

Board of Water Commissioners Meeting Minutes
Acton Water District
693 Massachusetts Avenue, Acton MA
Monday, November 2, 2020

AGENDA

- A. Comments from Citizens
- B. Approve Minutes from Meetings of 10/5 & 10/14
- C. Appoint One Commissioner to Approve Warrants while Conducting Meetings Virtually
- D. Old Business
 - 1. Update on Land Lease with Baldco for 104 Powdermill Road-Rear
 - 2. Update on Proposed Solar Projects
 - 3. Update on Per- and Poly-Fluoroalkyl Substances (PFAS)
- E. New Business
 - 4. Update from the Town of Acton Selectboard Meeting on 10/19 on the Re-Use of the WR Grace Property.

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: 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
District Finance Committee: David Butler

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 7:00 PM on Monday, November 2, 2020 by Ms. Erika Amir-Lin.

A. Comments from Citizens

There were no comments tonight.

B. Approve Minutes from Meetings of 10/5 & 10/14.

Mr. Stuntz motioned to approve the minutes of October 5th and October 14th, 2020. Ms. Amir-Lin seconded the motion, and it was unanimously approved by a roll call vote: Mr. Rosen, Ms. Amir-Lin, Mr. Stuntz

C. Appoint One Commissioner to Approve Warrants while Conducting Meetings Virtually.

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

D. OLD BUSINESS:

1. Update on Land Lease with Baldco for 104 Powdermill Road-Rear.

Attorney Louis Levine is present and spoke. He stated that the Planning Department visited the site with Board of Health and Conservation Department. Baldco installed fence on DH Loam side. Baldco installed security cameras. As a result of being no other issues, Kristin wrote an email to Mr. Allen stating that there are no other zoning violations and no other issues. Baldco would like to move forward with the lease. He appreciates the cooperation of AWD, the Planning Board, Zoning Board, etc.

Ms. Amir-Lin did see photos of the fence installed. Any comments from the Commissioners? Mr. Rosen inquired as to how do we (the District) determine and should we determine the permeability of what was left and what is contained within the materials that was left on District property? Mr. Mostoller stated that in a couple meetings ago he mentioned that the town staff wasn't going to resolve that issue and remains an unresolved component.

Mr. Levine stated that the big issue was the trespass; there is no indication that what is in the pile is more than just dirt. The Board of Health had no concern. Any evidence that the pile of dirt is more than just dirt? Mr. Stuntz stated that we could have it tested. We just don't know what it is. Mr. Mostoller stated that this is the byproduct of unusable material that DH Loam didn't have commercial use for. The pile is at least hundreds of yards of material (if not thousands of yards) that is sitting there.

Ms. Amir-Lin stated that the ongoing trespass was not the only issue; there were a number of concerns including ongoing activities by DH Loam on that property and how that may have changed the land use configuration and land grading. It's still not a resolved issue at this time.

Mr. Levine suggests would be to proceed with the lease; get past the RFP; we can negotiate the lease; we can put in the lease the dirt issue (whether it be testing or removal of it) with a timeline of removal of it. Not entering into a lease until the dirt pile is resolved. Mr. Stuntz stated that is fair and work towards those goals so we should move forward to have an Article on Spring warrant.

Mr. Mostoller stated he saw the drone flight and he is concerned with one of the fence lines and how well it tracks the property line. Mr. Levine stated that it was surveyed, and it should be 4ft back from Baldco property line. Asked Matt to circle his concern on the plot and send to him and he will check with the surveyor.

Mr. Allen stated that the next step is to put out an RFP for a long-term lease for existing use and existing structures. This is to make sure we are meeting state procurement laws. Commissioners then would sponsor an article for warrant to renew 20-year lease. Ms. Amir-Lin stated that voters would expect a plan of action as part of the explanation with that Article. Mr. Levine stated that the lease will have a mitigation plan (testing, removal and milestones).

Mr. Levine stated that within the month he will have a plan for the Commissioners to review.

Ms. Amir-Lin stated that we need to draft article by December; warrant closes in January.

2. Update on Proposed Solar Projects.

Mr. Allen provided an update not the proposed solar projects. He stated that he received the lease in what is, essentially, final draft form and returned to EDF and are waiting comment from them. We received an Alternative On Bill Credit Agreement (AOBCA) which is akin to a PPA (power purchase agreement) for off-take of power at the Lawsbrook array. We had engaged outside counsel (Mirrick O'Connell) for help with the Article 97 legislation. District Counsel and the District Manager had a conference call with an attorney from that firm who specializes in public permitting of these projects.

The Payment in Lieu of Taxes (PILOT) seems to be languishing and is stuck. The Town has engaged counsel and hired a consultant to evaluate this. From a municipal standpoint a PILOT can be inclusive of property tax and all the taxes necessary. The town is trying to vet that and insure they are doing the right thing. We are awaiting their response and requirements. We will be speaking with Mirrick and O'Connell on this regard. Counselor Bassett stated that town counsel has not yet agreed that we aren't a taxable entity and can't get a real estate tax bill. She is going to send a memo to her this week. Not sure what the issue is with the town and why they do not view us like a municipality. We are working on that.

Mr. Rosen stated that we are listed as a separate municipality for the town as in we even have the right to tax, is that correct? Counselor Bassett stated that we don't have the right to directly tax. If we needed to impose a tax the entity [AWD] would vote to do that, but we'd have to go through the town.

Ms. Amir-Lin stated that it looks like everything is proceeding for solar and then we wait to hear about pilot. Mr. Allen stated yes.

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

Mr. Mostoller stated that we continue to rely on last data set that was publicized. We are still waiting on September and October data. We just received our August report from the lab. The labs continue to be a bottle neck. We did do some sampling today in South Acton at Conant I. There is nothing more to update at this time.

We are working on provider of new technology (Altra Water (Formerly Sanexen, parent company of Aquapipe - developing PFAS remediation technology). They are applying for new technology approval through state of Massachusetts for use in drinking water. We hope to get them on site in the next couple of weeks. We are waiting on a pump for the North Acton Water Treatment Plant (NAWTP). They will be trying to prove their technology on our facility. It will give us good comparison for PFAS remediation, given that we just completed the pilot study of typical PFAS treatment technologies.

Ms. Amir-Lin inquired as to how long the pilot will take. Mr. Allen stated that it will take some time, several months, possibly into spring of 2021.

Mr. Allen mentioned that Assabet II is up and running with a lower PFAS concentration, is approved for use and will be contributing raw water to the South Acton Water Treatment Plant (SAWTP).

Other Old Business:

Mr. Allen stated that based upon today's Covid update from Governor Baker he sent an email to all District staff reminding them of the protocols in place. We did implement additional precautions relate to wearing of masks, which is required at all times when away from one's workstation.

D. NEW BUSINESS:

1. Update from the Town of Acton Selectboard Meeting on 10/19 on the Re-Use of the WR Grace Property.

Ms. Amir-Lin mentioned that she attended this meeting. Mr. Allen stated that he watched it on YouTube. Mr. Rosen submitted questions through Jim Snyder-Grant. He'd asked to show map displaying the proximity to the south Acton wells, which the representatives from WR Grace were unable to display. Ms. Amir-Lin stated that it was the real estate person not the environmental team. They did present the size of the solar array and the tentative plans. Big takeaway is that WR Grace will retain control over the land. Ms. Amir-Lin stated that Jim Snyder-Grant is open to discussion with the District to ensure that our concerns are considered.

For the purposes of source protection, the District has interest in acquiring one parcel of land from Grace that is north of Assabet III in the vicinity of Sinking Pond...it's the wooded site that was never developed towards Independence Road.

EXECUTIVE SESSION: Ms. Amir-Lin motioned to move into Executive Session at 7:50 PM 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 and to not reconvene in open session. Mr. Stuntz seconded the motion and it was unanimously approved by a roll call vote. Mr. Rosen, Ms. Amir-Lin, Mr. Stuntz

Board of Water Commissioners
Executive Session
Monday, November, 2, 2020
Via ZOOM video conference
Acton, MA 01720

Mr. Stuntz moved that the Commissioners enter into executive session at 7:50 pm, pursuant to MGL, Ch. 30A, sec. 21A (6) to consider the purchase, exchange, lease or value of real property, and that an open meeting may have detrimental effect on the negotiating position of the District. It was seconded by Ms. Amir-Lin.

Roll call vote: Mr. Stuntz, aye, Mr. Rosen, aye, Ms. Amir-Lin, aye.

Present:

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

District Manager: Chris Allen

District Counsel: Mary Bassett

Environmental Manager: Matthew Mostoller

District Treasurer: Mary J. Bates

Mr. Allen informed the Commissioners that he has been unable to come to an agreement on the utility easements needed for the CAWTP. Gail Mann, of G&M Valuation, will appraise the easements for an eminent domain taking. The estimated cost of the appraisal is \$4K. The appraisal will be available prior to the taking, so the Commissioners can award damages to the owners.

After discussion, Mr. Stuntz made a motion to proceed with the eminent domain taking of the easements at Post Office Square LLC/533 Main Street and Post Office Square Acton LLC for the installation of the gas line to the CAWTP. Ms. Amir-Lin seconded the motion and it was unanimously approved by a roll call vote:

Roll call vote: Mr. Stuntz, aye, Mr. Rosen, aye, Ms. Amir-Lin, aye.

Attorney Bassett will send the notice letter to the owners this week, for a taking to be executed on December 7, 2020.

Mr. Rosen made a motion to adjourn the Executive Session at 8:15 pm. It was seconded by Ms. Amir-Lin and unanimously approved by a roll call vote:

Roll call vote: Mr. Stuntz, aye, Mr. Rosen aye, Ms. Amir-Lin, aye.