

MWRD Lacks Transparency In Its Legislative Process

April 2024 by Richard Lanyon

Members of the public can attend any Metropolitan Water Reclamation District of Greater Chicago (District) meeting of the Board of Commissioners, twice per month except once each in July and August, either in person or remotely at the time of the meeting, or following the meeting by an online video. The video conveniently displays the agenda item at the time it is being considered by the board. See the calendar, agenda, videos, and meeting notes here: <https://mwrld.legistar.com/calendar.aspx>

To most observers this may appear to be an open process.

The public's first opportunity to have any meaningful inclusion in the board's legislative process is 48 hours prior to the scheduled start of the board meeting when the agenda is made public on the MWRD website. The public may also sign up to have the agenda emailed to them at the time it is made public.

At the meetings themselves, there is normally little debate by board members on agenda items. Unknown to the public, the agenda takes many days of preparation to put each agenda item in final form, often involving more than one department, before being approved by the executive director for placing on the agenda. Upon approval, copies of each agenda item, called a board transmittal letter, are circulated to the commissioners, usually a week before the board meeting. The commissioners may discuss the transmittal letters with the executive director or ask questions via memo. Discussions are rarely documented in writing. Answers to the memo are assembled expeditiously and delivered to the commissioners the day before the board meeting at the latest.

During the board meeting, the public can hear debate on those items that are removed from the consent agenda. The public may hear a commissioner refer to a memo from the executive director that offers additional information or that answers questions from commissioners. On other occasions, the public may hear a commissioner refer to a meeting with the executive director. When board members haven't had sufficient opportunity to read the executive director's memo, a board member may ask the same or a variation of the question again during debate on the agenda item.

Following the board meeting, the minutes of the meeting usually appear on the website within two or three business days. However, the minutes are only a copy of the agenda to which has been added notations on the disposition of each agenda item for which debate has occurred and the action taken on other consent agenda items. For most items the notation simply indicates "Approved." Other than the board transmittal letter there is no substance added to explain each item, even when other information has been shared by the executive director with the commissioners.

Much communication, both oral and written, goes on between the commissioners and the executive director in the legislative process that is not available to the public. Many more agenda items on the consent agenda might be debated publicly were it not for the behind-the-scenes discussions and memos that occur prior to the board meeting.

The public bears the burden of inclusion in the legislative process and must use the FOIA process to obtain copies of memos or other written communications. Documents obtained through FOIA usually arrive about nine or ten calendar days after the request is made, long after the board meeting. The results of a meeting between a commissioner and the executive director and the behind-the-scenes discussions may not be available unless written minutes of a meeting or discussion were prepared and can be disclosed via FOIA.

There is a lack of transparency in the District's legislative process. The public interest should be served and inclusion achieved by posting all relevant written communications on the District website as soon as they are available, and certainly before the board meeting commences. Written minutes of meetings and discussions between the commissioners and the executive director should also appear on the website. A simple link on the home page would suffice.

The MWRD should be proactive and set a good example of inclusion of the public in the legislative process by making public all communications between the commissioners and the executive director prior to the board meeting.