

Board of Water Commissioners

Meeting Agenda

Monday, July 17, 2023 @ 7:00 PM

AGENDA

- A. Comments from the public
- B. Approve minutes from the meetings of 6/26 and 7/10
- C. Appoint one Commissioner to sign warrants while conducting meetings virtually
- D. OLD BUSINESS:
 - Per- and Polyfluoroalkyl Substances (PFAS)
 - Current sample data, if available
 - Discussion of Additional PFAS Upgrades
 - North Acton PFAS Loan Agreement Amendment
 - PFAS MDL Settlement Discussions
 - Borrowing for PFAS Design, Kelley's Corner, BALDCO
 - Update on BALDCO Acquisition
 - Update on 549 Main Street
 - Waiver of Fees for Powder Mill Place 40B Project
- E. NEW BUSINESS:
 - Massachusetts Water Resources Authority (MWRA) MetroWest Expansion Study

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.

Present at Tonight's Meeting:

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

District Manager: Matthew Mostoller

District Treasurer: Christine McCarthy

District Counsel: Mary Bassett

Finance Committee: John Petersen

Public Present

William Guthlein

Alisa Nicol

MINUTES

At 7:00 connected remotely, Erika Amir-Lin opened the Acton Water District Board of Commissioners Meeting.

A. Comments from public

No Comments from the Public at this time.

B. Approval of minutes from the meetings of 6/26 and 7/10

Mr. Rosen motioned to approve the minutes from June 26, 2023, with the following amendment, correcting a typo on page two referring to PFAS sample levels, it should read “at” instead of “fat”. Mr. Stuntz seconded the motion, and it was unanimously approved by a roll call vote, Mr. Rosen, Mr. Stuntz, and Ms. Amir Lin.

Mr. Rosen motioned to approve the minutes from July 10, 2023 with the following amendments, the date should read “July 10” instead of June 10 in two places on the first page, and on the second to last page during the discussion regarding the Powder Mill Place fee, in the third paragraph, Mr. Rosen referenced the West Boylston Decision, which should be amended to read, “discussion ensued and it was agreed that this case was not a legal precedent. The decision to waive the fee would be a precedent for the Acton Water District.” Mr. Stuntz seconded the motion, and it was unanimously approved by a roll call vote; Mr. Rosen, Mr. Stuntz, Ms. Amir Lin.

C. Appoint one Commissioner to sign warrants while conducting meetings virtually

Mr. Stuntz motioned to appoint Mr. Rosen to sign warrants until the next scheduled monthly meeting. Ms. Amir Lin seconded, and it was unanimously approved by a roll call vote; Mr. Rosen, Mr. Stuntz, and Ms. Amir-Lin.

At this time the Board took a question from Mr. Bill Guthlein as he asked what the next step for the water rate study is. The Ms. Amir Lin replied that the next meeting would address that ongoing project.

D. NEW BUSINESS

Per- and Polyfluoroalkyl Substances (PFAS) & Current Sample Data

Mr. Mostoller provided an update on PFAS testing, reporting the May results for North Acton at 15.3 ppt, early June results for Center Acton at 8.9 ppt, and South Acton at 13.5 ppt. The Center and South plants are currently active, but the North Acton Plant will be off until the month of August, and the July sampling results will hopefully be available for the August Meeting.

Discussion of Additional PFAS Upgrades

Mr. Mostoller reported that they had signed a contract with Wright Pierce for the Center Acton PFAS and Bedrock Well Project. They will be starting work on the design this week; the bedrock part of the project consists of completing the remaining 15% of design work to get it prepared for MassDEP review and then putting the contract out to bid when they are ready. For South Acton, Mr. Mostoller anticipates signing a contract with Weston & Sampson as they reported they can complete the project on our tight timeline. Currently Counsel has made some minor edits to the contract language, but once that is finalized then they expect to sign the contract. With the project with Wright Pierce in particular, they are

looking to pre-purchase some equipment, meaning that ideally when the design is about 60% complete and they know most of the necessary equipment, they would put out bids for equipment to gain some lead time on difficult items to obtain like filter vessels and electrical gear before the main contract is awarded. Mr. Mostoller reported that VFD's currently have about a 200-day lead time for the North Acton Project, and they are currently looking for temporary VFD's to keep to the timeline as outlined in the contract.

North Acton PFAS Loan Agreement Amendment

Ms. McCarthy received an amendment from the Clean Water Trust, which asked her to sign an amendment to the Financing Agreement the Board recently signed. Mr. Mostoller provided a summary of their current understanding of the requested amendment. As it is currently understood, the Commonwealth is looking for the District to give them any settlement funds from the PFAS litigation settlement, however due to the vagueness of the language, it could be interpreted to be broader than that. This would put a lien on unrealized settlement funds. Technically the District already has a lien on these funds to pay the attorneys representing them. When Ms. McCarthy received this amendment request, she was not comfortable signing it, so they are looking to have a meeting with the Clean Water Trust to get more information. Ms. Amir Lin asked if other communities in the PFAS litigation have received this amendment. Mr. Mostoller replied that Sudbury received and signed it, Littleton has received it but not signed yet and is currently working with Acton on understanding the request. Mr. Mostoller added that, specific to the North Acton Project, which is directly related, the payment could get hung up in the interim as they work to understand this amendment request. Regarding the administrative background of this request, Mr. Mostoller explained that MassDEP is the administrative branch, and the Clean Water Trust would be the financing entity. In reaching out to MassDEP, they seemed only mildly aware of this request and were not able to answer questions about the process at this time. After this summary from Mr. Mostoller, Ms. Basset commented that this is a matter that will require the Board to make a decision at some point in time, but that they are currently looking for information to ensure the Board is fully informed about this request. This will be a discussion matter at a later date.

PFAS MDL Settlement Discussions

Mr. Mostoller spoke to this update, acknowledging that the previous agenda item may affect how they look to proceed as it could affect if they choose to take the Clean Water Trust loan or participate in the settlement. This agenda item awaits further information on the previous agenda item before additional meaningful discussion can be had.

Borrowing for PFAS Design, Kelley's Corner, BALDCO

Ms. McCarthy provided an update on the borrowing for the PFAS Design, stating they received the bids for the BAN's on July 11th, the lowest bidder for both was Oppenheimer and Company at 4.75% for both, and they also received a \$100 premium on each of the BAN's. The next step will require the Board to sign the associated documents, which need to be uploaded to Gateway by Thursday July 20, 2023, so funds could be available by the 25th. Ms. McCarthy stated that she has the paperwork in hand that needs to be signed and is in communication with board members to complete that on time.

Update on BALDCO Acquisition

Mr. Mostoller stated they will be having an executive session regarding this project to discuss the lease. They did complete the Phase 2 sitework last week and were able to advance three out of four of the ground water wells. They also completed some borings and test pits which found mostly gravel and some debris, meaning it is not virgin material as was previously represented. After a field screening for volatiles the levels were low indicating no petroleum at this point in time. They anticipate the report to be finished at the end of August. As discussed in the last meeting, they are pursuing an extension of the closing, and the seller has spoken to the abutters about the trespass. It seems two of the property owners will resolve that soon, the third at this time has not responded. Mr. Rosen asked if there is anything the District needs to complete, Mr. Mostoller responded no, the next steps would be taken after they receive the completed Phase 2 report in August.

Update on 549 Main Street

Mr. Mostoller reported that they submitted a request for an extension on this project, they now await approval. They recently had a meeting with the Sudbury Valley Trustees and hope that the CR is resolved soon. The Sudbury Valley Trustees provided a draft of the baseline documentation report. Mr. Rosen asked for clarification on the requested extension date, which Mr. Mostoller affirmed as September 27, 2023.

Waiver of Fees for Powder Mill Place 40B Project

Ms. Amir Lin and Mr. Mostoller attended the Zoning Board of Appeals (ZBA) Meeting in the previous week regarding this project. Mr. Mostoller provided an update, informing the Board that the potential buyer of the property, and the property owner's attorney, asked for an extension of the comprehensive permit. The Zoning Board of Appeals granted a two-year extension, and the ZBA then voted on whether the proposed amendments were considered substantial. The Zoning Board of Appeals concluded that the amendments were substantial and bumped the hearing on the matter to their next meeting, effectively taking no action on the request for the waiver. The development team was not permitted to speak during this meeting, and the ZBA chair did not entertain any commentary at the time. The next meeting is scheduled for August 1, 2023. One member of the Zoning Board of Appeals did acknowledge the letter the District had sent. Mr. Mostoller did receive a request from the developer for a meeting to discuss fees, the history of the project, and other questions. Mr. Mostoller clarified that when Wood Partners was looking to acquire the project it seems the status of the water connection may have been misrepresented as the District has never approved water for the project, and no supply of water has been guaranteed as it has only been in the planning phase. The District will attend the August 1 ZBA meeting.

E. New Business

Massachusetts Water Resources Authority (MWRA) MetroWest Expansion Study

Mr. Mostoller provided background on this study, introducing the study to the Board. The MetroWest Consortium has been meeting for more than a year to prep for this expansion study, similar to what was released for the North and South Shore. This is a feasibility study about bringing communities into the MWRA, and it is set to be released at the end of the month. Acton has been participating in the study and providing information, the summary of the study was presented to the participating communities on June 29, 2023. The broad scope of the study includes what could be done if communities west of Boston

wanted to join the MWRA, what would that look like, and what might it cost. Communities have expressed interest in joining the MWRA for a variety of reasons, including economic development, addressing personnel shortages, or managing PFAS and other water quality challenges. The Authority has waived the entrance fee for a five-year period. The feasibility study has been conducted at a very high level, it has determined that there is water available, but it would take a lot of time and money to execute. Mr. Mostoller hypothesized that if Acton wanted to join the MWRA it would take 10 years at the earliest, 20-30 years at the longest depending on broader MetroWest interest. The project cost is dependent on how many communities would join and could cost between 940 million dollars, to 1.6 billion. The more specific approval process, financing, or cost sharing that would happen in a joining community was not part of the feasibility study. At this moment there are maybe 25 MetroWest communities interested in joining the MWRA.

Mr. John Petersen asked if there was a projected date for the report to be released, and Mr. Mostoller responded that the draft is done and is undergoing internal review by the MWRA, it may be ready by the end of July.

EXECUTIVE SESSION

Ms. Amir Lin motioned for the Commissioners to enter an executive session pursuant to General law chapter 30A section 21a to consider the purchase, taking or value of real property as an open meeting may have a detrimental effect on the negotiating position of the District, and that the Board shall not reconvene in open session. Mr. Rosen seconded the Motion, and it was unanimously approved by a roll call vote; Mr. Stuntz, Mr. Rosen, Ms. Amir Lin.

Open session was closed at 7:47 pm