

Board of Water Commissioners  
Meeting Minutes  
Acton Water District  
693 Massachusetts Avenue, Acton, MA  
Monday, December 7, 2020

AGENDA

- A. Comments from Citizens
- B. Approve Minutes from Meeting of 11/16
- C. Appoint one Commissioner to approve warrants while conducting meetings virtually

D. NEW BUSINESS:

- 1. Authorize Order of Taking of Utility Easements for Parcels at 533 Main Street & 20 Jasmine Circle Related to the New Central Acton Water Treatment Plant (CAWTP)
- 2. Review DRAFT Budget for Fiscal Year 2022 (FY '22)

E. OLD BUSINESS:

- 1. Update on Proposed Solar Projects
- 2. Update on Per- and Poly-Fluoroalkyl Substances (PFAS)

EXECUTIVE SESSION— To discuss strategy with respect to litigation as 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), Stephen Stuntz, Barry Rosen

District Manager: Chris Allen

District Treasurer: Mary Jo Bates

District Counsel: Mary Bassett

Environmental Manager: Matthew Mostoller

Commissioners Secretary: Lynn Protasowicki

Finance Committee: Chuck Bradley, David Butler, Bill Guthlein and Bill Mullin

Citizens: Kim Kastens

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. The meeting was called to order at 7:02 PM on Monday, December 7, 2020 by Ms. Erika Amir-Lin.

A. Comments from Citizens.

Kim Kastens spoke and informed the Board that she on behalf of Green Acton attended a quarterly Zoom meeting at EPA headquarters back in October. The citizen groups that are invited to attend have to have a specific "ask". Her specific ask that she brought to the meeting was that the EPA should be more transparent with the WR Grace site specifically with reuse with WR Grace site. She did get response from EPA. They just verified that they plan to have a public stake holders meeting in February 3<sup>rd</sup> via Microsoft Teams. Green Acton was invited to send potential stakeholder names, so they sent along the Commissioners and Acton Water District, so watch for an invite. She is not sure of time. Ms. Amir-Lin asked Kim what the format will be. Kim mentioned that they will have several presentations followed by Q&A (i.e. history of site, current status of the remedy, recent data, and plans for solar array). Green Acton asked for another section on development beyond the solar array. She also informed the Board that Green

Acton formed a working group around the WR Grace water reuse and Ron Parenti (past Commissioner) is in the working group.

**B. Approve Minutes from Meeting of 11/16/2020.**

Mr. Stuntz motioned to approve the minutes of November 16, 2020. Mr. Rosen seconded the motion, and it was unanimously approved by a roll call vote: Mr. Stuntz, Mr. Rosen, and Ms. Amir-Lin.

**C. Appoint One Commissioner to Approve Warrants While Conducting Meetings Virtually.**

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

**D. NEW BUSINESS:**

*1. Authorize Order of Taking of Utility Easements for Parcels at 533 Main Street & 6 Post Office Square related to the New Central Acton Water Treatment Plant (CAWTP).*

Counselor Mary Bassett stated that the Board of Commissioners exercises their authority to take a property by eminent domain. She has sent out 30-day notices to the owners of the properties advising them that they had a meeting in November to discuss the order of taking and informing them that on December 7, 2020 the Board of Commissioners were meeting to authorize the order of taking. There are two separate orders of taking to be authorized this evening: 533 Main Street and 6 Post Office Square. Both properties we are not taking a fee, underlying ownership of the property, all we are taking is a non-exclusive utility easement. The properties have been surveyed: 6 Post Office Square - 699 square foot easement area and at 533 Main Street has 856 square feet easement area. Counselor Bassett read the Orders of Taking for the Commissioners, and they are attached to tonight's packet.

Mr. Stuntz moved to take 533 Main Street property by eminent domain and award damages sustained for \$4,900. Mr. Rosen seconded the motion and it was unanimously approved by a roll call vote: Ms. Amir-Lin, Mr. Stuntz, and Mr. Rosen.

Mr. Rosen moved to take 6 Post Office Square (also known as 20 Jasmine Circle) property by eminent domain and award damages sustained for \$2,500. Mr. Stuntz seconded the motion and it was unanimously approved by a roll call Mr. Stuntz, Mr. Rosen, and Ms. Amir-Lin.

*2. Review DRAFT Budget for Fiscal Year 2022 (FY '22).*

Mr. Allen screen-shared the draft budget for it to display so that folks could review and discuss.

**Highlights:**

1. Long term debt – We've been informed that the Central Acton Water Treatment Plant (CAWTP) will be entering into permanent financing through the MA Clean Water Trust in April 2021. Originally, it was expected to be in 2022.
2. Related to operations of the CAWTP there will be increases in the Chemicals line item and Lights/Power/Fuel line item to accommodate the increase in electrical demand from the new facility and the additional chemical use due to higher flows from the plant.
3. Health/Life Insurance is proposed to be supplemented from OPEB account this year at \$66k.

Mr. Rosen had one question regarding the solar array – besides the revenue from the lease, are we getting any energy credits out of this that we can apply towards our electrical bills? Mr. Allen stated that energy credits will be in the reduced purchase price for supply and will impact the lights/power/fuel line item in the budget. We don't know when this will happen and not accounted for in the budget due to the unknown commissioning date of the Lawsbrook array.

Ms. Amir-Lin was curious about the change in the funding deadline and going over to the permanent financing for the Central Acton Water Treatment Plant. Ms. Bates stated that the explanation from the Trust was more than 50% of the funds will be drawn by April and at that point it is eligible for permanent financing. The District asked if we could push it off until October 2021 and they were not amenable to that request. She is working on the Trust to try and get them to push it out.

The Commissioners have no other general questions on the draft budget at this time.

Mr. Chuck Bradley asked for more clarification on the Short-Term Debt and Long-Term Debt numbers. Ms. Bates will send him a breakdown on those.

Ms. Bates mentioned that the debt fee has to go up to \$78 (it's currently at \$57). She needs to have a discussion with the Finance Committee about perhaps raising the debt fee sooner but not raising it as much so we can smooth out over 6 quarters because we had originally anticipated not taking on permanent financing for Central Acton until some other things were paid off. Mr. Rosen asked how far would we have to get the long-term debt pushed out to lower that increase from \$78 down to \$60? If we could get them to roll it, one quarter further out would it allow us to do that? Ms. Bates stated that the original projection was for them to put permanent financing October which means our first payment wouldn't be until FY2023. And that would give us opportunity to pay off all our short-term debt and Knox Trail debt. She is in conversation with the Trust. She is concerned that if it goes into permanent financing, we have committed to spending all that money and the project is only halfway done. She is doing everything we can to try and get that pushed back.

Mr. Bradley asked if the Middlesex Retirement account is a firm number or going to change. Ms. Bates stated that this is a firm number and will not change.

No other further questions and will be up for discussion again at the next meeting.

#### E. OLD BUSINESS:

##### *1. Update on Proposed Solar Projects.*

Mr. Allen provided an update on proposed solar projects. Enclosed in the Commissioners packets is an update from Peter Bay from EDF, the Project Manager. The main issue is the Payment in Lieu of Taxes (PILOT). It's taking a lot of time to get settled but sounds like they are close. They resolved the real property tax issue and is now the personal property tax that is to be determined, and both are included in the PILOT, but unknown on the amount and could impact lease revenue. EDF is willing to take on \$45K, which was the original proposal. Anything above that will be deducted from annual lease proceeds so supplemented by the income which would typically go to the District which is unfortunate. We have an Alternative On Bill Credit Agreement (AOBCA) that we are negotiating with EDF for the Lawsbrook array which would reduce our kilowatt-hour (kW/hr) purchase price by one cent (\$.01) per kW/hr.

Mr. Rosen asked Mr. Allen who Beth Greenblatt is. She is the Consultant that the town hired to negotiate the PILOT with EDF. He understands the motivation for the town to get as much as they can out of the pilot. His concern is that someone thinks the pilot value is 2x more than anticipated. Either they did a terrible job at estimating or Beth Greenblatt and Jessica Wall of Anderson-Krieger, the Town Counsel, are just trying to maximize revenue for the town. The District is also trying to get as much out of the lease as we can. So, our purpose of is to try to offset increases in rates to the rate payers and giving the rate payers as much water as we can at the best price as possible by reducing our expenses and increasing our revenue. So, if the town trying to increase our expenses it is a circular argument. There is something wrong with that. He feels that we need to get the message out to the Selectmen about this issue. We are, in effect, taxing each other and probably costing the taxpayers more money.

Kim Kastens – she wanted to add that the taxpayers are the same people as the rate payers and it's coming out of the same pocket. The Town has signed up a set of sustainability goals and this is the time for them to brag about how they are making progress towards these goals. Strong argument with the District's case to bring to the Town. Ms. Amir-Lin asked Kim is she knows if there is a specific item in these sustainability goals related to promoting solar for municipal entities. She does not know but will find out. Mr. Rosen would like to speak with Jim Snyder-Grant and explain to him the circular taxation model that they are trying to put into place. He doesn't think that the Selectmen will feel good about this and will ask Jim to discuss this with Jon Benson. Mr. Rosen will get back to the Board about his discussion with Jim at the next open meeting on December 21<sup>st</sup>.

## *2. Update on Per- and Poly-Fluoroalkyl Substances (PFAS).*

Mr. Allen provided an update on PFAS. The District is getting ready to begin additional pilot testing at the North Acton Water Treatment Plant (NAWTP) to determine the cause of an unexpected pressure buildup on the media during the PFAS pilot testing in September/October . Test piloting as stopped for now. The test pilot for Altra Water from Canada just concluded . They'll be leaving their process containers on site at the NAWTP into next February, at least. We'll be meeting with them soon to discuss the results of the test.

Mr. Mostoller stated that all water being served to customers is believed to be below the state Maximum Contaminant Level (MCL) of 20 parts per trillion (ppt). Mass DEP has begun doing a data review for quality purposes. The District has been giving them data. Making progress in understanding what data is usable and what is not. Moving to a monthly treated water regime for 2021 for any sources over 10 ppt. The MassDEP may have available funds but not clear on that. The latest data is from the period between 10/26 and November 18) – the South Acton Plant typically represents 45% of available capacity was below 20 ppt; the Clapp Whitcomb plant was below detection limits; the North Acton plant continues to not serve water to our customers; continue with trials testing its potential future use in supply scheme. Anticipate by December 21<sup>st</sup> may have some additional data points to share for the NAWTP.

Customer outreach – there'll be an update to the website in the next week or two to reflect new data and changes in PFAS interpretation that the state has come out with in regard to a new subgroup – medical diagnosed compromise immune system has been added to this subgroup.

He mentioned the Globe article that ran on December 1<sup>st</sup> regarding the presence of PFAS compounds in the insecticides that mosquito control boards use in the state of Mass and that research that has been ongoing over the summer months. Based on some of the increases from Spring to Summer there is a possibility that this may be a reason in the spiking of our data.

Kim Kastens: there are people with Green Acton who have been very concerned with insecticide spraying and will be discussed at our next Green Acton meeting.

Her recent communication with EPA, she also got the PFAS data from super fund sites that were sampled in 2019. If the District will be able to comment on whether the two superfund sites are a significant source of PFAS to the District wells? Mr. Mostoller stated that based on the data we have seen from the superfund sites; it doesn't appear to be a major contributor to the PFAS concentrations in our South Acton wells. At the Assabet well field we see a gradient going from the SW to the NE where the highest concentrations seem to be in the SW, and they tend to go down as you go closer to the Grace site. Relative to the School Street Wells both the Lawsbrook and Scribner Wells tend to have lower concentrations with the notable exception being the Christofferson well more likely there is a source that is West of that we'll field (septic along School street or ongoing activities along Craig Road). Based on our knowledge the water is not coming from the Route 2 direction. He has mentioned to Chris Smith at

the EPA is we would like to see another round of PFAS on the super fund sites if not increased number of sites. They have only looked at known source areas which is where they focused.

Ms. Amir-Lin motioned to adjourn regular meeting at 8:32PM. Mr. Stuntz seconded the motion. Ms. Amir-Lin moved to go into Executive Session at 8:33 PM to discuss strategy with respect to litigation as an open meeting may have a detrimental effect on the litigating position of the District. The motion was unanimously approved by a roll call vote: Ms. Amir-Lin, Mr. Rosen, Mr. Stuntz.

Board of Water Commissioners  
Executive Session  
Monday, December 7, 2020  
Via ZOOM video conference  
Acton, MA 01720

Ms. Amir-Lin moved that the Commissioners enter into executive session at 8:35 pm, pursuant to MGL, ch. 30A, sec. 21A (3) to discuss strategy with respect to potential litigation, as an open meeting may have detrimental effect on the litigating 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 of the discovery of contamination at the potential bedrock source, as well as on adjacent District property, per the GeoInsight memo. Mr. Allen recommends hiring Special Environmental Counsel for this. Mr. Stuntz made a motion to engage outside counsel for this. It was seconded by Mr. Rosen. Mr. Allen, Atty. Bassett and Mr. Mostoller will evaluate environmental attorneys and present the Commissioners with finalists.

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

Mr. Rosen made a motion to adjourn the Executive Session at 9:25 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.