

Board of Water Commissioners Meeting Minutes
Acton Water District
Tuesday, January 5, 2021 3:10 PM

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting was conducted via Zoom.

AGENDA

Conduct interviews with prospective candidates for outside special counsel.

Present at Today's Meeting:

Commissioners: Erika Amir-Lin, Stephen Stuntz, Barry Rosen

District Manager: Chris Allen

Environmental Manager: Matthew Mostoller

District Counsel: Mary Bassett

District Treasurer: Mary Jo Bates

Robert Cox, Esq. of Bowditch & Dewey

Lynn Preston, Esq. of Sheehan, Finney, Bass & Green

The meeting was called to order at 3:10 PM on Tuesday, January 5, 2021 by Ms. Erika Amir-Lin.

Ms. Amir-Lin introduced the Board and invited the first candidate, Robert Cox, Esq. of Bowditch & Dewey to introduce himself to the Commissioners.

Atty. Cox has worked in environmental law for over 30 years with Bowditch & Dewey. He has experience issuing and responding to contamination action letters. Atty. Cox is the managing partner in the firm, with 60 attorneys and 3 offices. He is currently District Counsel for the Upper Blackstone Clean Water District, has worked with the City of Worcester on the public water supply plan and with Barnstable County on their PFAS contamination. Bowditch & Dewey is a member of the Environmental Business Council of New England. Atty. Cox has worked with our LSP, GeoInsight and MA Department of Environmental Protection (MA DEP), Central Regional Office (CERO) and maintains a good relationship with both. His regular rate is \$525 per hour. He offers a discounted municipal rate at \$420 per hour. He would also utilize an experienced environmental associate for some of the work, touting his efficiency due to experience.

The Commissioners asked questions about his DEP experience, cost recovery and the need for a retainer. Atty Cox explained that he is comfortable picking up the phone with DEP and prefers a strategic approach. He added that the statute sets forth the process for recovery. Response action costs and fees can be recovered. He prefers good faith settlement discussions and negotiation.

Most claims settle before court. He is open to a flexible arrangement regarding a retainer and would like the opportunity to work with the District. Ms. Amir-Lin thanked him for his time.

Ms. Amir-Lin introduced the Board to Lynn Preston, Esq. of Sheehan, Finney, Bass & Green and invited her to introduce herself.

Atty. Preston has 25 years in Environmental work. She began her career as a chemical engineer and has supervised many contamination cleanups across the country. She currently practices law in Massachusetts and New Hampshire and is Chair of the Environmental Practice Group at Sheehan, Finney, Bass & Green. Her DEP experience includes as counsel to a PWS in Worcester County that was successfully settled. Atty. Preston is Special Counsel to the Pease Development Authority in NH for all environmental regulatory enforcement, including multi-state litigation. She has had success in cost recovery actions at the federal and state level for groundwater contamination. Her firm offers robust real estate support if needed. Atty. Preston offers a municipal rate of \$370 per hour.

The Commissioners asked questions about DEP experience, cost recovery and the need for a retainer. Atty. Preston said she prefers a gentle approach with DEP. Her focus is to avoid litigation whenever possible. She has experience with DEP CERO and hopes the clean-up and cost recovery can happen concurrently. She is flexible on the need for a retainer and appreciates the opportunity to work with the District. Ms. Amir-Lin thanked her for her time.

Under discussion, the Commissioners were pleased to have 2 very good candidates to choose from and thanked Chris, Matt and Mary for their efforts. The goal is to protect our interests and preserve our standing with DEP as well as recover costs. The Commissioners expressed a slight preference for Atty. Cox due to his long experience in the state of Massachusetts. Mr. Stuntz made a motion to appoint Atty. Robert Cox as outside special environmental counsel. It was seconded by Mr. Rosen and unanimously approved on a roll call vote.

Mr. Stuntz, aye, Mr. Rosen, aye, Ms. Amir-Lin, aye.

Atty. Bassett will reach out to Atty. Cox and should have a letter of engagement from the meeting on Monday, January 11, 2021.

Ms. Amir-Lin moved to adjourn the meeting at 5:00 PM. Mr. Stuntz seconded the motion, and it was unanimously approved by a roll call vote.

Mr. Stuntz, aye, Mr. Rosen, aye, Ms. Amir Lin, aye