

Board of Water Commissioners

Meeting Agenda

July 29, 2024

- Comments from the public
- Approve minutes from the meetings of 7/15
- Appoint one Commissioner to sign warrants while conducting meetings virtually

OLD BUSINESS:

- Per- and Polyfluoroalkyl Substances (PFAS)
- Current sample data, if available
- Discussion of Additional PFAS Upgrades
- Kelley's Corner Project
- Update on 549 Main Street
- Conservation Restriction Status
- Update on Baldco
- Approve Lease

NEW BUSINESS:

- Discussion of Cell Tower Leases – Great Hill and Nagog Hill Tank sites
- Discussion of State Housing Goals related to Water Resource Concerns

EXECUTIVE SESSION: To consider the purchase, exchange, lease of real property as an open meeting may have a detrimental effect on the negotiating position of the District.

Present at Tonight's Meeting:

Commissioners: Barry Rosen (Chair), Erika Amir Lin, Stephen Stuntz

Members of the Finance Committee: Bill Guthlein

District Manager: Matt Mostoller

District Treasurer: Christine McCarthy

Members of the Public: Alissa Nicol, John Petersen, Kim Kastens

START OF MINUTES

Mr. Rosen opened the meeting at 7:01.

Comments from the public

None at this time.

Approve minutes from the meetings of 7/15

Ms. Amir Lin motioned to approve the minutes of July 15, 2024. Mr. Rosen seconded, and it was approved via a roll call vote, Ms. Amir Lin, Mr. Rosen. Mr. Stuntz abstained.

Appoint one Commissioner to sign warrants while conducting meetings virtually

Mr. Rosen motioned to appoint Ms. Amir Lin to sign warrants until the next regularly scheduled meeting. Mr. Stuntz seconded, and it was unanimously approved via a roll call vote, Mr. Stuntz, Ms. Amir Lin, Mr. Rosen.

OLD BUSINESS:

Per- and Polyfluoroalkyl Substances (PFAS)

Current sample data, if available

Mr. Mostoller reviewed recent July sample results collected on July 16th. Center Acton sampled at 8.5 ppt, South Acton sampled at 13.7 ppt, and North Acton remains at non-detect. Additional sampling at North Acton shows no sign of PFAS after the first set of filter vessels, and all three plants are contributing to the system.

Discussion of Additional PFAS Upgrades

Mr. Mostoller informed the board that this week they will have a pre-construction kick-off meeting with the engineer and the General Contractor for the Center Acton project. Mr. Mostoller reminded Ms. Amir Lin about a required signature before that meeting. They are in the process of scheduling another pre-construction kick-off meeting sometime in August for the South Acton project. They have been making progress with pre-bid items such as the building and the GAC vessels.

In other news, Mr. Mostoller informed the board that another company, BASF, has agreed to settle in the PFAS MDL. The District filed its initial PFAS claim on July 9th and is still working on the special needs claim.

Kelley's Corner Project

Mr. Mostoller updated the board on this project. He highlighted areas on the map where the new water main is active and supplying water to customers. Mr. Mostoller then walked the board through the next phase of work near the route 2 ramp, the southern section of Main Street, and then the northern section of Main St.

Ms. Amir Lin asked if pipes are already in the ground for all segments, Mr. Mostoller responded no, a substantial part are in the ground but there are connecting parts and small sections of pipe that are not yet completed. The intersection itself is almost complete, there is one leg of the connection still being worked on.

Mr. Stuntz asked about a suspected pressure leak in this project. Mr. Mostoller confirmed there was a valve left open. The crew identified the gate left open, closed it and worked to remedy the situation.

Update on 549 Main Street & Conservation Restriction Status

Mr. Mostoller shared a photo of the new signage on the property which is a funding requirement. There is a note attached to the sign saying that the trail still requires work. The Conservation Restriction has been recorded, and on July 18th Town Counsel performed the closing. The CPA funds were also received.

There are still a few loose ends for this project like some grant paperwork and trail work, but the bulk of this project is complete.

Mr. Rosen asked where the QR code on the sign directs people. Mr. Mostoller responded that it directs users to a dedicated webpage on www.actonwater.com that talks about the project, work in progress, a trail map, project and property history, climate benefits, and project partners. Mr. Mostoller then walked the board through the final work to be completed on this project.

Update on Baldco

Mr. Mostoller updated the board on this project, that much of this will be wrapped up in the near future. Mr. Mostoller reviewed the additional environmental characterization work done in June, the groundwater monitoring wells, and the soil borings which continue to affirm that there are no soil concerns with the property. The property continues to exhibit two contaminants of concern, PFAS and arsenic. However, the LSP feels confident the contamination is from an offsite source that is migrating to the property. They are preparing a proposal to complete notification and reporting to MassDEP. Mr. Mostoller believes that

within the next month they will be able to complete the necessary filing after the closing occurs.

Mr. Mostoller brought up acquisition of the environmental liability insurance policy prior to closing. He recommended that the board not obtain the policy as he believes they have a thorough understanding of the property and that it poses limited risk. Given the price of the policy and that limited risk, he recommended forgoing the policy. Mr. Rosen, Ms. Amir Lin, and Mr. Stuntz agreed with this assessment.

Approve Lease

Mr. Mostoller directed the board to the lease for the Baldco project, which Baldco has previously signed. Mr. Mostoller asked the board to formally adopt the lease, and he reviewed the 3 conditions the District presented for this lease. That one, insurance coverage named the District as additionally insured, which Mr. Mostoller, Ms. McCarthy, and Ms. Bassett have reviewed. They also received the certificate of good standing from Baldco and presented the decommissioning bond of \$25,000. Ms. Bassett consulted experts on that price of the bond, and they thought it was adequate. After reviewing the conditions of the bond Mr. Mostoller asked the board if they were comfortable with those conditions. Mr. Stuntz, Mr. Rosen, and Ms. Amir Lin were happy with the bond as is.

Mr. Stuntz motioned to approve the lease as drafted. Mr. Rosen seconded, and it was unanimously approved via a roll call vote, Ms. Amir Lin, Mr. Stuntz, Mr. Rosen.

Mr. Mostoller reviewed the necessary acquisition of registered land for this project with the board.

Ms. Amir Lin motioned that the commissioners of the Water Supply District of Acton, Barry Rosen, Stephen Stuntz, and Erika Amir Lin, approve, accept, and execute the proposed deed purchase of 36 Knox Trail(Land Court, Lot 30L.C.C 25398J, book 963, page 153) and 104 Powder Mill Road Rear (Middlesex County Registry book 28877, page 294) in Acton Massachusetts as authorized by District Vote in Article 16 of the March 15th 2023 Annual Meeting.

Mr. Rosen seconded the motion, and it was unanimously approved via a roll call vote; Ms. Amir Lin, Mr. Stuntz, Mr. Rosen.

Ms. Amir Lin motioned to authorize the District Manager, Matthew Mostoller, to act on behalf of the commissioners in conducting the closing of 36 Knox Trail and 104 Powder Mill Road Rear, all as authorized by District vote, and to sign and endorse all instruments and deliver all documents with respect to the District's purchase of said property, including but

not limited to, closing disclosures, HUD, ALTA or other settlement statements, and any or all other required closing documentation.

Mr. Rosen seconded the motion, and it was unanimously approved via a roll call vote; Mr. Stuntz, Ms. Amir Lin, Mr. Rosen.

NEW BUSINESS:

Discussion of Cell Tower Leases – Great Hill and Nagog Hill Tank sites

Mr. Mostoller updated the board on the Great Hill Cell Tower Lease. There are three carriers on that tower, earlier this year the primary carrier asked about extending the terms of the lease for another 20 years with a \$20,000 signing bonus under the same terms and conditions. After talking through this option, if the District cannot accept this offer as it may need to be rebid, however the bid may not be the most competitive. The current monthly valuation is \$11,500 a month on the lease. The proposed floor on the value of the lease at Nagog Hill, would be starting at \$24,000 a month. Mr. Mostoller asked the board to engage in a discussion on this, if they are pleased with these terms. He noted they had reached out to the AG's office to ask for clarity on this proposal.

The board then began their discussion with Mr. Mostoller about the Great Hill Tower Lease. Mr. Rosen asked some clarifying questions on price, previous lease agreements, ownership of the tower, and subletting responsibilities. Mr. Rosen expressed support for leases that are fairly similar to each other and simplify the payment process. Mr. Rosen noted that he would prefer to skip the \$20,000 signing bonus in favor of a yearly escalator like they did with Baldco to assist with budgeting for the 20-year lease.

Mr. Stuntz shared his thoughts on the lease, remarking that he would like to review the initial lease agreements to see how the situation has changed. He noted the concern about having very high sublease rates that have no benefit to the District. Ms. Amir Lin commented that she is not opposed to re-upping the lease at a higher number. The board then discussed the value of the cell towers

Mr. Petersen said the contracts should be as simple as possible to ease the administration burden. Mr. Petersen asked if the board has a consultant that can assess these contracts and compare what's considered fair value in the market. Mr. Mostoller responded that Counsel has some experience with this and has been reviewing these terms. Mr. Mostoller and Mr. Petersen then discussed the feasibility of bringing in a contractor to evaluate this contract.

Ms. Amir Lin asked about the timeline for this, to which Mr. Mostoller noted they have approximately 4 years before the contract ends.

The board and Mr. Mostoller continued the discussion on bringing in an outside contractor to provide specialized insight. Ms. Amir Lin noted that she doesn't believe this to be necessary because of the cost to do so and the experience of District Counsel.

The Board then discussed the timeline of the project in comparison to other projects. After much discussion the board directed Mr. Mostoller to inform the company that they are interested in renewing the lease but are not yet ready to discuss dollars, but they are willing to negotiate.

Mr. Mostoller directed the commissioners to discuss the Tower Lease at Nagog Hill. This lease was approved at the Annual Meeting this year and Mr. Mostoller wanted to bring this to the board before they carried out the RFP. Mr. Mostoller proposed the existing lease time frame of 20 years, made up of four 5-year increments, to which the board agreed. Mr. Mostoller then discussed the clause to make improvements to the property like electrical service and road improvements, asking the board if they are comfortable asking for those types of improvements. Mr. Rosen asked if this is out of the norm, to which Mr. Mostoller responded that District Counsel didn't think it was an unusual ask.

Mr. Mostoller then asked about what kind of priority the board wants to put on this lease as Ms. McCarthy has developed a rough draft of the RFP and will incorporate tonight's discussion. The draft will then be reviewed by District Counsel.

The Board then opened a discussion on this topic. Mr. Rosen noted this should be a priority because it's a new revenue source that would be beneficial to the District. Mr. Mostoller reviewed a possible timeline to return the RFP in early fall and allow a proponent to begin permitting over the winter, with possible spring 2025 construction. Ms. Amir Lin asked about the lead time, to which Mr. Mostoller reviewed basic construction needs. The Board expressed support for perusing this project in a way that does not hinder other time sensitive projects.

Ms. Alissa Nicol commented on the previous topic on the Cell Towers. She was pleased that they are pursuing revenue sources and asked if the planning would require a special permit. Mr. Mostoller did not know what kind of permit would be necessary for the developer to acquire for the proposed cell tower.

Discussion of State Housing Goals related to Water Resource Concerns

Mr. Mostoller reviewed this item with the board, saying that at the state level there has been vocal support for the MWRA expansion into the South Shore. Mr. Mostoller wanted to draft a letter to the District's legislative delegation about the importance of water supply issues to serve the state's current housing goals for the MetroWest region.

Mr. Mostoller related this back to conversations at the District's Annual meeting and the Town Meeting, that increased housing means increased water needs. Acton has not decided about pursuing an MWRA connection, but Mr. Mostoller wants to say they do not want to be excluded from state support such as was included in the housing bond bill for the South Shore. Mr. Mostoller told the board that he would have a formal draft ready in the morning for the board to review.

Mr. Stuntz agreed with Mr. Mostoller's assessment.

Ms. Amir Lin supported Mr. Mostoller's letter, not just for the MWRA opportunity but for water needs to address the housing need, and so that MetroWest does not get sidelined in the larger conversation.

Mr. Rosen shared his thoughts, that the District should inform legislators about the need for infrastructure to support development and redevelopment for areas of town with older water infrastructure. He continued that MetroWest is often neglected because of its distance from Boston, but the area is growing regardless, and that housing demand needs sufficient water and wastewater infrastructure. Mr. Rosen concluded that it may be good to get the Town of Acton on board with this letter or to ask them to send their own parallel letter.

Ms. Alissa Nicol commented that she is happy to bring this issue up to the Selectboard at the next meeting, but that will not be until late August.

Mr. Mostoller commented that while the Town is welcome to write their own parallel letter, there are unique concerns and needs of the District to raise at this time, so this letter should be from the District only.

Mr. Mostoller thanked everyone for their comments and outlined the timeline to finalize this letter.

Mr. Rosen motioned to close the regular open meeting currently in session, and have the Commissioners enter an executive session pursuant to General Law chapter 30A section 21a6 to consider the purchase, taking or value of real property, and to not reconvene in open session. Mr. Stuntz seconded the motion, and it was unanimously approved via a roll call vote, Ms. Amir Lin, Mr. Stuntz, Mr. Rosen.

Open meeting closed at 8:22 pm.