

Board of Water Commissioners Meeting Minutes
Acton Water District
693 Massachusetts Avenue, Acton MA
Monday, September 14, 2020

AGENDA

A. Maureen Mara of Mara & Associates for annual audit report

B. Comments from Citizens

C. Approve minutes from meeting of 8/31

D. OLD BUSINESS:

1. Appoint one Commissioner to approve warrants while conducting meetings virtually
2. Email regarding land lease with Baldco for 104 Powdermill Road-Rear
3. Update on proposed solar project on Lawsbrook Road
4. Follow-up discussion of presentation from Harold Naughton of Napoli/Shkolnik law firm on PFAS litigation
5. Update on Per- and Poly-Fluoroalkyl Substances (PFAS)

E. NEW BUSINESS:

1. Approve the rollover of the Promissory Note for refinancing the borrowing for the purchase of 585 Main St and engineering for the Central Acton Water Treatment Plant

Present at Today's Meeting:

Commissioners: Erika Amir-Lin (Chair), Barry Rosen, Stephen Stuntz
District Manager: Chris Allen
District Treasurer: Mary Jo Bates
District Counsel: Mary Bassett
Environmental Manager: Matthew Mostoller
Commissioners Secretary: Lynn Protasowicki

Attendees:

Maureen Mara, Mara & Associates
Louis Levine, Legal representation for Baldco, Inc./Money Matters Radio
Kim Kastens, Green Acton

Due to the COVID-19 stay-at-home order by Governor Charles Baker, the Board of Water Commissioners meeting was not held at the Acton Water District office instead the meeting was held via a video conference using Zoom. The meeting was called to order at 7:03 PM on Monday, September 14, 2020 by Ms. Erika Amir-Lin.

A. Maureen Mara of Mara & Associates for Annual Audit Report:

Maureen Mara provided the annual review of the audit which was completed a couple of weeks ago. The Commissioners have been provided a copy of the full financial statement and the management report letter. The following are highlights from the main report:

Unsold Water Percentage – comparison of what is pumped out of ground to what was sold. Very consistent compared to the recent past. 12% range with good practices.

Net Pension Liability - 72 municipalities and districts add to the Middlesex County Retirement System. The District's Net Pension Liability decreased. Primarily because rate of return was really good (16% in 2019).

Other Post-Employment Benefits (OPEB) - The District has fully (over) funded on their OPEB liability. The District has had a trust fund for past 9 years and is now fully funded. \$100K over funded. Need \$1.1 million to pay for retirees' health insurance and the District has \$1.2 million set aside. The District management is cautiously starting to use this money for the retirees' health insurance instead of paying for them through the budget. Ms. Bates stated that the District plans to use between \$50,000-\$60,000 this year to help supplement the health insurance in fiscal year 2021.

Fund Balances as of June 30th - free cash increased from \$870K to \$1.46 million. Water rates have increased over a million dollars over that last 6 years.

District Investments - The District has two investment funds (Grace Fund and OPEB Trust Fund) that are managed by Boston Financial Management. These two funds continue to be invested well.

Accounting Software - The District's accounting system has been pushed to its limits. Ms. Mara and Ms. Bates discussed accounting systems and agreed that it is time the District update their system. Ms. Bates will be looking at standardized packages as opposed to what the District is currently using.

She noted that accounts receivable has increased significantly with an increase of over \$70K. She thinks it is COVID related. Customers aren't paying their bills on a timely manner as in years past.

She stated that the free cash has been submitted to Massachusetts Department of Revenue; just waiting on approval.

B. Comments from Citizens:

Kim Kastens: she mentioned that she saw the District's meeting packet from August 31st that the District is considering switching meeting dates in 2021 so that they don't conflict with Acton Board of Selectmen (BOS). Ms. Amir-Lin stated that yes there was an ask by the BOS for the District to consider switching their meeting dates so that there is no

conflict with their meetings. This would allow for more BOS members to attend District meetings and vice versa.

Kim Kastens: stated that Green Acton and the League of Women Voters are holding a PFAS forum in October. Ms. Amir-Lin asked for her to hold her comments until they got to the PFAS agenda at tonight's meeting.

C. Approve Minutes from Meeting of August 31, 2020:

Mr. Rosen motioned to approve the minutes of August 31, 2020. Mr. Stuntz seconded the motion, and it was unanimously approved by a roll call vote: Mr. Stuntz, Mr. Rosen, Ms. Amir-Lin

D. OLD BUSINESS:

1. Appoint One Commissioner to Approve Warrants While Conducting Meetings Virtually.

Mr. Stuntz moved to appoint Mr. Rosen as the Commissioner to approve warrants while conducting meetings virtually. Ms. Amir-Lin seconded the motion, and it was unanimously approved by a roll call vote: Mr. Stuntz, Ms. Amir-Lin, Mr. Rosen.

2. Email Regarding Land Lease with Baldco for 104 Powdermill Road-Rear.

Attorney Louis Levine, representing Baldco, updated the Commissioners. He stated that by the end of September, Baldco will fence in their property to prevent D&H Loam from going onto their property and they will also install cameras. He reached out to Kristen Guichard at the Planning Department and explained the District's concerns that D&H Loam's activities are possibly in violation of the Acton Zoning Groundwater Protection District Bylaws. Kristen is looking for a narrative be provided from the District of their concerns and to include any supporting information (i.e. drone aerial surveillance video). She will then set up a meeting to see if that is a violation of the zoning bylaw. Mr. Levine stated that Baldco would like to proceed with the 20-year lease and if the District would like to add in contingencies or milestones that is fine.

Mr. Rosen: just asked for clarification that the Baldco will have fence installed by October 1st. Mr. Levine replied yes.

Mr. Allen mentioned that Attorney Levine can submit to the planning board the historical letters that Mary Bassett wrote and can include the recent drone photos. The District will send these to him for him to submit.

3. Update on Proposed Solar Project on Lawsbrook Road.

Mr. Allen provided an update on the proposed solar project on Lawsbrook Road. He stated that the Article 3 passed at the Special Town Meeting. Article 3 which gives the Town Manager the authority to negotiate and enter into the Payment in Lieu of Taxes (PILOT) agreement with the solar developer, EDF Renewables. Mr. Allen mentioned that in speaking with EDF Renewables they told him that in the lease a threshold cap of \$45K

appeared and that anything above \$45K was to be deducted from the lease revenue. Counselor Bassett stated that we will not accept those terms if that is in the lease. Mr. Allen stated that the lease is still be negotiated.

4. Follow-up Discussion of Presentation from Harold Naughton of Napoli/Shkolnik Law Firm on PFAS litigation.

Ms. Amir-Lin stated that a version of the potential agreement circulated to all for review. Counselor Bassett made comments. Does Counsel have any other comments? Counselor Bassett stated that they made all the changes she had. She has reviewed the revised agreement and the retainer, and it all looks good. Mr. Allen is impressed with the toxicologist; felt the presentation was thorough; happy to hear that they plan to open an office in the Boston area; and nice to know that the District can utilize their media relations if need be. Mr. Allen recommends that we hire Napoli/Shkolnik Law Firm.

Kim Kastens: asked who are the other defendants in the litigation? Mr. Allen stated it is 3M, Tyco, Dupont, and Chemours.

Mr. Rosen is happy with revisions in the agreement; Harold Naughton did a good presentation; he knows of them through an associate; they have a good toxicologist who can be made available to the District and not have to pay extra for his services; and happy that they will be opening up a Mass office. He stated that it looks like they want to work with us and that they won't "nickel and dime" the District. He noted that the agreement was simple to follow, and he recommends that the District hire the law firm.

Ms. Amir-Lin agrees with the Board that this is a good agreement.

Mr. Stuntz motioned to approve the hiring of Harold Naughton of Napoli/Shkolnik Law Firm on PFAS litigation. Mr. Rosen seconded the motion and it was unanimously approved by a roll call vote: Mr. Stuntz, Mr. Rosen, Ms. Amir-Lin.

Counselor Bassett suggested that the District should keep track of the expenses incurred in our fight against PFAS for our own records and possible reimbursement in a settlement.

5. Update on Per- and Poly-Fluoroalkyl Substances (PFAS).

Mr. Rosen was wondering if the PFAS forum might be a good opportunity for : speaking at the forum - should we ask Harold Naughton of Napoli/Shkolnik Law Firm and the toxicologist to speak at the forum. Ms. Kastens stated that she is not eager to bring in a 4th person since it is a Zoom forum. She is thinking about another event to have folks hear from the law firm, but this isn't the right forum.

Kim Kastens: Green Acton and the League of Women Voters is eager to have the District involved in the PFAS forum. There will be three panelists with Matt Mostoller being one

of the guest speakers. Matt to speak. The tentative dates for the PFAS forum are either Wednesday, October 14th or Wednesday, October 21st from 7-8:30 PM.

Mr. Mostoller stated that the sample results are still pending with the lab. Otherwise no other updates.

Mr. Allen informed the Commissioners that the District was awarded the \$200,000 PFAS grant from Mass DEP.

Mr. Mostoller informed the Commissioners that he will be receiving the Executive Director's Award from the Massachusetts Water Works Association for his work in PFAS with the District and within the state of Massachusetts.

Kim Kastens: inquired as to what is the pilot study is all about. Mr. Allen stated that we are testing treatment technologies at the North Acton Water Treatment Plant (NAWTP) for the removal of PFAS. The pilot incorporates combinations of Ion Exchange (IX) media and Granular Activated Carbon (GAC) in combined and stand-alone configurations. When the pilot is complete, we should have a technology that will be incorporate in a full-scale system at the NAWTP.

Other Old Business:

Mr. Mostoller provided an update regarding the arsenic found at the Clapp Whitcomb well. He stated that the sample that was collected on August 24th was lower than what we have been seeing at that facility. We will sample again this week which will be the September sample.

E. NEW BUSINESS:

1. Approve the Rollover of the Promissory Note for Refinancing the Borrowing for the Purchase of 585 Main Street and Engineering for the Central Acton Water Treatment Plant.

Ms. Bates stated that Century Bank & Trust Company was awarded the promissory note in the amount of \$715,000 (\$500,000 for the land acquisition and \$215,000 for Engineering WTF) at an interest rate of 0.65% which is for refinancing the borrowing for the purchase of 585 Main Street and engineering for the Central Acton Water Treatment Plant.

Mr. Stuntz made a motion to award the rollover of the promissory note to Century Bank & Trust. Mr. Rosen seconded the motion and it was unanimously approved by roll call vote. Ms. Amir-Lin, Mr. Rosen and Mr. Stuntz.

Other New Business:

46 High Street/The Preserve at Audubon Hill – This requires a 6” Main to service with a hydrant; one of our comments on the application was that they should look at interconnecting that with Audubon Hill development which abuts it to the rear. That is the basis for the email you received from the person representing Audubon Hill inquiring about that interconnection.

Mr. Rosen moved to adjourn the open meeting at 8:30 PM. Mr. Stuntz seconded the motion, and it was unanimously approved by a roll call vote.