

Board of Water Commissioners
Meeting Minutes
Acton Water District
693 Massachusetts Avenue, Acton, MA
Monday, August 14, 2023

AGENDA

Comments from the public

Approve minutes from the meeting of 7/17

Appoint one Commissioner to sign warrants while conducting meetings virtually

OLD BUSINESS:

- a. **Per- and Polyfluoroalkyl Substances (PFAS)**
 - i. **Current sample data, if available**
 - ii. **Discussion of Additional PFAS Upgrades**
 - iii. **North Acton PFAS Loan Agreement Amendment**
 - iv. **PFAS MDL Settlement Discussions**
- b. **Update on BALDCO Acquisition**
- c. **Update on 549 Main Street**
- d. **Waiver of Fees for Powder Mill Place 40B Project**

NEW BUSINESS:

- a. **Discussion of District Counsel**

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.

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, and Stephen Stuntz

District Manager: Matthew Mostoller

District Treasurer: Christine McCarthy

District Counsel: Mary Bassett

Environmental Manager: Alexandra Wahlstrom

Finance Committee: Ron Parenti

Members of the Public: John Petersen, Kim Kastens, Alisa Nicol

A. Comments from the public

No comments from the public at this time.

B. Approve minutes from the meeting of 7/17

Mr. Stuntz motioned to approve the minutes from July 17, 2023, Mr. Rosen seconded, and it was unanimously approved by a roll call vote; Mr. Stuntz, Mr. Rosen, Ms. Amir Lin.

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

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

D. OLD BUSINESS:

Per- and Polyfluoroalkyl Substances (PFAS)

Current sample data, if available

Mr. Mostoller presented new sample data regarding Per- and Polyfluoroalkyl Substances (PFAS). The end of June results for North Acton were 18.5 ppt, the July sample was taken on July 7, 2023, and saw an increase to 21.6 ppt but as this is the first sample of the quarter the plant still has the months of August and September to average out and remain in compliance for the quarter as a whole. The July sample for South Acton was 14.7 ppt, and the Center Acton sample from July 24th was 8.8 ppt. Mr. Mostoller commented that sample data continues to look good and that the strategy to minimize concentration continues to be successful, currently North and South Acton treatment plants are in operation and we have begun the August sampling.

Ms. Amir Lin asked about the North Acton schedule and Mr. Mostoller explained that both North and South Acton plants operate for about 2-3 weeks. Mr. Rosen asked about the water draw from water takers and if it has been lower than in previous summers. Ms. McCarthy answered that the mid July to mid-August readings are significantly lower.

Discussion of Additional PFAS Upgrades

Mr. Mostoller reported that the North Acton PFAS project broke ground on July 24, 2023, and that the contractor D&C has started work, and the electrician is in the process of completing preliminary work. They are working with the engineer to come up with temporary electrical equipment solutions to be operational by the new year instead of late spring and summer, which is when permanent equipment would be available. They are currently exploring the option to rent electrical equipment and expect the empty filter vessels to arrive sometime in September, so items that have a long lead time can be replaced with temporary equipment to make connections and be online as quickly as possible, but addressing this issue has taken some time.

Regarding the Center Acton treatment plant upgrades, they held a kickoff meeting with Wright Pierce recently and are currently looking at two items, first, how to manage waste product from filters during backwash, and second, the height limitations for that zoning district. They have reached out to the Zoning Officer regarding this second item to inquire about a variance. Ideally, for the height limitation, if the restriction were waived we would be able to avoid excavation. Mr. Stuntz asked how much over the limit the item is, and Mr. Mostoller replied about 2-5 feet.

The South Acton project also had a kick off meeting with Weston and Sampson, and the two items of interest from that meeting are the site constraints as MassDEP has been strict with regulations with other water suppliers, and they are trying to set up a meeting with the building commissioner regarding the structure they want to use, ideally using a non-fully structural building to expedite operation of the facility and to avoid building two plants at the same time. Staggering construction would ease operations of the process, so that North Acton may be brought on first, then phase into South Acton, and finally bring in Center Acton last.

Mr. Rosen asked if power in South Acton is being drawn from a solar source yet, Mr. Mostoller replied that it seems likely that South Acton is drawing power from a solar source, but they have yet to receive confirmation from EDF or Eversource.

Alisa Nicol asked if the Height Variance for Center Acton is an item that should be brought to Zoning Enforcement or for the Selectboard? Mr. Mostoller replied that this is part of the inquiry they made to the Zoning Officer, and they do not have a clear answer on that procedure yet.

North Acton PFAS Loan Agreement Amendment

Recently Matt Mostoller, Mary Bassett, and Christine McCarthy met with the Clean Water Trust, and their respective attorneys, as well as an attorney from the District's Bond Counsel. The meeting was productive as they were able to express some of their concerns and the Clean Water Trust was able to answer some of their questions. It seems that the Clean Water Trust believes that everything can be worked out and that they can come to language that is amenable to all parties and not have the District walk away from the loans. The Clean Water Trust claims their intent is to preserve the Commonwealth's ability to seek compensation from the same parties. The District team has been working with the PFAS Council, Bond Counsel, and neighboring utilities to come up with language that meets everyone's interests. They have not provided a proposal back to the Clean Water Trust yet. One question the District had relative to North Acton is whether the requisitions would be held up and they were assured by the Clean Water Trust that the funds would be released the same day and this would not hang up the payment process.

Once they are able to agree on language of the amendment it was suggested that the language would be carried through to other projects like the loans for South and Center Acton. There were questions about the specific contaminants and the restrictions. Bond Counsel honed in on what the benefit is to the District if they will be paying the loan back and receiving a 0% loan rather than 2% loan, and if that could be part of compensation; if there's principal forgiveness in the future, that could be a monetary limit something is tied to.

Mr. Rosen agreed with the perspective Mr. Mostoller and the team shared at the meeting with the Clean Water Trust, and the Board thanked Mr. Mostoller, Ms. Bassett and the rest of the team for working on this.

PFAS MDL Settlement Discussions

Mr. Mostoller provided an update on this, there are currently 22 State Attorneys General who have raised concerns with some of the settlement language that is out there, and they feel it might not be in the best interests of public water suppliers to agree to those terms. Depending on the settlement terms and how the Board feels about them, Acton may have to decide what to do. It's possible that a State Attorney General could turn the needle and interject in the case, but there has been lots of media coverage and nothing is set in stone yet. The District still has the option to decide if they care to proceed and sign off on the settlement. Mr. Mostoller asked the Board to be aware of the uncertainty of the situation as a whole and to continue to stay up to date as the process unfolds.

Update on BALDCO Acquisition

Phase two of the environmental site assessment has been completed and they will be able to share the results in the executive session. The District continues to work on the lease terms. August 30th is the end date in compliance with due diligence, but they will discuss this and how to proceed. Mr. Rosen asked if there's anything else involved with the 21E that the Board needs to act on. Mr. Mostoller said the report is complete and they have a draft, there have been no major changes for the LSP in the document but possibly we could do some follow-up sampling.

Update on 549 Main Street

Mr. Mostoller reported that they will be receiving \$500,000 from a drinking water supply grant program, and Mr. Mostoller thanked Alex and the rest of the team for assisting with the Application. Typically, with this grant there is a \$350,000 limit but the Office of Environmental Affairs saw value in the project and increased their allotment to \$500,000.

They have another outstanding grant for this project that is focused on municipal vulnerability, which they requested about \$1.5 million, they should hear back very soon.

They have an agreement from the Sellers on the draft of the CR, and feedback from the Town and Sudbury Valley Trustees; they have begun to incorporate the feedback into the draft. They will be submitting it back to the State in the near future.

The Baseline Documentation Report is being reviewed by the parties; Mr. Mostoller will provide feedback.

One item that they need input from the Board on is what to name the CR, Mr. Mostoller recommended calling it "549 Main Street CR" but other options could be chosen. Informally, other options for consideration could be the Conant CR, or the Acton Water District CR.

Ms. Amir Lin opened the meeting for the Board to discuss this item. Mr. Mostoller explained that his recommendation for the "549 Main Street CR" name is because it sounds appropriate, doesn't single out

one of the four entities involved in the process, and he acknowledged that they have other places like the Conant Wells that acknowledge the family.

Mr. Rosen and Ms. Amir Lin agreed that the usage of the property address would avoid confusion.

Mr. John Petersen commented that the property address would work but noted that recognition and signage can add meaning and tell a story that relates to the name when people are on the nearby walking trail and encouraged the Board to consider how the CR's name could promote the Town's story.

Mr. Mostoller responded to Mr. Petersen's comment that they have some requirements for signage as part of the CPA funds and their State Funds, so signage will be a part of it. He also commented that if they do receive the MVP grant there is an entire section of that grant for an educational outreach component that could be utilized to tell the Town's story.

Mr. Stuntz motioned to accept the District Manager's recommendation and name the CR, "549 Main Street CR". Mr. Rosen seconded, and it was unanimously approved by a roll call vote; Mr. Stunts, Mr. Rosen, Ms. Amir Lin.

Waiver of Fees for Powder Mill Place 40B Project

Ms. Amir Lin provided an update on the Waiver of Fees for Powder Mill Place 40B Project which was previously on the table before the ZBA. At the August 1st meeting the developer came back and said they would be withdrawing their request for the waiver and restructuring to what the District requested, so the waiver of fees is no longer in front of the ZBA. Mr. Mostoller commented that the developer did retain their right to come back at a later date and ask again if their negotiations were not going as expected. Mr. Mostoller then reported that they have not heard back from them since they spoke after the first ZBA meeting, which addressed many items of concern and laid out a pathway to provide the District the information necessary, and put them in contact with their engineer, however neither the District nor Wright Pierce have heard from them.

Mr. Stuntz asked what offsite improvements were necessary and Mr. Mostoller explained that the water main for Powder Mill Road is a dead end and is a cast iron 6 inch, so it is not designed to support big buildings with a high fire or residential demand. The water main is suited for the current 7-8 customers but would need to be updated if more customers were added. Mr. Stuntz then asked for clarification about the recent impact study done in the area. Mr. Mostoller clarified that the initial impact study did find that the main was ok, but additional flow test work in the area was performed and engineers were able to refine the model to that particular stretch of the system. That additional work informed the decision that the main would not be sufficient for the project without additional work. Mr. Mostoller informed the Board that if the applicant comes back he will bring it back to the Board.

E. NEW BUSINESS:

Discussion of District Counsel

Counsel has informed Ms. Amir Lin and Mr. Mostoller of her intention to retire. Though there is no specific date in mind they would like to begin the process of securing a replacement. Ms. Bassett has prepared a job description with input from Mr. Mostoller, which was sent to the Board this afternoon.

The details of the job description do not need to be discussed at this meeting as Ms. Amir Lin encouraged the other board members to review the job description so it may be discussed at the next meeting. Ms. Amir Lin also commented that at the next meeting they would also like to discuss how to move forward in this process. It is unclear how long this will take but the aim is to have some overlap to allow Ms. Bassett to hand down institutional knowledge. Ms. Amir Lin said ideally, they would like to begin advertising in the early fall and be well into the process before they begin preparing for the Annual District meeting. Any refining or changing of the job description will be able to be done over the next few weeks. Ms. Amir Lin stated that she is looking for a process similar to what was done for Special Counsel.

Ms. Bassett commented that because she has been appointed for this fiscal year she is committed to serving to the end of the fiscal year, but has provided this early notification with no specific date in order to facilitate the process of finding a replacement.

Ms. Amir Lin welcomed Mr. Rosen and Mr. Stuntz to share their thoughts on this and digest the provided information about how to proceed.

Mr. Mostoller also noted that if Mr. Rosen and Mr. Stuntz are satisfied with the proposed process they can move forward as soon as possible. The aim is to have the job description and position posted by Labor Day to see who might be interested.

Town of Acton Finance Committee Request

Mr. Mostoller reported that the Town of Acton's Finance Committee has reached out to the Board to request an update on PFAS as it relates to cost implications that may be coming down to rate payers. Mr. Mostoller explained this request has come up before, and in the past the position has been to invite them to attend the Board's meeting.

Mr. Stuntz affirmed that they could invite them to send questions to the Board and invite them to attend a meeting. Mr. Mostoller said it seems they are asking about the current state of PFAS, mitigation plans, and they want to keep an eye on upcoming costs water users will face.

Mr. Rosen commented that in the short and long term it's difficult to answer any of those questions and there still needs to be a great deal of discussion between them and the Town to determine if they are going to address the use of a different water source, and as of this moment there is no absolute or concrete handle on what the costs may be.

Ms. Amir Lin and Mr. Mostoller echoed this sentiment and commented that any estimates could be based off incomplete data as this is an evolving issue with many different parts at play.

Ms. Amir Lin recognized comments online from Mr. Parenti and Mr. Petersen.

Mr. Parenti wanted to remind the Board that he made a presentation to the Town Finance Committee on this topic, and they were very receptive to the comments he made. Mr. Parenti also noted that the Town Finance Committee would likely want to hear some additional information including the uncertainty about the situation the Board had just expressed so that they can have some idea of where to expect a cost to come from. He affirmed he thought it would be a good idea for a representative to go to the Town Finance Committee to speak on this.

Ms. Amir Lin asked when Mr. Parenti made that presentation and after a brief discussion it was estimated that Mr. Parenti presented on this topic to the Town Finance Committee last winter.

Mr. Parenti and Mr. Rosen had a brief discussion about the financial uncertainty around PFAS, how the goal posts of this issue keep moving, and what numbers if any could be presented to the Town Finance Committee. Mr. Parenti believed that something could be put together.

John Petersen commented that there is no obligation for the Acton Water District to talk to the Town Finance Committee but regardless of that, as this issue would impact all of Acton, the Town Finance Committee would like to communicate and do something that is helpful without putting too much of a burden on the Board.

Mr. Mostoller stated that he has no issue presenting to the Town Finance Committee but he noted that in the past when a request like this has been made, one area of concern was the Water District's ability to maintain their autonomy.

Mr. Petersen said that this could hypothetically serve as a preview to what the District Finance Committee might want to bring up at the Annual District Meeting. The meeting in general, Mr. Petersen said, could be framed as a communication of what might come up at the Annual District meeting so it doesn't have to create more work, and instead can become part of the annual process. He believes it's worthwhile finding a way to share information constructively with the Town Finance Committee.

Mr. Rosen agreed that it's a good idea to interact with the Town Finance Committee. He asked Mr. Petersen what he thought about the Board, inviting them to a partial discussion on zoom during the Board's regular District meeting.

Mr. Petersen responded that another option could be to make it a joint meeting of the Town Finance Committee and the Water Commissioners, a setup which has been used in other instances in the past. Mr. Petersen said this format would also emphasize the independence of the entities.

Mr. Rosen thanked Mr. Petersen for his discussion and agreed that he would be in favor of a joint meeting.

Ms. Amir Lin pointed out that another option available is to provide a memo to the Town Finance Committee explaining in text the uncertainty surrounding the questions that the board spoke to earlier.

Mr. Rosen acknowledged that a written memo or something of the like is available but voiced his favor of personal interaction helps the situation.

Mr. Stuntz voiced concern that in an in-person meeting the conversation has a high tendency to drift to unrelated topics and quickly get out of hand. He said a joint meeting would be able to limit off topic questions if there was a set agenda.

Mr. Rosen and Ms. Amir Lin discussed having the Town Finance Committee invited as a guest to a Board of Commissioner's meeting and put at the top of the agenda to discuss PFAS updates with the Town Finance Committee, along with possibly the AWD Finance Committee. Ms. Amir Lin pointed out in this set up it wouldn't need be to set up as a joint meeting and instead could be an invited meeting.

Mr. Petersen commented that although the request is labeled as PFAS related, the real request is regarding significant financial expenses that will come to the citizens of Acton, saying it would be

broader than just PFAS. He said they are looking for insight into the cost the Acton Water District will bear and in turn transfer to the Town taxpayers, and let the AWD know how taxes will fit in and then they can see what the big picture is. In this context, Mr. Petersen said a joint meeting would work better.

Ms. Amir Lin paused the discussion so everyone would be able to think about the various options presented in the discussion and take the request under review.

End of New Business

EXECUTIVE SESSION

Ms. Amir Lin motioned to close the regular open meeting currently in session, and have the Commissioners to 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. Stuntz seconded the motion, and it was unanimously approved by a roll call vote; Mr. Rosen, Mr. Stuntz, Ms. Amir Lin.

Open session closed at 8:12 PM Monday, August 14, 2023.