



Water Supply District of Acton

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Board of Water Commissioners

Meeting Agenda

Monday, November 20, 2023 @ 7:00 PM

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

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- **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.

DRAFT

Board of Water Commissioners

Meeting Agenda

Monday, November 6, 2023 @ 7:00 PM

AGENDA

- Comments from the public
- Approve minutes from the meeting of 10/23
- 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
- Financing agreement amendments with CWT
- PFAS MDL
- Master Plan Update
- MWRA MetroWest Expansion
- Rate Study
- Discussion of native meadow demonstration project

NEW BUSINESS:

- WRAC Groundwater Protection Mailing

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 7:02 PM on Monday, August 14, 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: John Petersen

Members of the Public: Ron Parenti, Kim Kastens

DRAFT

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

Comments from the public

None at this time.

Approve minutes from the meeting of 10/23

Mr. Rosen motioned to approve the minutes of October 23, 2023. Mr. Stuntz seconded and the motion was unanimously approved via a roll call vote; Mr. Rosen, Mr. Stuntz, Ms. Amir Lin.

Appoint one Commissioner to sign warrants while conducting meetings virtually

Mr. Stuntz motioned to appoint Mr. Rosen to sign the 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 provided a brief update on current PFAS sample data. The September result for North Acton was 20.0 ppt, making the average for the third quarter 21.8 ppt. This means they will be out of compliance for the third quarter as expected. Staff have already begun to prepare public notices via a postcard and email notification.

October results for Center Acton were 9.9 ppt, and South Acton results were 17.3 ppt. These results are stable for what we have been seeing recently at these facilities.

Currently North and South Acton are in operation. November sampling will be done on November 7, 2023, and then North Acton will be shut off until sometime in December.

Ms. Amir Lin asked when they can expect the public notice to go out, Mr. Mostoller said it will go out sometime in the next three weeks.

Discussion of Additional PFAS Upgrades

Mr. Mostoller informed the Board that he has a meeting with both engineers this week where they will discuss coordinating common pieces of the projects. Ms. McCarthy and Bob Murch will also be sitting in on this meeting as the topics of discussion include financial and communication technologies. They hope to identify efficiencies to consolidate procurement and to hire one subcontractor to work on both projects.

Mr. Rosen asked if an instrumentation engineer was chosen. Mr. Mostoller responded that it may be a topic of discussion with the engineers at that meeting to find consensus and work out the logistics of who will take lead on certain procurement pieces as both firms have bidding as part of their construction administration contracts.

Mr. Mostoller then informed the Board that tomorrow in North Acton the instrumentation and controls contractor will be on site to start that process. They continue to make progress but have not had any

contractors on site as they are waiting for the equalization tank and the filters to arrive at the end of the month. They have been in contact with Suez and hope to have flow of water for start up in early January. Mr. Mostoller noted that this schedule has been changing and he will keep the Board informed on any changes.

Mr. Mostoller informed the Board that they have 2 upcoming hearings before Town Boards regarding the projects. One meeting is on November 15th before the Conservation Commission and on December 5th they will go before the ZBA for the variance regarding frontage at Center Acton. They do expect the Town Planning Department to make a request to waive the \$250 filing fee for the ZBA variance.

Financing agreement amendments with CWT

Ms. McCarthy signed the financing agreement amendment received for the NAWTP PFAS project that grants the District partial principal forgiveness. However, the first financing agreement amendment the District received in July has still not been resolved. The amendment expressed a position to agree to the retention of rights for the Commonwealth as discussed in previous meetings. This topic may be discussed further in executive session once language to amend the agreement has been finalized. If the Board agrees on the revised amendment, they will submit the proposed changes to the Clean Water Trust for review.

PFAS MDL

Staff have been working diligently to complete the matrix of flow rates and PFAS concentrations to put into the settlement calculator. Several deadlines are approaching. Saturday the 11th is the deadline to object to the settlement and there are two opt-out dates, December 4th and 11th if they decide to not take the settlement. Some state's Attorneys General have encouraged other water systems to not accept settlements, but the Massachusetts Attorney General has not made such suggestions.

Ms. Amir Lin asked how many other Massachusetts communities have signed or are involved, Mr. Mostoller responded that he does not know the answer to that question.

Mr. John Petersen had a question for Mr. Mostoller. Boxborough had several sites that recently tested high for PFAS, he asked if there is anything Acton can learn about their own wells or water from the Boxborough results? Mr. Mostoller responded that some of Acton's wells might be impacted from sources in Boxborough but there's little else to glean from their numbers alone.

Master Plan Update

Within this meeting packet is the original proposal from Wright Pierce for the scope of the Master Plan update. Mr. Mostoller provided background to this item; he has been in conversation with Wright Pierce about the Master Plan. The Board had previously put a hold on this update as they worked to craft a PFAS response and get those projects off the ground. Now that those projects have made progress, they are circling back to this update and Mr. Mostoller would like information from the Board about what their desired scope is.

Ms. Amir Lin asked Mr. Mostoller about the funding for this update. Mr. Mostoller responded that the money has already been appropriated and the contract has been signed. Some work under this contract had been done before they paused to work on PFAS projects.

Mr. Mostoller said that he had circulated a draft of the scope for the Master Plan Update to staff to gather feedback on what is missing, what isn't necessary, or should receive more emphasis.

Ms. Amir Lin commented that many of the uncertainties that made them pause on the Master Plan have been figured out, and that they could potentially use the Master Plan to understand infrastructure challenges as the Board begins to work through other agenda items like the MWRA study and the rate study. Ms. Amir Lin expressed support for returning to updating the Master Plan.

Mr. Rosen provided his thoughts of the draft scope. He had no issues with tasks 1 & 2 but had some concerns with certain aspects of task 3. Mr. Rosen also thought the storage tanks, as Mr. Mostoller suggested, should be added to task 4, that task 5 might not be needed, and that he was unsure about task 6.

Mr. Stuntz then opened the conversation to discuss the purpose of the Master Plan, especially as it pertains to long term planning. Mr. Stuntz commented that the Master Plan has functioned more as an engineering plan, and wondered how long-term decisions like the MWRA and other questions about supply might affect the Master Plan. Mr. Stuntz then expressed some doubt concerning the Master Plan given the need for information for big picture decisions like source options. When Ms. Amir Lin asked if he saw a need for an engineering guidance document at this time, Mr. Stuntz stated that he believed they have enough planning and guidance for the next 5 years.

Mr. Mostoller agreed that the Board has many projects in progress but reaffirmed his belief that picking back up on the Master Plan update will inform the Board on where to go next after the PFAS upgrades and bedrock wells are complete. Mr. Mostoller then stated that a Master Plan update on the existing water system may give the Board better and more up-to-date information for when long term decisions, like the MWRA, come around.

The Board then engaged in a deeper discussion about the scope of work, and if they wanted resources to be diverted to explore issues they have not yet looked at. Mr. Rosen listed some topics like pipe replacement, dead ends, and pressure to possibly include in the update. The Board then discussed interconnection with other communities and the associated infrastructure, and task 3 in the proposed scope. The Board reached a general agreement that some larger topics may require separate studies or evaluations to fully understand the decision at hand.

Mr. Mostoller provided insight into the difficulties with trying to craft plans and studies for events that are 10 years out. The lack of certainty about the regulatory environment and the economy makes it difficult to plan capital improvements. Mr. Mostoller also pointed out that the process of conducting a study, planning, designing, and getting approval for projects can take 3-5 years. With that timeline in mind, he stated a Master Plan update would assist in knowing what to focus on in 2026 and beyond.

The Board then continued to discuss the subject, discussing the role of the Master Plan update and how it may be adjusted to accommodate new topics the Board wishes to understand. Ms. Amir Lin proposed that the Board contemplate the scope of the update for the next few weeks, as well as think about priorities for the District that the Master Plan may accommodate.

MWRA MetroWest Expansion

Mr. Mostoller provided an update on the MWRA MetroWest Expansion. It has been several months since the report was released that established a high-level understanding of it. One common question has been how communities begin to come up with a process to evaluate connections, especially those that are at a further distance. One recommendation for the Board is to consider some outside support on evaluating a connection, beyond the current task in the Master Plan update. The MWRA might recommend where connection can be made, but having a better understanding of all available options may assist in decision making. Mr. Mostoller stated that the community may benefit from some guidance and that the time to begin discussion is now so that budgetary resources can be prepared in a timely manner.

Mr. Rosen and Ms. Amir Lin agreed with Mr. Mostoller's thoughts, and the Board continued to discuss the topic, agreeing that if this process is something the District wants to continue to understand, then the next phase needs financial support. Ms. Amir Lin expressed support of an appropriation to make a detailed evaluation, especially given the opportunity of the entrance fee waiver. Mr. Stuntz commented that many in the community expect the District to explore this opportunity, so it is likely well supported to commit funds. Mr. Rosen suggested the Board consider what would be a suitable appropriation and what they could expect from a vendor to help with the decision.

Mr. Stuntz asked Mr. Mostoller if other Towns have the same questions, is there a need to do this alone? Mr. Mostoller said that a collaborative effort has not manifested in this circumstance, but also in this instance, many of the questions that need answers would likely be Acton specific.

The Board continued a brief discussion on this. Mr. Mostoller finished the item by saying that one finding of the study was that the MWRA could likely only add one of the three metro areas, and Mr. Mostoller is not aware of any advancements from the North or South Shore which makes MetroWest a more viable option.

Rate Study

Since the Board last discussed this, Ms. McCarthy took the proposed scope of work from the Finance Committee and put it into an RFP format that could be put out to bid. Mr. Mostoller spoke with two reputable providers for rate study services for feedback on the proposed RFP. The feedback from the providers was that the study required more focus as it was asking for something too broad. As the Board is currently preparing for budget season, Mr. Mostoller thought it would be beneficial to take this feedback and decide if they want to move forward on the rate study, refine the focus, or defer this to a later date.

Ms. Amir Lin asked how much the study would have to be slimmed down. Mr. Mostoller responded that there were no specifics of content from what the Finance Committee provided, but rather the scope should be refined to determine what it is they really want to know.

The Board briefly discussed possible options for this item. Mr. Rosen commented that he believed it should be kept as a separate study and not rolled into the master plan.

Mr. Stuntz commented that the issue is that they are working off one specific goal, to identify low-income users in the community, but that they have no way to measure the outcome, and that he believes they need a valid measurement.

The Board then discussed the issue as it pertains to low-income water assistance programs, and the program that offers rebates for seniors. The Board then discussed how they might adjust the scope of the study, and what goals the study is tangibly trying to achieve. Mr. Rosen suggested that a member of the Board sit with the Finance Committee and try to narrow the scope to determine a more solid measurement.

Mr. John Petersen then provided some insight into the goals of the Finance Committee with this rate study. Mr. Petersen commented that if the District is aware of disadvantaged individuals via a different metric, the goal is to add another option for support.

The Board responded that Ms. McCarthy had looked into that as an option and what came from that discussion was that the Town did have several programs like the one for seniors that the District could build off of. However, the Board also recognized that the population of those programs is a very small percent and only accounts for customers who are property owners.

The Board then continued the discussion with Mr. Petersen relaying more in depth the information of their last conversation on this item.

Mr. Petersen then commented that this feedback is enough for the Finance Committee to take this item back and work on a narrower proposal to address their actual concerns.

Mr. Rosen informed Mr. Petersen that the Board was not inclined to evaluate need, and they would prefer to rely on Town resources for that, as opposed to asking customers for their personal financial information as part of a qualification process.

Mr. Ron Parenti then provided comment on his perspective of this topic. Mr. Parenti believes there is a fundamental disagreement about whether the current rate structure should be maintained. He believes that a volume-based rate structure would be more simple and fair.

Mr. Rosen responded that a volume-based rate structure is currently in place, but the bonding payments are determined regardless of volume. Mr. Rosen wondered how the bonding fee may be structured to be based on volume.

Mr. Parenti commented that the debt fee has grown and that the main question is if the fee should be the same for all customers, or if it should also be based on volume of consumption. Mr. Parenti expressed doubt that an outside consultant would be able to address this question.

After some additional brief discussion about the debt fee, Ms. Amir Lin stated that there seems to be room for more discussion on this topic to tighten the scope. Mr. Mostoller commented that many of the points of interest may not fit the scope of a rate study but rather of an affordability study. He then pointed out that an outside consultant may be able to assist in defining scope of an affordability study.

The Board continued discussion until Ms. Amir Lin commented that this agenda item originates from a citizen's petition. Ms. Amir Lin suggested that a working group get together to discuss this scope given the feedback from this meeting's discussion. Mr. Rosen volunteered to sit with a member of the Finance

Committee to work on refining this. Mr. Petersen also agreed to join the group, and Mr. Mostoller suggested that Ms. McCarthy may also be able to provide assistance. Mr. Petersen said he will take this information to the Finance Committee and reach out with more details.

Ms. Amir Lin thanked the board and attendees for the robust discussion on the topic.

Discussion of native meadow demonstration project

Ms. Amir Lin provided a short background on this agenda item and asked Mr. Mostoller if there was an update. Mr. Mostoller informed the Board that given the information from the presentation at the last meeting, the window on starting this project for the next growing season is rapidly closing. Mr. Mostoller asked the Board for a clear direction on how to proceed. After some discussion, Ms. Amir Lin said that while the Board supports the idea, there is likely too much going on at the moment to perform a helpful site selection. The Board directed Mr. Mostoller to reach out to Ms. Morton, to thank her for her time, express the Board's interest in this project at another point in time so that they can look for an appropriate location. Mr. Mostoller agreed to communicate that with Ms. Morton.

NEW BUSINESS:

WRAC Groundwater Protection Mailing

At the last meeting Mr. Rosen informed the board about this upcoming mailing. The WRAC has put together materials for yearly education on ground water protection as it relates to zoning and land use. Details on the mailer are enclosed in the meeting packet. The mailer will be sent to every postal patron in Acton. Mr. Mostoller has spoken with the Town Manager about sharing the cost for printing and mailing, they are still in conversation about the details. At this moment in time there is no finalized plan, but Mr. Mostoller expressed his support to assist the Town Manager in getting this information to residents as soon as possible. Mr. Mostoller wanted to inform the Board that the funding from the District will likely come from the information report budget for outreach efforts, there is not a separate appropriation for this but there is precedent for this.

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 will not reconvene in open session.

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

Open meeting Closed at 8:57 pm.

Board of Water Commissioners
Meeting Minutes
Acton Water District
693 Massachusetts Avenue, Acton, MA
Monday, November 13, 2023 @ 9:45AM

AGENDA

Comments from the public

NEW BUSINESS:

- Finalize questions for District Counsel Interviews
- Conduct District Counsel Interviews
- Review interviews and discuss next steps in District Counsel selection process

Present at Today's Meeting:

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

District Manager: Matthew Mostoller

District Treasurer: Christine McCarthy

Stephen Madaus, Esq. & Spencer Holland, Esq.- Mirick & O'Connell

Christopher Petrini, Arthur Goldberg & Heather White- Petrini & Associates

Members of the Public: none

Ms. Amir-Lin opened the meeting at 9:45AM.

Comments from the public

No comments from the public.

New Business

- Finalize questions for District Counsel Interviews

The Board of Commissioners reviewed the questions for the District Counsel candidates and agreed on the approach to be taken for the interviews. Interview questions attached.

- Conduct District Counsel Interviews

Representatives from Mirick & O'Connell were invited into the conference room. The Board of Commissioners and the staff who were present introduced themselves and asked Stephen Madaus, Esq. and Spencer Holland, Esq. from the firm Mirick & O'Connell to introduce themselves and provide information about the firm. Following the introductions, the Board asked a series of questions from the interview question sheet to obtain a complete picture of the legal services Mirick & O'Connell could offer the District.

Following the interview with Mirick & O'Connell, the Board took a brief break.

Representatives from Petrini & Associates were then invited into the conference room. The Board of Commissioners and the staff who were present introduced themselves and asked Christopher Petrini, Arthur Goldberg, and Heather White to introduce themselves and provide information about the firm. Following the introductions, the Board asked a series of questions from the interview question sheet to obtain a complete picture of the legal services Petrini & Associates could offer the District.

- **Review interviews and discuss next steps in District Counsel selection process**

The Board and the staff who were present at the meeting discussed the interviews and agreed that both firms could adequately represent the District and meet our legal needs. There was consensus that we will not need to bring in additional firms for interviews.

The Board was not ready to select a firm at this time, however, this will be an item on the agenda for the November 20th Board of Commissioners meeting. Ms. Amir Lin requested that everyone take the time to think about the interviews over the remainder of the week. She would like any feedback to be provided to Matt who can then present the information to the Board on November 20th.

Mr. Rosen motioned to adjourn the meeting, Mr. Stuntz seconded the motion, and it was unanimously approved by a roll call vote: Mr. Rosen, Mr. Stuntz, Ms. Amir Lin.

The meeting adjourned at 12:36PM.

District Counsel Interview Questions

November 13, 2023

- How long have you practiced law?
 - Always in private practice? With this firm or others?
- Any other relevant experience (like work for DEP or other administrative agency)
- Do you have working relationships with state or federal agencies that the District may interact with?
- Briefly, describe your prior municipal experience.
- What municipal entities do you have experience with? (Who are your other municipal clients.)
- Please provide an example of a regulatory issue that you have helped a client navigate including the resources utilized to achieve a desirable outcome.
- What potential conflicts with existing clients might you have and how would you propose to address them?
- What other areas of law do you practice other than municipal law?
- Describe your experience(s) in that/those areas?
- Do you have any litigation experience?
- Do you have any other special legal skills that you would bring to the position?
- Do you have any experience with Massachusetts water districts or water utilities?
 - If so, please describe that experience. If not, please describe what made you apply for this position as district counsel.
- Your letter of interest indicates your firm has Municipal finance experience as well as experience with Annual meetings. Please describe your experience in these areas.
- Do you have experience collaborating with Bond Counsel?
- What do you think the most challenging issues are as a municipal lawyer?
- What do you enjoy most about practicing municipal law?
- How much of the work for the district do you anticipate doing by yourself?
- If you consult with another attorney in your office, will the District be double billed for that consultation?
- Please describe your approach to working with municipal clients.
- How do you stay up to date on what is happening with that client and what type of response time can we expect when issues arise?