

Board of Water Commissioners

Meeting Agenda

Monday, November 20, 2023 @ 7:00 PM

AGENDA

- Comments from the public
- Approve minutes from the meeting of 11/6 and 11/13
- 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
- PFAS MDL
- Master Plan Update
- Update on 549 Main Street
- Discussion of District Counsel

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.

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 Zoom Webinar and was recorded. The meeting was called to order at 7:00 PM on Monday, November 20, 2023, by Ms. Amir-Lin.

Present at Tonight's Meeting:

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

District Manager: Matt Mostoller

District Treasurer: Christine McCarthy

District Counsel: Mary Bassett

Environmental Manager: Alexandra Wahlstrom

Finance Committee: Bill Guthlein

Members of the Public: John Petersen, Kim Kastens

START OF MINUTES

Ms. Amir Lin opened the meeting at 7:00.

Comments from the public

None at this time.

Approve minutes from the meeting of 11/6 and 11/13

Ms. Amir Lin said that the Board would defer this approval of minutes because they were not available to be included in the meeting packet, so the Board did not have adequate time to review them prior to the meeting. The Minutes from 11/6 and 11/13 will be added to the December agenda for approval.

Appoint one Commissioner to sign warrants while conducting meetings virtually

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

OLD BUSINESS:

Per- and Polyfluoroalkyl Substances (PFAS)

Current sample data, if available

Mr. Mostoller reported that the North Acton sample from October 24th came in at 13.3 ppt which is much lower compared to sampling from previous months. All November sampling has been completed but it is unclear if results will be available at the next meeting.

Public notice about the North Acton MCL violation for the 3rd quarter will go out on November 29th. The notice will include postcards and emails.

Discussion of Additional PFAS Upgrades

Mr. Mostoller reported that on the 28th they expect to receive the two filter vessels for North Acton and the equalization tank. They are currently working towards having a flow of water in January, maybe not treated but ideally all the necessary connections will be made. Mr. Mostoller informed the Board that they will be having a construction update meeting tomorrow.

For the South Acton project, they will be having a meeting with Massachusetts DEP on 11-21-23. They met with the Conservation Commission last week regarding the project. The meeting went well, and they found no issues with the project, they are now waiting for DEP to issue a file number for the project to move forward and be voted on.

The Center Acton project will be before the ZBA on December 5th. The DEP has issued approval for the bedrock well, and it seems likely that new source approval will come through, they are only waiting for the Water Management Act permitting to be completed which will likely be done before the end of the year.

PFAS MDL

Mr. Mostoller reported that they did speak with the attorneys from Napoli Scholnik after they reviewed the flow rate work that District staff compiled. Mr. Mostoller said they have a better sense of what a payout could look like. Phase one of this is not only understanding the potential dollar figure of a settlement based on current defendants willing to negotiate a settlement, but it also includes additional parties that still need to settle. Discussion of this matter will continue in Executive Session.

Master Plan Update

Ms. Amir Lin stated that she would like to close out this agenda item from the last meeting. Ms. Amir Lin summarized the main points, that the MWRA would be its own separate study, and that the Master Plan would focus on existing needs. She then asked the Board if this reflects their desired direction moving forward.

Mr. Stuntz expressed his concern at calling it a Master Plan due to the likelihood that outsider views may believe it to be comprehensive for long term logistic operations when it functions more as an engineering plan. Mr. Stuntz then said he would favor calling it anything but a Master Plan to avoid that confusion. Mr. Rosen briefly suggested calling it a tactical engineering plan.

Mr. Mostoller informed the Board that this document has been called the Master Plan for several decades and that it functions as a Master Plan for the water system as a whole, not necessarily the entire organization.

After some brief discussion Mr. Stuntz suggested that the executive summary of the update should layout the purpose of the update as the engineering needs of the District's system.

Ms. Amir Lin agreed that the executive summary can state and contextualize the purpose of the report, however she advised the rest of the Board to consider how this would affect the revised scope for the consultant.

Mr. John Petersen then informed the Board that the Finance Committee had successfully met last week to discuss the working group for the other proposed study, and that he would be the representative of that working group. Ms. Amir Lin thanked Mr. Petersen for the update and said he can reach out to her about future updates.

Ms. Kim Kastens then commented that within the Master Plan she would like to have more emphasis put on how climate change may affect the system. Currently in the proposed scope there is a very small section about climate change, she would like to see this broadened so it can inform community planning.

The Board then resumed their discussion about the proposed scope of the Master Plan update. Mr. Rosen went over his thoughts on the various tasks in the proposed scope, specifying to cut task 3, keeping tasks 4 and 5, and commenting that the District already has a good handle on task 6. Mr.

Mostoller then provided his feedback and informed the Board that staff had reviewed the proposed scope and provided very specific sub-task revisions.

After continued discussion Mr. Mostoller thanked the Board for their feedback and said he would be taking the revisions and feedback back to the engineer for more revision on the proposed scope.

Ms. Kim Kastens commented that the Town had previously done a water supply evaluation as a part of another study which used a different method for evaluating water needs at undeveloped properties. Ms. Kastens asked the Board if the methods of this study may be useful to include in the Master Plan update to build upon knowledge from the Town's study. Mr. Mostoller thanked Ms. Kastens for her comment and replied that he can certainly discuss the idea with the engineer.

Update on 549 Main Street

Mr. Mostoller informed the Board that the official closing date has been set for December 7th, and that a meeting to discuss the project is on the calendar for December 4th. To prepare for the December 4th meeting there are several items that need to be prepared in advance. Mr. Mostoller and Ms. Bassett will be reaching out to the Board over the next few weeks outlining what they will need from the Commissioners. This list includes but is not limited to a vote to designate authority to sign closing documents. Mr. Mostoller asked the Board to communicate with him about their availability during that time.

Ms. Amir Lin asked if there were documents that needed to be signed in person; Ms. Bassett confirmed there are documents that will require Commissioners to come in and sign.

The Board then discussed their availability in and around that week, as well as preparation and procedure that will occur at the December 4th meeting and in the lead up to the meeting. Ms. Bassett continued to walk the Board through procedure for this project, and Mr. Mostoller provided an update on the Conservation Restriction. Ms. Amir Lin thanked Ms. Bassett and Mr. Mostoller for their work on this item.

Discussion of District Counsel

Ms. Amir Lin provided an update on the discussion of District Counsel. The Board interviewed two finalists and had discussed making a decision tonight if the Commissioners were ready. Ms. Amir Lin then opened the item for discussion.

Mr. Mostoller commented to clarify that any vote on this item tonight wouldn't be formally binding, the formal appointment would take place along with our annual appointments in the spring, any vote tonight could function as similar to a notice of award.

Ms. Bassett then commented she will make an effort between now and the formal appointment to onboard while avoiding double billing. Ms. Amir Lin thanked Ms. Bassett for her assistance.

Mr. Stuntz then provided his feedback on the two finalists. Mr. Stuntz commented that both candidates would work well, and the background of Petrini & Associates reminded him of the last time they sought a District counsel. With Mirick and O'Connell Mr. Stuntz commented that they would have a solid institutional memory and that he believed they would be able to handle the District's future complex needs. Mr. Stuntz then expressed his preference for Mirick and O'Connell.

Mr. Rosen then provided his feedback on the two candidates, remarking on Petrini's experience in municipalities. Mr. Rosen then discussed his view of the different sizes of the firms and how their operating styles complement the District's current operation. With Petrini in particular, Mr. Rosen thought their style of operation matched what the District is accustomed to. Mr. Rosen then discussed his views on the operating style of Mirick and O'Connell and its size. Mr. Rosen noted that both firms are qualified for the position, and he could see either one in the position, but he himself felt more comfortable with Petrini & Associates.

Ms. Amir Lin then provided her feedback on the two candidates, remarking that they were lucky to have two strong candidates to choose from. Ms. Amir Lin remarked that she was pleased with the relevant experience Mirick and O'Connell presented as specific to Districts, since sometimes Districts have different needs than other municipal entities. Ms. Amir Lin expressed her preference for Mirick and O'Connell.

The Board then expressed their preferences for the candidates, highlighting primarily the differences in size of the firms and their effect on the stability of knowledge within the firm if an associate leaves. At the end of discussion, the Board members agreed on Mirick and O'Connell as their preferred candidate.

When asked by Ms. Amir Lin for comment Mr. Mostoller responded that he had reached out to a former colleague who was familiar with both the candidates to gain their insight. The former colleague informed Mr. Mostoller that both firms were great choices and that if the Board had to choose between them, there is no wrong choice as they are both high-quality firms.

Ms. Amir Lin thanked the Commissioners for their insightful discussion of the candidates, and Mr. Mostoller for his part in managing the process.

Mr. Rosen motioned for the Acton Water District to make an interim appointment of Mirick and O'Connell as Counsel until the District performs its annual appointments, at which time they would be assigned District Counsel. Mr. Stuntz seconded the motion, and it was unanimously approved via a roll call vote; Mr. Stuntz, Mr. Rosen, Ms. Amir Lin.

Mr. Mostoller informed the Board he would be reaching out to the other candidates to thank them for their time and interest in the position.

NEW BUSINESS:

The Board had no new business to discuss at this time.

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.

Ms. Amir Lin 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 General Law chapter 30A section 21 9 to discuss

strategy with respects to litigation if an open meeting may have a detrimental effect on litigating position of the District; and to not reconvene in open session.

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

Open Meeting closed at 7:45PM