



Water Supply District of Acton

693 MASSACHUSETTS AVENUE
P.O. BOX 953
ACTON, MASSACHUSETTS 01720

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Board of Water Commissioners

Meeting Agenda

Monday, January 11, 2021 @ 7:00 PM

Due to the COVID-19 Pandemic, meetings are being held virtually via Zoom

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/87385377828>

Or iPhone one-tap :

US: +13017158592,,87385377828# or +13126266799,,87385377828#

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US: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or +1 346 248 7799 or
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Webinar ID: 873 8537 7828

International numbers available: <https://us02web.zoom.us/j/87385377828>

- **Comments from Citizens**
- **Approve minutes from meeting of 12/21/20**
- **Appoint one Commissioner to approve warrants while conducting meetings virtually**

OLD BUSINESS:

- Follow-up on the request from the property owner at 960 Main Street-Rear
- Update on Per- and Poly-Fluoroalkyl Substances (PFAS)
- Update on proposed solar projects
- DRAFT Budget for Fiscal Year 2022 (FY '22)
- Discussion of the Annual District Meeting timeline

NEW BUSINESS:

- Review and approve Letter of Engagement with Attorney Robert Cox
- Update on the District's water conservation rebate program

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 whereas 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.

FY 2022 Budget and Estimated Revenue

	Actual FY 2020	Budget FY 2021	6 month actual	Budget FY 2022	
EXPENSES					
Accounting	1,300	2,000	1,500	2,000	
Audit	16,000	16,000	16,000	17,000	
Auto Maint & Fuel	38,575	50,000	14,736	50,000	
Backflow/Cross Conn	118	1,000	291	1,000	
Short Term Debt	295,000	500,000	500,000	505,000	215K remaining to be rolled over
Long Term Debt	1,532,465	1,490,908	410,844	2,243,469	CAWTP permanent financing 4/21
Chemicals	69,548	75,000	30,647	120,000	80K increase for CAWTP
Computer Maintenance	16,000	16,000	7,399	16,000	
DEP Withdrawal	4,624	6,500	5,100	6,000	
Employee Education	9,594	17,500	3,657	17,500	
Engineering	54,340	55,000	20,307	50,000	
Health/Life Insurance	340,485	412,880	142,782	286,000	Supplement with \$66K from OPEB
Hydrants	4,616	10,000	9,749	10,000	
Information Reports	32,597	45,000	27,438	45,000	
Insurance	85,692	89,000	86,758	95,000	
Laboratory Analysis	46,713	60,000	37,005	80,000	
Legal	40,000	40,000	22,748	45,000	
Lights/Power/Fuel	375,000	390,000	183,588	390,000	87K increase for CAWTP
Maintenance & Operations	301,904	335,000	117,105	350,000	
Middlesex Retirement	243,164	256,971	256,971	268,502	
Meters	75,000	75,000	7,654	75,000	
Office Supplies	18,299	20,000	11,615	20,000	
Paving	31,090	50,000	32,820	50,000	
Petty Cash	600	1,000	-	1,000	
Postage	13,459	20,000	7,933	20,000	
Reserve Fund	35,000	100,000		100,000	
Salaries & Wages	1,319,030	1,505,000	721,748	1,550,150	3% increase
Telephone	19,323	20,000	8,843	22,000	
Total	5,019,536	5,659,759	2,685,238	6,435,621	
REVENUE					
Water Revenue	3,159,243	2,728,159	1,687,823	2,728,159	
Service Fee	517,500	525,360	262,500	525,360	
Debt Fee	1,823,200	1,996,368	997,500	2,748,469	Debt Fee to \$78 per unit for FY 22
Total Water Revenue	5,499,943	5,249,887	2,947,823	6,001,988	
Fire Protection Sprinklers	40,917	40,000	38,142	40,000	
Rent/Lease	127,608	120,000	50,976	250,000	10K/mo solar lease included
Repairs/Installation	53,281	50,000	55,998	50,000	
Cross Connection	24,354	24,000	11,132	24,000	
Demand Fees	470,702	200,000	66,626	300,000	
Mitigation Fees	96,582	75,000	18,164	75,000	
Total Other Revenue	813,444	509,000	241,038	739,000	
Total	6,313,387	5,758,887	3,188,861	6,740,988	
				305,367	Potential surplus FY 22

Potential Warrant Articles:				
Annual Stabilization Funding	% of Solar lease revenue			
PFAS Treatment				
Water Main - Kellys Corner			500,000	
Main Street Purchase				
from OPEB trust Fund	Retirees Health Ins	66,070		
from Mitigation Fund:	Annual Approp	100,000		
from Grace Fund:	M&O	125,000		
from Free Cash:	Short term borrowing		-	
	Clean & Rehab Wells		75,000	
	Emergency Main Break		30,000	
	Media Replacement		65,000	
	Filter/Media Replacement		45,000	
	NAWTP Residuals		100,000	
	Vehicles			
	Total		815,000	
Revenue Estimate FY 21	Jul-20	1,424,980		
	Oct-20	1,534,213		
	Jan-20	1,223,647		
	Apr-20	1,188,189	5,371,029	
	Fire Prot	40,000		
	Repairs/Misc	80,000		
	Cross Conn	24,000		
	Rent	114,000		
	Demand	200,000		
	Projected Income	5,829,029	169,270	Potention surplus FY 21
	Mitigation	75,000		
	Units	8,756		
	Services	6,790		
	Certified Free Cash	1,460,895		
	Appropriations	815,000		
	Balance	645,895		
UPDATED 1/7/21				

960 MAIN STREET - REAR

Part I ADMINISTRATION OF THE GOVERNMENT
Title III LAWS RELATING TO STATE OFFICERS
Chapter UNIFORM PROCUREMENT ACT
30B
Section 16 REAL PROPERTY: DISPOSITION OR ACQUISITION

Section 16. (a) If a governmental body duly authorized by general or special law to engage in such transaction determines that it shall rent, convey, or otherwise dispose of real property, the governmental body shall declare the property available for disposition and shall specify the restrictions, if any, that it will place on the subsequent use of the property.

(b) The governmental body shall determine the value of the property through procedures customarily accepted by the appraising profession as valid.

(c) A governmental body shall solicit proposals prior to:

(1) acquiring by purchase or rental real property or an interest therein from any person at a cost exceeding \$35,000; or

(2) disposing of, by sale or rental to any person, real property or any interest therein, determined in accordance with paragraph (b) to exceed \$35,000 dollars in value.

(d) The governmental body shall place an advertisement inviting the submission of proposals in a newspaper with a circulation in the locality sufficient to inform the people of the affected locality. The governmental body shall publish the advertisement at least once a week for two consecutive weeks. The last publication shall occur at least eight days preceding the day for opening proposals. The advertisement shall specify the geographical area, terms and requirements of the proposed transaction, and the time and place for the submission of proposals. In the case of the acquisition or disposition of more than twenty-five hundred square feet of real property, the governmental body shall also cause such advertisement to be published, at least thirty days before the opening of proposals, in the central register published by the state secretary pursuant to section twenty A of chapter nine.

(e) The governmental body may shorten or waive the advertising requirement if:

(1) the governmental body determines that an emergency exists and the time required to comply with the requirements would endanger the health or safety of the people or their property; provided, however, that the governmental body shall state the reasons for declaring the emergency in the central register at the earliest opportunity; or

(2) in the case of a proposed acquisition, the governmental body determines in writing that advertising will not benefit the governmental body's interest because of the unique qualities or location of the property needed. The determination shall specify the manner in which the property proposed for acquisition satisfies the unique requirements. The governmental body shall publish the determination and the reasons for the determination, along with the names of the parties having a beneficial

interest in the property pursuant to section forty J of chapter seven, the location and size of the property, and the proposed purchase price or rental terms, in the central register not less than thirty days before the governmental body executes a binding agreement to acquire the property.

(f) Proposals shall be opened publicly at the time and place designated in the advertisement. The governmental body shall submit the name of the person selected as party to a real property transaction, and the amount of the transaction, to the state secretary for publication in the central register.

(g) If the governmental body decides to dispose of property at a price less than the value as determined pursuant to paragraph (b), the governmental body shall publish notice of its decision in the central register, explaining the reasons for its decision and disclosing the difference between such value and the price to be received.

(h) This section shall not apply to the rental of residential property to qualified tenants by a housing authority or a community development authority.

(i) Acquisitions or dispositions of real property or any interest therein pursuant to this section between governmental bodies and the federal government, the commonwealth or any of its political subdivisions or another state or political subdivision thereof shall be subject to subsections (a), (b) and (g).

Chris Allen

From: Chris Allen
Sent: Wednesday, December 23, 2020 1:21 PM
To: Peter at MLSLincolnWestonRealty
Cc: Mark; Peter Gottlieb; Elizabeth Parsons; AWD Commissioners
Subject: RE: DEP Letter from Peter Gottlieb to Acton Water Commission
Attachments: General Law - Part I, Title III, Chapter 30B, Section 16 Real Property 122220 highlighted.pdf

Hi, Peter,

Thanks for the message.

While we sympathize with you, and your client's position, as a Municipal entity, and as District Counsel mentioned during the meeting, we are obligated under MGL Chapter 30B Section 16 (attached) for use of Real Property. Yesterday, as follow up, I'd reached out to the MA Inspector General's hotline to inquire about any restrictions that would apply in this situation. The attorney with whom I spoke informed me that it is "Not allowed". It is an "interest" in Real Property, and falls under the disposition of such.

The District cannot simply enter into an agreement with your proposed developer, or anyone for that matter, to allow use of our property, or any "Interest" in said property. This is a request by a private party vs. some use that we, the Municipality, are seeking.

I wish you all a Merry Christmas and a healthy and prosperous 2021.

Respectfully,

Chris Allen

District Manager

Water Supply District of Acton

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Acton, MA 01720

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"When the well's dry, we know the worth of water"- Benjamin Franklin, 1776

From: Peter at MLSLincolnWestonRealty <Peter@MLSLincolnWestonRealty.com>

Sent: Wednesday, December 23, 2020 9:41 AM

To: Chris Allen <Chris@actonwater.com>

Cc: Mark <mark@bbhlaw.net>; Peter at MLSLincolnWestonRealty <Peter@MLSLincolnWestonRealty.com>; Peter Gottlieb <petergottlieb1@yahoo.com>; Elizabeth Parsons <eaparsons53@gmail.com>

Subject: DEP Letter from Peter Gottlieb to Acton Water Commission

Good morning Chris. I would like to take this opportunity to thank you and all the Board Members of the Acton Water Commission, Steve, Barry and Erika for hearing and discussing our request on Monday evening. We intend to work closely with you all to achieve compatibility and comfort with your concerns and goals.

To comply with Erika's request of me, I have attached hereto, the DEP Letter I received from them back in January of 2020 with regard to their amenability to the "recycling", "re-use", "RCC", of the raw materials contained in the pile currently situated on lot B5-17. Additionally, I am told that asphalt was NOT a component of the composition of this pile to alleviate Barry's concerns as well. For a gravel pit of this nature, that material would have clogged up and damaged the processing equipment used on site. The nomenclature "ABC Rubble" is simply a generic term to define the umbrella under which this cleanup falls.

If you would kindly convey this email and the attached DEP letter to the Board members, I would be very thankful Chris. Kindly email "reply all" to confirm.

Wishing you all a wonderful Holiday weekend.

ATTACHMENT

Most Cordially,