

Board of Water Commissioners

Meeting Agenda

Monday, September 11, 2023 @ 6:30 PM

- A. Comments from the public
- B. Approve minutes from the meeting of 8/28
- C. Appoint one Commissioner to sign warrants while conducting meetings virtually
- D. OLD BUSINESS:
 - a. Update on 549 Main Street
 - b. Award of MVP Grant
 - c. Vote to approve the sale of the \$4,900,000 General Obligation Bond Anticipation Notes of the District dated September 20, 2023
 - d. Per- and Polyfluoroalkyl Substances (PFAS)
 - e. Current sample data, if available
 - f. Discussion of Additional PFAS Upgrades
 - g. North Acton PFAS Loan Agreement Amendment
 - h. PFAS MDL Settlement Discussions
 - i. Discussion of Outdoor Water Use Restrictions for 2023
- E. NEW BUSINESS:

Any agenda item(s) which did not come to the attention of the Board of Water Commissioners 48 hours prior to this meeting and were not reasonably anticipated.

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. To discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the District.

Present at Tonight's Meeting:

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

District Manager: Matthew Mostoller

District Treasurer: Christine McCarthy

District Counsel: Mary Bassett

Members of the Public: Kim Kastens and Ron Parenti

Start of Minutes

At 6:30 pm connected remotely, Erika Amir-Lin opened the Acton Water District Board of Commissioners Meeting.

Having been previously notified, the Chair informed the Board that Mr. Stuntz would have to leave the meeting early and moved several pressing agenda items that required his presence up in the order of the meeting. The meeting was conducted in procession of agenda items as follows.

D. OLD BUSINESS

Update on 549 Main Street & Award of MVP Grant

Mr. Mostoller informed the Board that they had received the Municipal Vulnerability Preparedness (MVP) Action Grant, affording them around \$1.5 Million towards the project. There is an associated public engagement piece of the project they have been doing for the past 9 months, which they will continue to do once the land has been acquired and opened for public access. Mr. Mostoller commented that they are very pleased to receive this grant and thanked the Selectboard for signing off on the application, as well as the Sudbury Valley Trustees who encouraged them to pursue the grant early on. Mr. Mostoller informed the Board that this is the first year that MVP grants were made available to entities like the Acton Water District, and they are one of the recipients of the grant that is not a city or town.

Ms. Amir Lin thanked the staff for their work.

Mr. Mostoller moved to the next item related to this project which is voting to approve the short-term borrowing for the acquisition. Mr. Mostoller explained that because of how the District is purchasing the land they are technically financing it. They do have several sources of funds from grants and the community preservation act, but they do have to bond the purchase price upfront. Ms. McCarthy has been working to get a bond anticipation note.

Ms. McCarthy explained to the Board that the BAN sale took place on September 6th and the awarded bid was a 5% rate with a net interest cost of 3.952. Ms. McCarthy informed the Board that she has all of the closing documents prepared in her office and asked that they stop by to sign them between Tuesday and Wednesday so everything can be sent to Bond Counsel by Thursday afternoon.

Vote to approve the sale of the \$4,900,000 General Obligation Bond Anticipation Notes of the District dated September 20, 2023

Mr. Rosen motioned to Vote to approve the sale of the \$4,900,000 General Obligation Bond Anticipation Notes of the District dated September 20, 2023 and payable March 20, 2024, to TD Securities (USA) LLC at par and accrued interest plus a premium of \$25,676. Mr. Stuntz seconded the motion, and it was unanimously approved via a roll call vote; Mr. Rosen, Mr. Stuntz, Ms. Amir Lin.

Mr. Rosen further motioned that the Board vote in connection with the marketing and sale of the bonds, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated August 30th 2023, each in such form as may be approved by the District Treasurer, be and hereby are ratified,

confirmed, approved and adopted, and that the board further vote that the District Treasurer and the Board be, and hereby are, authorized to execute and deliver a significant events disclosure undertaking in compliance with SEC Rule 15c2-12 in such form a may be approved by bond counsel to the District, which undertaking shall be incorporated by reference in the Bonds for the benefit of the holders of the Bonds from time to time, and the Board further vote that we authorize and direct the District Treasurer to establish post issuance federal tax compliance procedures and continuing disclosure procedures in such forms District Treasurer and bond counsel deem sufficient, or if such procedures are currently in place, to review and update said procedures, in order to monitor and maintain the tax-exempt status of the Bonds and to comply with relevant securities laws, and that the Board further vote that any certificates or documents relating to the Bonds, (collectively, the “Documents”), may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document; delivery of an executed counterpart of a signature page to a Document by electronic mail in a “.pdf” file or by other electronic transmission shall be as effective as delivery of a manually executed counterpart signature page to such Document; and electronic signatures on any of the Documents shall be deemed original signatures for the purposes of the Documents and all matters relating thereto, having the same legal effect as original signatures, and the Board further vote that each member of the Board, the District Clerk, and the District Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts, or other documents as may be determined by them or any of them, to be necessary or convenient to carry into effect the provisions of the forgoing votes.

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

Appoint one Commissioner to sign warrants while conducting meetings virtually

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

Approve minutes from the meeting of 8/28

Mr. Rosen motioned to approve the minutes of the August 28, 2023, meeting, Mr. Stuntz seconded the motion, and it was unanimously approved via a roll call vote; Mr. Rosen, Mr. Stuntz, Ms. Amir Lin.

Comments from the public

No Comment from the public

At 6:45 Mr. Stuntz left the meeting.

Return to OLD BUSINESS:

Per- and Polyfluoroalkyl Substances (PFAS)

Current sample data, if available

Mr. Mostoller provided the Board with the August results. On August 14th North Acton sampled at 23.9 ppt and South Acton came in at 17.6 ppt. On August 23rd Center Acton sampled at 8.4 ppt. With these results it does appear that they will be out of compliance for the third quarter at North Acton. Mr. Mostoller explained that they would need a sample somewhere around 13 or 14 in September to be in compliance, which seems unlikely. This is a result of elevated July and August samples, however, to complicate the matter, the recent storm on Friday took out the Marshall Well which is a source that regularly tests low for PFAS. Mr. Mostoller predicts that if Marshall Well is unable to come back online then results may increase beyond the August levels. With the Marshall Well, it wasn't just because of the loss of power, some of the equipment was damaged, possibly by the unusual electrical activity in the system related to the storm; staff is still troubleshooting the issue. Both North and South Acton plants are currently operating. They plan to sample this upcoming Friday and then put Center Acton on for the last week and a half of the month. If they are not in compliance with MassDEP PFAS MCL then they will have to send out a public notice again. Mr. Mostoller did note that this public notice could include information about the ongoing projects at the treatment plants that relate to PFAS treatment upgrades.

Discussion of Additional PFAS Upgrades

Mr. Mostoller informed the Board that the contractor for the North Acton Project has been off the job for 3 weeks. They are waiting for the equipment provider Suez to have the filter vessels complete and ready to ship. They are working on getting the temporary VFD's and have not heard back from the contractor about this. We have a proposed change order on the project. When the plant was built, it was believed that the electrical conduits were encased in concrete, but the contractor discovered otherwise and is doing work underneath the existing conduits that will be needed to properly support the conduits.

For the Center Acton Project, the engineer will be completing borings in the next few weeks. Wright Pierce was able to meet with Mr. Mostoller and the Zoning Officer. The good news from that meeting is that the height won't be an issue as previously thought, however the lack of frontage will require them to reapply for a variance. They will be able to go to the ZBA in November for a variance.

For South Acton they are making progress with Weston and Sampson. For the next two weeks they'll be working through the proposed process and sizing. The South Acton plant was designed for a higher flow rate than currently in place, so they are working on determining appropriate flow rates for the PFAS system. Both engineering teams are working towards the SRF deadline in October.

Ms. Amir Lin asked if they foresee any issues with the frontage variance, Mr. Mostoller said he doesn't expect any issues because it was approved 2.5 years ago, and the project is associated with remedying PFAS which is of high priority.

North Acton PFAS Loan Agreement Amendment

They are currently working to get a copy of Sudbury's Language for reference. The Board then briefly discussed the process with Ms. Bassett.

PFAS MDL Settlement Discussions

Mr. Mostoller informed the Board that the MDL is beginning to take shape. Multiple proposed settlements have come from 3M and Dupont. Kidde-Fenwal has also filed for bankruptcy but is in a good position to enter a settlement. The guidance on determining funds is coming into view, and it looks like it

may be based on the highest concentration of PFOA and PFOS, and the flow rate of the impacted sources. Additional factors would be based on when it was first detected and if sampling exceeds any current or proposed federal or state MCL. Staff are working on making a spreadsheet with the options available for Acton. November will be the first decision date. Ms. Bassett asked if they should speak with their special PFAS Counsel on whether to stay in or out of the settlement, and Mr. Mostoller agreed saying they are trying to assess what the payout might look like and anticipate the costs. There is some concern from some of the Attorneys General from multiple states, including Massachusetts, that municipalities may be selling themselves short, but more detail and language on the settlement is needed to make a decision.

Discussion of Outdoor Water Use Restrictions for 2023

Because this is the last meeting before October 1, Mr. Mostoller wanted to revisit the outdoor water use restrictions. The Board discussed the restrictions currently in place, and the anticipated weather for the rest of the growing season, as well as past actions to extend water restrictions. Mr. Mostoller pointed out that while the restriction may not make a huge difference in practice, it may demonstrate the Board's responsiveness to customers. Mr. Mostoller pointed out that since 2021 they have had year-round water use restrictions in place.

Mr. Rosen stated that he is not in favor of completely removing restrictions but would consider going back to the 3 day a week guidance until the spring. Ms. Amir Lin agreed, pointing out a transition to slightly less restriction is less of a change than it would be from restricted to completely unrestricted, especially given the PFAS emergency.

Mr. Rosen motioned for the Acton Water District to implement a 3 day per week watering schedule for the District Manager to communicate beginning in October. Ms. Amir Lin seconded the motion, and it was approved via a roll call vote; Mr. Rosen, Ms. Amir Lin. Mr. Stuntz was absent from the vote.

NEW BUSINESS:

Mr. Mostoller provided an update on the storm activity from the weekend. Acton was hit particularly hard by the storm, and the Water District was no exception. 80% of facilities were out of power, except for South Acton. From facilities going on and off due to power issues, along with the generators transferring on and off, it can create disruptions in water quality. The District did lose the Marshall Well Field, which is critical to North Acton Treatment Plant, some of the equipment had been damaged by electrical activity so even after power came back on the instruments were unusable. Andrew Peterson, the on-call operator, logged 17 hours of overtime for conducting dig safes in support of Eversouce and resetting facilities. Since the storm they have had issues with wash out and fallen trees on District property. Ms. Amir Lin asked if there was any building damage and Mr. Mostoller responded that there is no obvious building damage. As of right now no emergency funds are needed. Ms. Amir Lin thanked the operations staff for their work during a very long weekend.

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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. To discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the District.

The Board did not require an Executive Session.

Mr. Rosen motioned to adjourn the meeting of the Acton Water District. Ms. Amir Lin seconded the motion and it was approved via a roll call vote; Mr. Rosen, Ms. Amir Lin. Mr. Stuntz was absent from the vote.

Meeting closed at 7:22 pm.