

Board of Water Commissioners
Meeting Minutes
Acton Water District
693 Massachusetts Avenue, Acton, MA
Monday, December 21, 2020

AGENDA

- A. Comments from Citizens
- B. Approve minutes from meeting of 12/7
- C. Approve minutes from Executive Sessions held on 10/5 & 11/2, and release minutes as public record.
- D. Appoint one Commissioner to approve warrants while conducting meetings virtually

E. NEW BUSINESS:

- 1. Request from property owner at 960 Main Street-Rear
 - 2. Discuss postponement of the 2021 Annual District Meeting due to anticipated COVID-19 Pandemic restrictions
- Meeting date is currently March 17, 2021

F. OLD BUSINESS:

- 1. DRAFT Budget for Fiscal Year 2022 (FY '22)
- 2. Update on Per- and Poly-Fluoroalkyl Substances (PFAS)
- 3. Update on proposed solar projects

G. 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

Citizens:

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 7:00 PM on Monday, December 21, 2020 by Ms. Erika Amir-Lin.

A. Comments from Citizens.
No comments this evening.

B. Approve Minutes from Meeting of 12/7.

Mr. Rosen motioned to approve the minutes of December 7, 2020. Mr. Stuntz seconded the motion, and it was unanimously approved by a roll call vote: Mr. Stuntz, Mr. Rosen, and Ms. Amir-Lin.

C. Approve Minutes from Executive Sessions Held on 10/5 & 11/2, and Release Minutes as Public Record.

Mr. Stuntz motioned to approve the minutes from Executive Sessions held on October 5, 2020 and November 2, 2020. Mr. Rosen seconded the motion, and it was unanimously approved by a roll call vote: Mr. Stuntz, Mr. Rosen, and Ms. Amir-Lin.

D. 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. Stuntz, Mr. Rosen, and Ms. Amir-Lin.

E. NEW BUSINESS:

1. Request from Property Owner at 960 Main Street-Rear.

Mark Bobrowski— he is the Attorney presenting this item – represents an LLC that is the owner of the property. He sent a copy of the deed to the District that shows there is a reservation of a 70 ft easement that winds its way down from parcel 17 to Main Street. He is asking the District to allow the landowner, RMBDN, LLC to put an application in to the Acton Planning Board for the development of that parcel using the easement as the access from Main Street to the back lot. That property, Parcel #17, is land locked. He stated that they feel that the easement fits nicely with planning board rules & regulations as the LLC needs to do either a 40- or 50-foot layout for the road. He showed an aerial view showing Lot 2-3 that is owned by Water District.

According to Bobrowski, the Acton Planning Board Rules & Regulations limit the length of a dead-end road to 500 feet. But there is a possible extension of the roadway to 1500 feet (without waiver) if the applicant before planning board is going to do an open space development or an alternative style of development in regulations which is known as a Planned Conservation Residential Community (PCRC). Both require a significant amount of open space. We need the cooperation of the District because the subdivision control law contains a definition of the term applicant and that definition if the owner of the land in question (the District owns the land on which the easement is located and which makes the District a co-applicant). There is some Zone 1 land on parcel 17 and the owner would be willing to make that Zone 1 land required as open space. The new development would be roughly 20 units (resulting in approx. 200 car trips per day, in-and-out). He stated that the LLC can't go to planning board until the District is willing to join us as a co-applicant.

Barry Rosen – what is the size of units in square feet and number of bedrooms/units.

Mark Bobrowski – the Open Space Development is limited to single family homes where as the PCRC allows for a different style development.

Barry Rosen - still pretty open to the number of individuals that would be living on that land and since there is no developer sited, we don't know that it won't turn into a chapter 40B. Mr. Bobrowski stated that the town is over 10% now. Barry but you could still propose. Mr. Bobrowski stated we would have a conversation about whether or not we would go down that road with the District.

Barry Rosen - it is in close proximity to wells and there is a Zone 1 sitting on the proposal which is not developable which concerns him. He wanted to hear AWD Environmental Manager, Matt Mostoller's perspective.

Steve Stuntz – once you grant the easement the developer comes in and thinks what it is best. Our problem is control of what is proposed. The District has to be in contact with whomever buys the land so that we have a high-level of input on the development. We need to be concerned about what goes on the land in general. That doesn't mean we aren't willing to work with developer but that we should be much

more part of the process in terms of the design. Mr. Bobrowski stated that the signature of the District is going to be make or break in terms of applications submitted to planning board. It is a requirement. We will need waivers from the planning board. If the District is not satisfied with the Developers proposal and you don't sign off on the application, it is not going anywhere. Barry Rosen stated that he would not sign off on this until we know what the development will look like.

Mr. Bobrowski stated that no construction ready plans before we ask for the District's signature.

Steve Stuntz - we are in partnership with whomever the developer wants to be and building trust is important. All we can do is give a willingness in continuing talking about it until we are satisfied.

Erika Amir-Lin – would be disinclined to sign off where she does not know all the details. In past developers have not been good partners and she would be hesitant to extend a large degree of trust early in the process. She is willing to stay in conversation with him and Peter Gottlieb. The Board wants to wait and see and not render a judgement right now on this.

Mr. Bobrowski stated that his next step he will take would be to make an appointment with the Town Planner. The largest obstacle would be getting the planning board to consider giving us a waiver.

Chris Allen – what is the chronology on the cleanup of the parcel? The parcel is extensively contaminated. Does the developer buy that as well or does that happen to any sell to developer? Mr. Bobrowski stated it can go either way. Peter Gottlieb, Real Estate Broker for this property, stated that the area of the site is not considered contaminated but solid waste excess by the DEP. It would be a cleanup of solid waste which is ABC (asphalt, brick, concrete) rubble and once that is cleaned up the land is fine. We are having the developer handle this. ABC is not considered a contaminate but solid waste. There was an excess put on the site and it needs to be reduced. It can be recycled and reused. It is a valuable asset to the developer.

Barry Rosen - when there is excess asphalt the BOH considers it - it has to be hauled away because it is considered hazardous waste.

Peter Gottlieb – he consulted with the DEP and on the contrary to what Barry said they would be amenable to the developer using the materials to recycle. Ms. Amir-Lin asked for a copy of this letter that he refers to.

Mark Bobrowski – what he is hearing is that the District is not saying no, willing to listen, and have a future conversation. The Commissioners all agree to this.

2. Discuss Postponement of the 2021 Annual District Meeting Due to Anticipated COVID-19 Pandemic Restrictions.

➤ Meeting date is currently March 17, 2021

The Board acknowledged that in-person gathering limitations may likely still be in place on the currently scheduled date, thus the Board can decide, by its vote, to set a different date. Discussed closing warrant by mid-March for a potential end of April or early May District Meeting. This item will be put back on the agenda for a January meeting when the Board can decide on the new proposed meeting date. Mr. Allen will promulgate the Commissioners' meeting schedule for January through July of 2021, but will omit, for now, the Annual Meeting date.

F. OLD BUSINESS:

1. DRAFT Budget for Fiscal Year 2022 (FY 22).

Mr. Allen stated that he and Mary Jo Bates met with the Finance Committee last week and they had no additional questions as the budget as it stands currently. There are some things forthcoming that may warrant a change on some parts of the budget. There is still time to review the budget now that the Annual District Meeting is postponed to a later date. We will keep it on the agenda until it's ready to finalize.

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

Mr. Mostoller sent out update last week. We are currently working a second grant application for potential assistance from MassDEP on design funds to activate the Assabet 3 well in response to PFAS contamination in the south Acton sources. Otherwise nothing additional to add at this time.

Mr. Allen and Mr. Mostoller met with representatives from Altra Water (formerly Sanexen) — to review some preliminary results from the new technology pilot that was conducted at the North Acton Water Treatment Plant (NAWTP) — they gave us preliminary results that looked pretty favorable but they will be compiling data and giving us a comprehensive report after the first of the year.

Discussion about Next Door, the social media platform, and potentially creating an account to be more informed of what groups of local citizens are talking about in regard to the PFAS issue.

3. Update on Proposed Solar Projects.

Peter Bay of EDF Renewables gave an update on the solar projects.

Lawsbrook Project – we are fully permitted.

Outstanding items:

- * Execution of the lease
- * Execution of the payment in lieu of tax (PILOT) agreement with the Town
- * Alternative on bill credit agreement between project and District.

He stated that it is looking like the Pilot to be executed within next 3-4 weeks with Town. He hopes that the second week of January is when we have the Pilot executed.

On Thursday afternoon he was given the value schedule from the Town's consultant as to what they will charge project each year for the payments in lieu of tax on real estate and personal property. They were higher than the RFP so the EDF finance team will evaluate. We will get back to town after new year.

The lease agreement hinges on the pilot. We are waiting to execute the lease according to when the pilot is executed. The Alternative on-bill credit agreement we got comments from Spencer Holland last week and will review. It does not hold us up on construction or design. The pilot is a big variable that we have to iron before we can finance the project. EDF may still end up owning the project ourselves.

We had a 30% design kick off with internal engineering team.

We have a meeting scheduled where a Project manager will be assigned and that kicks off our internal process in terms of finishing design of facility and into preconstruction and then construction. Anticipate being online by end of 2021 around August/September timeline.

Knox Trail Project – we have been on hold with EverSource East for the last 2 1/2 years. Have had a lot of difficulty with them. Have had to go to Massachusetts Energy Resources to get involved... we are finally at the impact study and should get results in February. Assuming those results are favorable and that should be fully permitted by Summer 2021.

How long the utility will take EverSource East to do upgrade to facility? Lawsbrook online operating end of Q3/Q4 of 2021 and Knox will be online by Q2 of 2022.

Erika Amir-Lin – during the winter do you put a hold on work? Peter Bay – we do work through winter but not preferable. Erika inquired as to would construction start in March for Lawsbrook? Peter Bay responded that yes that would be reasonable start time.

Barry Rosen - what seems to be a hang up with PILOT? He had a conversation with an Acton Selectmen who wants to see this move along quickly. After this Selectmen had a meeting with Town Manager, his perspective was that the town is not looking to maximize revenue but are trying to satisfy the DOR with the amount that is being paid by EDF. Do you see that being a problem? Peter responded that they are doing everything to make sure DOR is accepting the pilot, but we don't see that with other towns. Other towns have a preset value that they will hold project to or negotiate without that consultant report. The biggest hang up in this process was where the town's attorney did not take view that the District is a municipal entity that should qualify under one of three examples that the DOR provides guidance on for solar pilots. One of the three examples - a town owns the land and its being leased by a solar developer for a project. Their position was that the District is not a municipality although it is a municipal entity. And because it is not a municipality it cannot have the real property taxes can be included in the pilot agreement. That took a long time to resolve because the DOR was unresponsive. Finally, a month ago the DOR accepted that the District would be viewed as a municipality in that context.

Ms. Amir-Lin motioned to adjourn regular meeting at 8:30 PM. Mr. Stuntz seconded the motion. Ms. Amir-Lin moved to go into Executive Session at 8:30 PM to discuss strategy with respect to litigation as an open meeting may have a detrimental effect on the negotiating position of the District. The motion was unanimously approved by a roll call vote: Mr. Stuntz, Mr. Rosen, Mr. Stuntz.