orders found, when they did their discovery, that there was almost a collaboration between the non-governmental organizations (NGOs) environmental groups and the regulatory agencies, where the regulatory agencies in their consent order were putting in requirements to make payments to the NGOs. Ms. Koutalidis said that is collusion on a large scale.

Mr. Hornbrook said any SSO, even during a hurricane, can be considered illegal. There is a division between reality and the Clean Water Act. The Clean Water Act says no SSOs forever for any reason. With the NPDES permit, the goal is to eliminate any pollutant discharge.

Phil Jasset asked if the states that have primacy have any advantage over the states that don't. Mr. Hornbrook said yes. Legislation was passed in Massachusetts requiring MA DEP to look at primacy. Massachusetts is one of three states that don't have primacy. For POTWs, primacy means that DEP would take the lead in writing the permits; EPA has to approve them. EPA can step in and do enforcement if necessary, but DEP takes the lead. The NGOs don't like that because they think the EPA separate and segregated is better to deal with. DEP has written up a report in which they simply list what the requirements are. DEP would have to staff about 91 people, with a total dollar amount in the millions. Mr. Hornbrook said he did a rough calculation and he thinks the numbers are based on flow; it would cost the MWRA about \$4 million annually, so you would have to weigh that into the primacy decision.

In all the major issues that the MWRA has had with EPA and DEP, in 85% to 90%, DEP has been on the MWRA's side compared to EPA on these major issues. Even if there is primacy, EPA retains its right for enforcement and they do use it if they don't think the state is doing enough.

Executive Committee – Katherine Haynes Dunphy

❖ **ACTION ITEM: DISCUSSION ON SUPPORT LETTER FOR STATE POLICE**

MWRA Advisory Board Executive Director Joseph Favaloro offered, for members approval, a letter of support for the State Police in regard to the seven trespassers that were caught leaving the Quabbin Reservoir last month after midnight. This incident started a flurry of activities for the Department of Conservation and Recreation, the State Police, the FBI and the MWRA in trying to ensure the safety of the drinking water supply of 2.5 million residents of the Commonwealth.

Last week the court magistrate let the trespassers off without a finding; which means if they stay out of trouble for six months, they will not even receive a "slap on the wrist." To the credit of the State Police, they immediately appealed the clerk's decision. As an organization that represents the individuals and communities that take their water from the Quabbin, staff has written a letter of support for the State Police in its appeal. In the letter, the Advisory Board asks the clerk to reconsider the criminal complaint and prosecute to the fullest extent of the law. Additionally, yesterday staff received an email that stated that the State Police appeal represents the official position of the Patrick Administration.

Chairman Dunphy agreed that a strong message needs to be sent that trespassing is not allowed. It's about following the law. The clerk's decision sends the wrong message.

J.R. Greene noted that the State Police barracks are at the Quabbin. DCR has rangers there, but they cannot arrest people. People are allowed at the Quabbin at night with a permit, but only in the northern section, not near the intake. The permit has to be on the vehicle's windshield.

A Motion was made **TO APPROVE THE LETTER OF SUPPORT FOR THE STATE POLICE IN ITS APPEAL OF THE CLERK'S DECISION ON THE SEVEN TRESPASSERS AT THE QUABBIN RESERVOIR.** It was seconded and approved, with one abstention from Natick.

❖ **LEGISLATIVE UPDATE**

Mr. Favaloro stated that the Conference Committee of the House and Senate has been reviewing the two versions of the budget. The House version of the budget included \$600,000 for Debt Service Assistance (DSA), while the Senate version contained nothing for DSA. They will hopefully come to terms in the next week on a final legislative version of the budget. Staff is hopeful that the \$600,000 will be included; however, it would still have to be approved by the Governor as well. More than likely, he would support it; however, down the road during FY14, he would still have the opportunity to 9c DSA because other priorities may take precedence.

The Advisory Board's Economic Development Report is through its first draft. Staff made a strategic decision to push back the release of the report because there is no point in releasing it over the summer. As part of the September agenda, the Advisory Board will look at different scenarios regarding water and sewer infrastructure, such as how an infrastructure project allowed a community to grow and where the lack of this infrastructure is hindering growth. It will show the potential difficulties that could impact communities for the future.

❖ **AUGUST FIELD TRIP**

The Advisory Board field trip will be held on the third Thursday in August. Staff is still reviewing options for the field trip, which include Deer Island, the Cambridge Alewife project and Stoneham covered storage; however, staff is leaning toward a boat trip with the Boston Redevelopment Authority providing a guided tour that would focus on the economic development of the South Boston and waterfront districts. The tour would show what a working infrastructure can do to revitalize an entire area and what it means to Boston and the Commonwealth of Massachusetts economically.

D. ADJOURNMENT

A MOTION WAS MADE TO ADJOURN THE MEETING AT 1:03 P.M. It was seconded and passed by unanimous vote.

Respectfully submitted,


William Hadley, Secretary