



Water Supply District of Acton

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Board of Water Commissioners

Meeting Agenda

Monday, November 4, 2019 @ 7:30 PM

- **Comments from Citizens**
- **Approve minutes of September 23rd & October 7th meetings**

OLD BUSINESS:

- Certification of Free Cash/Surplus Revenue for Fiscal Year (FY) '21
- Variance for 8 Post Office Square- site for new Central Acton Water Treatment Plant
- Article 97 legislation related to solar arrays at Lawsbrook Road & Knox Trail
 - Review and approve legislation to be presented to the state legislature

NEW BUSINESS:

- Future of the Water & Land Management Advisory Committee (WLMAC)

Executive Session--To discuss strategy with respect to litigation in the case of Town of Concord vs. Town of Littleton, as an open meeting may have a detrimental effect on the litigating position of the District

Board of Water Commissioners
Meeting Minutes
Acton Water District
693 Massachusetts Avenue, Acton, MA
Monday, September 23, 2019

AGENDA

- A. Comments from Citizens
- B. Approve Minutes from September 9, 2019
- C. OLD BUSINESS:
 - 1. Follow up Discussion from Joint Meeting with the Acton Selectboard
 - Any follow-up items or discussion stemming from the joint meeting held on September 9th
 - 2. Request for Meeting with the Town of Acton's Finance Committee
- D. NEW BUSINESS:
 - 1. Certify the District Manager to Act as the District's Agent to File the Applications and Execute Agreements for Funding of the Acton Center Water Treatment Plant (ACWTP) through the Massachusetts Clean Water Trust.
 - 2. Execute Bonds
 - Borrowings for the Acton Center Water Treatment Plant (ACWTP) engineering and re-financing of the bond for purchase of 585 Main Street

Present at Tonight's Meeting:

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

District Treasurer: Mary Jo Bates

District Counsel: Mary Bassett

Commissioner's Secretary: Lynn Protasowicki

District Finance Committee: Bill Guthlein

WRAC: Ron Parenti

The Board of Water Commissioner's meeting was called to order at 7:30 PM on Monday, September 23, 2019 at the Acton Water District by Mr. Stephen Stuntz.

A. Comments from Citizens:

No comments from citizens tonight.

B. Approve Minutes from September 9, 2019:

Mr. Rosen motioned to approve the modified minutes of September 9, 2019. Ms. Amir-Lin seconded the motion and it was unanimously approved.

C. OLD BUSINESS:

1. Follow up discussion from joint meeting with the Acton Selectboard

> Any follow-up items or discussion stemming from the joint meeting held on September 9th

Mr. Parenti spoke. He was disappointed that not a lot was said at the meeting. The WRAC was looking for direction from both the Board of Water Commissioners and the Acton Selectboard. Ron lobbied hard to move forward with what the Town voted on which is the water resources study. This study will be different from the District's master plan. The WRAC is preparing a list of questions for various people

who are part of town entities including the Board of Commissioners. WRAC will want to know what new wells are planned, capacity of these wells, when coming online, etc. WRAC will want to know if the District should consider looking at different water sources including MWRA and Nagog. Mr. Rosen is disappointed as well with the joint meeting. He was at BOS meeting when Jon Benson asked for the meeting with the District. He stated that Mr. Benson explained that the BOS had a number of questions to ask the Board of Commissioners regarding the WRAC study, what the BOS expects to get out of it, and what position the Water District was taking on the study. Ms. Amir-Lin also expected the BOS to have more to say. They wanted to initiate a discussion and discuss more about the WRAC study. Mr. Rosen stated that he is not sure why they wanted the meeting; he didn't feel anything was accomplished.

Mr. Stuntz stated that Mr. Benson's question is does the District support the study?

Mr. Parenti mentioned that one of the issues that the WRAC is running up against is no one on the WRAC is knowledgeable in planning. The WRAC will need some professional guidance which is why they have been talking about a \$50K study, to cover consulting costs. WRAC will do as much as they can and develop a statement of work.

Ms. Amir-Lin wanted to know what the financial situation of the WRAC is currently with regards to the proposed water study? Was there any money promised from anyone? Mr. Parenti stated that the Board of Commissioners has talked about contributing. But have not heard any commitment from Acton BoS. Ms. Amir-Lin wanted to know if the BoS said anything additional? Mr. Parenti stated that no they have not, and that WRAC will do everything they can do without needing the money right away. We probably won't hear anything until after the December 10th special Town meeting. Ms. Amir-Lin commented that she believes that there is a role for the Town to play when it concerns drinking water in Acton and she would like them to step up in that role.

2. Request for Meeting with the Town of Acton's Finance Committee.

Mr. Stuntz stated that this item came from a discussion that he had with Christine Russell, who is on Acton's Finance Committee and he asked her to tell us (meaning the District) what you don't know; and explain the big picture of what the District is doing. FinCom is not interested in meeting with the District until after their December Special Town Meeting. Mr. Stuntz will work on firming up a date for the meeting and topics of discussion.

D. NEW BUSINESS:

1. Certify the District Manager to act as the District's agent to file the applications and execute agreements for funding of the Acton Center Water Treatment Plant (ACWTP) through the Massachusetts Clean Water Trust.

Barry moved to certify the District Manager to act as the District's agent to file the applications and execute agreements for funding of the Acton Center Water Treatment Plant through the Massachusetts Clean Water Trust. Ms. Amir-Lin seconded the motion and it was unanimously approved.

2. Execute Bonds.

- Borrowing for the Acton Center Water Treatment Plant (ACWTP) engineering and re-financing of the bond for the purchase of 585 Main Street

Mr. Stuntz moved to award the bid to borrow for the Acton Center Water Treatment Plant (ACWTP) from Newburyport Five Cents Savings Bank in the amount of \$1.4 million which is to be used for the

engineering and re-financing of the bond for purchase of 585 Main Street, Acton. Mr. Rosen seconded the motion and it was unanimously approved.

Other Business:

1. Mr. Stuntz wanted to know what the correct procedure is for adding something to the agenda. Does he send the request to Chris Allen first or should it be a discussion at the meeting they are in for the next meeting? Counselor Bassett stated that you could ask to put something on at the meeting for the next meeting or send the email to Mr. Allen, either way is fine. Mr. Rosen would like to put on the next agenda, the "Future of WLMAC".

2. Counselor Bassett spoke regarding the solar array project. Recently an issue has come up regarding Article 97 which is now applicable because the vendor is in the Smart program. State's saying we are changing the use of our property. What conditions will the state allow us to take our property out of public use and allowing this other use. In the last 30 days, there has been a meeting with the Massachusetts Executive Office of Energy and Environmental Affairs (EEA) and the attorney for EDF to talk about what the legislation needs to say. One of the things it says is that they will expect the District to put lease proceeds into an account for the future use to replace property. We aren't getting any income from Knox if; Knox is in the program. Second issue: the draft of legislation and how the District could put some of the lease proceeds into an account? Counselor Bassett asks, but how much? 1% or 90%? These are two questions that need to be discussed. Counselor Bassett suggests that the District needs an additional counsel to consult with on this issue. We need someone that knows Article 97, has worked with the EEA, and who has done negotiations on behalf of municipalities. Based upon a recommendation from Margaret Campbell, Counselor Bassett contacted Mirrick/O'Connell (Worcester). They will charge \$325/hour vs. the \$425/hour that they typically charge. She received an engagement letter from them but needs approval from the Commissioners for the District Manager to hire them. The Board discussed and reached consensus that it would be in the best interests of the District to hire our own attorney expert in Article 97 rather than to rely on the EDF attorney. This attorney would work with Counselor Barrett.

Mr. Stuntz moved to approve the Water District Manager hiring outside counsel of Mirrick/O'Connell of Worcester who will work on the District's behalf regarding Article 97. Ms. Amir-Lin seconded the motion and it was unanimously approved.

Mr. Rosen moved to adjourn the open meeting at 8:10 PM. Ms. Amir-Lin seconded the motion and it was unanimously approved.

Board of Water Commissioners
Meeting Minutes
Acton Water District
693 Massachusetts Avenue, Acton, MA
Monday, October 7, 2019

AGENDA

7:00 — Executive Session: To consider the purchase, exchange, lease or value of real property.

A. Comments from Citizens

B. Approve Minutes of September 23rd Meeting

C. OLD BUSINESS:

1. Peter Bay & Luke Legere (Counsel for EDF) of EDF Renewables on Proposed Solar Arrays at Lawsbrook Road and Knox Trail
 - Discussion will focus on the impending Article 97 impact to the projects

D. NEW BUSINESS:

1. Letter to Environmental Protection Agency (EPA) Regarding the Record of Decision (ROD) for the WR Grace Superfund Site.

Present at Tonight's Meeting:

Commissioners: Stephen Stuntz (Chair), Erika Amir-Lin, Barry Rosen
District Treasurer: Mary Jo Bates
District Counsel: Mary Bassett
Environmental Manager: Matthew Mostoller
Commissioner's Secretary: Lynn Protasowicki
Green Acton: Kim Kastens

The Board of Water Commissioner's meeting was called to order at 7:45 PM on Monday, October 7, 2019 at the Acton Water District by Mr. Stephen Stuntz.

A. Comments from Citizens:

No comments from citizens tonight.

B. Approve Minutes of September 23rd Meeting:

The minutes of September 23, 2019 were not approved tonight as more edits need to be made. These minutes will be approved at the November 4, 2019 meeting.

C. OLD BUSINESS:

1. Peter Bay & Luke Legere of EDF Renewables on Proposed Solar Arrays at Lawsbrook Road and Knox Trail

- Discussion will focus on the impending Article 97 impact to the projects

Enclosed in tonight's packets to the Commissioners is a copy of the proposed Article 97 legislation that was drafted by Luke Legere.

Peter Bay spoke. If the projects were not required as Article 97 dispositions, they could have been enrolled into the Smart program and then moved into construction phase. In June 2019, we flagged this Article 97 concern and we are now in the position to take care of it. It has certainly caused a delay. At the June meeting he was not able to provide information about Article 97 and the process so Luke Legere, Counsel for EDF Renewables, who is the expert and will talk about the process tonight.

Luke Legere provided a brief overview of what Article 97 is. It's a State constitutional amendment that protects the citizens right to natural resources (from protecting drinking water to open space conservation land). It applies to land that is held by a public entity. If the public entity owns the land but wants to transfer, change use, or dispose of it and leasing of long-term property (municipal or public) it must do so by obtaining a 2/3 majority vote from the two Chambers on Beacon Hill. This is a policy that was put together by the Massachusetts Executive Office of Energy and Environmental Affairs (EEA) that you need to comply with.

Article 97 applies here because the land is owned by the Water District. EEA's stance is that the sole role of the Water District's is to hold and protect land for Article 97 purposes.

Mr. Legere and Mr. Bay met with the EEA and ALL Water District land falls under Article 97. They also met with EPA, talked through each project, and gave them background on Knox and Lawsbrook and came out with the following agreement. If the Water District is leasing property and it's contaminated and its clear cut land they would be willing to allow the District to earmark lease money for future property acquisition. A portion of the lease payment is to be set aside in a stabilization fund.

An appraisal needs to be done at both sites to determine Fair Market Value (FMV).

FMV of the area that will house the solar arrays, and match that dollar for dollar.

They are going to treat both projects the same.

Mary Bassett stated that we are only using the property for solar for 20 years. Why would we have to replace a whole fee and not the part we are taking out?

Mr. Stuntz stated that the appraisal is going to be the current value of the lease.

Mr. Bay mentioned that the lease payment is \$45K per year for Knox and we don't know what the appraisal will be yet but a portion that money will be set aside.

Mr. Stuntz stated that if Mr. Legere has another conversation with Jen Sulla at EEA to tell her that the Commissioners don't feel right about this.

Mr. Allen noted that basically the District will take the FMV of property given from appraisal and divide by 20 , the length of the lease in years, and that would be the contribution.

Mr. Bay stated that there is a timeline and we ideally need to get this legislation in before Thanksgiving otherwise it could be pushed into next year. Counselor Bassett stated that to ask for this legislation the District will need to hold a Special District Meeting to get a majority vote from residents. This most likely won't happen until after the new year.

Mr. Bay mentioned that he needs to line up an appraiser. He asked the District if they would be comfortable with proposed legislation not having any dollar amounts just place holders so that EDF

Renewables can have EEA start reviewing the draft legislation. Mr. Rosen stated that about it is important to have clauses concerning land acquisition or land interest worked into the draft because the District may come out on the negative side of this legislation and the District is concerned about that.

The District has the drafted legislation which still needs to be reviewed and commented on by the District. Counselor Basset wants the District to get all our comments/edits to Mr. Legere before he has another conversation with Jen Sulla at EEA. Mr. Legere stated that when he speaks with Jen Sulla he will ask about tweaking the draft legislation to build in an alternative language that states if the Water District acquires replacement land that it would also satisfy the legislation.

Other Old Business:

1. SRF application for the Central Acton Water Treatment Plant (CAWTP) went out today - great job Mary Jo!
2. Met with the Massachusetts Environmental Policy Acton (MEPA) representative last week; Roland Bartl, Town of Acton Planning Director told us that 8 Post Office Sq Rear will need to meet the zoning by-law of 20 feet of frontage. This may require that we apply for Variance through the Zoning Board of Appeals (ZBA) .
3. Design for the new treatment plant is close to complete.
4. Mr. Rosen inquired whether we need a system/process in place when someone is absent from an open meeting to bring that person up to speed so that they know what took place at the meeting. It was decided to not formalize anything.

D. NEW BUSINESS:

1. Letter to Environmental Protection Agency (EPA) regarding the Record of Decision (ROD) for the WR Grace Superfund site.

Mr. Allen mentioned that Kim Kastens will be heading down to Washington DC to speak with the EPA administrator and that she has requested a letter from the Board of Commissioners asking for the ROD for the WR Grace Superfund site to include treatment for 1,4-Dioxane.

Ms. Kastens explained that a couple weeks ago she attended a presentation in Concord where Lois Gibbs spoke. She is a pioneering environmental activist and head of the Center for Environment and Justice. Ms. Kastens spoke with her after her presentation and told her about WR Grace and Nuclear Metals (NMI). Ms. Gibbs said to Ms. Kastens that the ROD needs to be reopened for 1,-4 dioxane to be added. Ms. Kastens explained to her the hurdles the District has faced so Ms. Gibbs invited her to this special meeting on October 22nd which is held once per quarter in Washington DC with EPA. Ms. Gibbs suggested letters of recommendations from local elected board officials. Ms. Kastens wrote her statement and is being reviewed by town folks. And has asked the District for their letter as well as the Town Manager and the Acton Selectboard.

Mr. Mostoller mentioned that the letter is being written asking that the ROD be reopened for the WR Grace Superfund site and in addition the letter will include information about the NMI site, the Massachusetts groundwater standards; and that this elected board did vote to ask the EPA to revisit the ROD years ago but was denied.

Mr. Stuntz moved to approve the letter to the Environmental Protection Agency (EPA) regarding the Record of Decision (ROD) for the WR Grace Superfund site. Ms. Amir-Lin seconded the motion and it was unanimously approved.

Mr. Stuntz moved to adjourn the open meeting at 9:15 PM and motioned to enter into Executive Session at 9:16 PM to consider the purchase, exchange, lease or value of real property as an open meeting may have a detrimental effect on the litigating position of the District and to reconvene in open session. Mr. Rosen seconded the motion and it was unanimously approved by a roll call vote.

Free Cash

SUBMITTED BY	Maureen Mara	CITY/TOWN/DISTRICT	Acton Water District
PHONE	978-263-9107	SUBMISSION DATE	08/05/19
FIELD REP	Amy Handfield	SUBMISSION COMPLETE DATE	08/27/19

FREE CASH CALCULATION

<u>BEGIN:</u>			
UNRESERVED UNDESIGNATED FUND BALANCE			1,055,088
<u>LESS:</u>			
PERSONAL PROPERTY TAXES RECEIVABLE			-
REAL ESTATE TAXES RECEIVABLE			-
OTHER RECEIVABLE, OVERDRAWN ACCOUNTS, DEFICITS			
Utility Charges	184,712		-
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		Additional Sheet	184,712
FREE CASH VOTED FROM TOWN MEETING NOT RECORDED			-
<u>ADD:</u>			
DEFERRED REVENUE (CREDIT BALANCE +, DEBIT BALANCE -)			-
60 DAYS TAX COLLECTIONS			-
<u>OTHER MISCELLANEOUS ADJUSTMENTS:</u>			
_____			-
_____			-
_____			-
_____			-
			<u>870,376</u>
			FREE CASH, JULY 1, 2019

Amy Handfield

REVIEWED BY:	PLEASE SEE CERTIFICATION LETTER
DATE:	FOR DIRECTOR OF ACCOUNTS APPROVAL

09/13/19



Water Supply District of Acton

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

TELEPHONE (978) 263-9107
264-0148

FAX (978)

October 28, 2019

TO: Town of Acton Zoning Board of Appeals
FROM: Chris Allen, District Manager
RE: Request for a variance for construction of a new water treatment plant at 8 Post Office Square-Behind

Per the Town of Acton's Zoning Bylaw, the requirement for frontage for a non-conforming lot in the Agricultural, Conservation, Recreation (ARC) District is 20-feet. The parcel on which we desire to construct a new water treatment plant off Post Office Square, #8 PO Square-Behind, is land-locked and does not have 20-feet of frontage on any Right-of-Way. Thus, we hereby request a variance for this requirement.

This parcel has housed the Conant II water pumping station and wells since 1999. We are in the process of designing a full-scale filtration plant to remove the minerals iron and manganese from the source waters of the Conant I & Conant II wells. The water from the Conant I well will be pumped via a transmission pipe beneath Main Street/Route 27 to the new plant located off PO Square. Our desire is to break ground on this facility in the spring/summer of 2020.

The hardship that we claim for the purpose of this application is an inability to acquire any contiguous parcel of land that would facilitate satisfaction of the frontage requirement. The construction of this facility is critical to the District's mission of supplying water that is safe for human consumption and meets all regulatory requirements of the Safe Drinking Water Act. Furthermore, it will allow us to use our permitted sources to their fullest capacity to ensure that Acton has access to potable water for current and future development, as well as adequate supply for fire protection throughout the District's service area.

Based on these conditions, we respectfully request a variance for the requirement of 20-feet of frontage. Thank you for your consideration.

Respectfully submitted,

Chris Allen
District Manager