



Water Supply District of Acton

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Board of Water Commissioners Meeting Agenda

Monday, September 11, 2023 @ 6:30 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 8/28**
- **Appoint one Commissioner to sign warrants while conducting meetings virtually**

OLD BUSINESS:

- Update on 549 Main Street
 - Award of MVP Grant
 - Vote to approve the sale of the \$4,900,000 General Obligation Bond Anticipation Notes of the District dated September 20, 2023
- 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
- Discussion of Outdoor Water Use Restrictions for 2023

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.

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Board of Water Commissioners

Meeting Agenda

Monday, August 28, 2023 @ 7:00 PM

AGENDA

- A. Comments from the public
- B. Approve minutes from the meeting of 8/14
- C. Appoint one Commissioner to sign warrants while conducting meetings virtually
- D. OLD BUSINESS:
 - a. Per- and Polyfluoroalkyl Substances (PFAS)
 - b. Current sample data, if available
 - c. Discussion of Additional PFAS Upgrades
 - d. North Acton PFAS Loan Agreement Amendment
 - e. PFAS MDL Settlement Discussions
 - f. Update on 549 Main Street
 - g. Proposed Scope of Work for Rate Study from Finance Committee
 - h. Discussion of District Counsel
 - i. Low Income Household Water Assistance Program (LIHWAP)
 - j. Request from Town of Acton Finance Committee
- E. 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.

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: Bill Guthlein

Members of the Public: Ron Parenti, Kim Kastens

MINUTES

At 7:02 pm connected remotely, Erika Amir-Lin opened the Acton Water District Board of Commissioners Meeting.

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A. Comments from the public

None at this time.

B. Approve minutes from the meeting of 8/14

Mr. Rosen motioned to approve the minutes of the August 14, 2023 meeting, Mr. Stuntz seconded the motion and it was unanimously approved via 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 Ms. Amir Lin to sign warrants until the next regularly scheduled meeting, Mr. Stuntz seconded and it was unanimously approved via a roll call vote; Mr. Rosen, Mr. Stuntz, Ms. Amir Lin.

D. OLD BUSINESS:

Per- and Polyfluoroalkyl Substances (PFAS)

Current Sample Data

Mr. Mostoller reported that there is no additional sample data on PFAS available since the last meeting, the August samples are still being processed. Both Center and South Acton plants are currently in use as of this meeting.

Discussion of Additional PFAS Upgrades

Mr. Mostoller reported that progress had been made on the North Acton project, but the contractor has demobilized and will resume work after the Labor Day holiday. The engineer on the project has identified several VFD's to serve as temporary equipment until the permanent equipment can be purchased. As of this moment the optimistic timeline for the equipment is to have the facility near the start of the new year with rental equipment in place, while they wait for the permanent equipment to come in. Currently lead times on permanent equipment would put it out to March at the earliest or summer. They have requested a proposal from the contractor on the installation and are awaiting a reply.

For the Center Acton project, Wright Pierce has begun to wrap up their design for the bedrock portion of the project. In discussing the issue of the height variance with them an additional option has been worked out. The project could use an alternative vessel design for the carbon vessel, one that is shorter and wider instead of the 27ft one originally planned, the Engineer has begun to look into this.

For the South Acton project, they have met with the building commissioner to talk about the design and compliance with the enhanced energy code, and he has expressed his support for it. They will begin test borings next week.

Kim Kastens raised a question in relation to PFAS. In a previous month's meeting there was discussion on sampling wastewater for the quarter and she inquired if that sampling took place. Mr. Mostoller replied that the sampling on the District's end did take place, but they haven't heard anything from the other party they are coordinating with on these samples.

Mr. Mostoller continued with his report, relaying that they are still waiting for a meeting with the Zoning Enforcement Officer as she has just returned from vacation, they will discuss the height variance concerns on the South and Center Acton Plant Projects.

Mr. Rosen asked if there is associated paperwork or approval the District needs to obtain from MassDEP for the use of the temporary equipment on the North Acton Project. Mr. Mostoller responded that they would likely need approval from the Drinking Water SRF within DEP. Mr. Mostoller said it would be unlikely that they would need technical approval for the rental equipment, but rather they may need approval for the costs and other administrative needs as labor would be required to install the temporary equipment, uninstall the temporary equipment, then install the permanent equipment. The SRF program has upcoming deadlines in Mid-October for the two new projects so the two engineers and staff are working diligently towards that date.

North Acton PFAS Loan Agreement Amendment

Mr. Mostoller, Ms. Bassett, and Ms. McCarthy have been working on this item and are making progress. In their work they have heard that the Sudbury Water District has been given draft language on this amendment while Acton was asked to propose their own language, so they are now in communication with the Sudbury Water District to see if they may acquire a copy of their language to compare the relative situations.

PFAS MDL Settlement Discussions

There is no additional information at this time.

Update on 549 Main Street

The Conservation Restriction was submitted and they received a tracking number as the review process has begun. Regarding the Baseline Documentation Report, the District was the last of the parties to provide feedback, though they provided minimal feedback on some existing trail network pieces that they believed should be included and they provided updated information on the groundwater protection zone. They also provided a clarification on the language about maintenance on the view across the meadow and how it relates to the property and public right of way. The amended version will likely be circulated to the parties for final approval in the coming weeks.

Ms. Amir Lin asked how long that process may take, Mr. Mostoller responded that while the state knows it is of a priority to conduct the review, it is unclear how long it will take, but the state is aware of the closing deadline.

Ms. McCarthy provided an update on the financing of the project. On Wednesday, August 30, 2023 a draft statement will be released, and the date of the sale will be Wednesday September 6, which will be done with electronic bids. Ms. McCarthy will have the closing documents ready for the commissioners to come in and sign for the September 11th meeting. A vote will need to be taken and the signatures will need to be collected the week of September 11, 2023. The funds should be available September 20,

which is the same date they will be dated. They are 6-month bonds and will then move to permanent financing in the spring.

Proposed Scope of Work for Rate Study from Finance Committee

They received a document on the proposed scope of work for the Rate Study from the Finance Committee, the Board and Mr. Mostoller have reviewed the document and want to continue to have dialogue about moving forward. While there was some concern about the scope, the document from the Finance Committee is a good starting point to begin alterations from and to decide what the Board and Staff want to accomplish with such a study. This Rate Study is partially driven by a citizen's petition. The board had a proposed rate study 2 years ago, but Mr. Mostoller expressed that he believes the board should begin discussion and preparation if they wish to use FY25 funds for a proposed study.

Mr. Mostoller then began to explain the different items of the study that the board needs to define more specifically. One item that needs to be decided is if this will be a stand-alone study or if it will be rolled into something larger. Mr. Mostoller also explained that they need to decide how they want to define 'low income' to provide a consultant with the exact language to match the intent of the District. Mr. Mostoller and Ms. McCarthy have begun to look into the process of soliciting a consultant that would perform this type of work. Finally, because the citizens petition mentioned public participation, it will be important to decide how that will manifest into productive data. Mr. Mostoller and Ms. McCarthy are prepared to take the Board's feedback and provide adjustments.

Lastly Mr. Mostoller commented one final item of concern is how this study will fit into the board's larger list of projects, particularly the MWRA study and the need for an updated master plan. Mr. Mostoller commented that one consideration may be to make progress on both the MWRA Study and the updated master plan so that the rate study may be more accurate on future costs, however a delay may not be necessary if the rate study is just looking at the structure of the rate and not the actual costs.

The Board began discussion of this item as Ms. Amir Lin stated that she believes the rate study should be a stand-alone study, and that it makes the most sense to her budget wise to not try to combine it with other efforts.

Mr. Rosen agreed that it should be a stand-alone study but also said he is not ready to fully commit to doing the study right away because the board has lots of tasks coming up that may use up more funds than they expect. He also stated that the Board is going to have to address if and how they're going to take advantage of the MWRA water source either as an additional or replacement source, a decision which will require substantial discussion with the town and residents. Mr. Rosen also commented that because PFAS is still a priority issue for the Board that could relate to their decision and discussion regarding the MWRA study. He also commented that it would be good to know what a third-party consultant may charge for a rate study and how they may put it out to bid or put out an RFQ. In general Mr. Rosen commented that these other priorities of the Board may affect when they choose to do the study.

Ms. Amir Lin asked if they could make enough progress on building the rate study to begin figuring out the budget, Mr. Rosen responded yes, and Ms. Amir Lin proposed early fall as a goal to which Mr. Rosen agreed but affirmed his desire for more information.

Mr. Stuntz commented that limiting the scope of the study would affect how long the study takes and also the price. His primary concern is the issue of defining a 'low-income user' and the mechanics of it as there may be low income users who rent and are not billed directly by the District.

Mr. Mostoller commented that even with the large plate of projects the District has, keeping the rate study moving will allow it to remain a part of future decisions, he also agreed with previous statements about making the study a stand alone study.

Ms. Amir Lin proposed that in the scope of the study there could be space made for an analysis of instruments, and assessment of options of rate relief. Because there may be users who qualify as 'low income' that are billed through landlords or property management companies, the scope of the study could evaluate what would work for those users, their rates, implications of rate reliefs, financial assistance, or rate amelioration.

Mr. Mostoller replied that based on the feedback, he feels they have guidance on how to proceed on this study. They will take into account the Board's feedback, what the Finance Committee has suggested, and make adjustments into something that is actionable for everyone. Mr. Mostoller and Ms. McCarthy will provide further information in October.

Kim Kastens provided comment, as the petitioner of the article she said she is happy the Board is moving forward on the study, thanked Mr. Mostoller for the question he raised, and agrees with the Board that it should be a stand-alone study. Ms. Kastens also agreed with the idea of testing and providing options for more equitable rates for users who are billed through a third party. Ms. Kastens believes that they should use strong language in describing how big bills are coming down and affirmed the importance of figuring out how to raise enough money for incoming projects while considering equity and environmental justice.

The Board did not pursue further discussion on the topic and looks forward to discussing the next iteration of the study's scope.

Discussion of District Counsel

The process of succession planning has begun, and Mr. Mostoller has submitted a draft of the job description for the Board's review and feedback. If the Board is presently content with the listed duties and qualification, then they may proceed with setting up a time frame of advertising and preparing how to vet the candidate pool.

Mr. Rosen commented that he is happy with the revised job description, and asked if there has been discussion about the methods of recruitment. Mr. Mostoller responded that they have some options like beginning with circulation in legal groups that focus on municipal law, and that depending on the response they may determine if a more intensive search is needed, they are working off a list of potential firms and attorneys in the field that they can reach out to.

Ms. Amir Lin stated that she would be in favor of starting the search now or in September, so they have more time to decide if they need to take a more targeted search. She asked the board if it makes sense to them to start collecting applications and then do a final cut to interview, similar to what they did for the special counsel position. With this method she explained they can let the application spread a bit

before making cuts to the applicant pool too soon. Mr. Rosen commented that since many people end their vacations before Labor Day, starting the search after that weekend may be most helpful.

Ms. Bassett said that many attorneys with the necessary qualifications belong to the Massachusetts Municipal Law Association (MMLA). Mr. Mostoller asked Ms. Bassett if additional language is needed to advertise in the MMLA, and she responded that most positions there have a cover sheet of information.

Mr. Mostoller asked the Board if it is reasonable to aim to have interviews starting the 23rd of October, given the board's scheduled meetings of October 2nd and 23rd.

The Board then discussed how the applicant process may proceed, and how much time they may need to receive an adequate number of applicants to begin the interview process. During the discussion Mr. Rosen expressed concern over firm deadlines and favored a softer process that collected interest, similar to the special counsel process. Mr. Stuntz also expressed concern that if they move too quickly and have an application date that is too soon they may unintentionally miss out on qualified candidates.

Ms. Amir Lin capped the discussion with a proposal to post the position and begin advertising, then the Board may see the response rate in early October, after about 30 days, and adjust their methods from there, rather than committing to one preplanned course with firm deadlines. Mr. Mostoller responded that they will begin advertising the position this week.

Low Income Household Water Assistance Program (LIHWAP)

Ms. McCarthy provided an update on the LIHWAP. In July they received a check that provides up to \$200 per applicant that was applied to the applicants' water accounts. They also received several emails that additional funding is available. Ms. McCarthy updated the SMOC database and there were 6 new applications bringing them up to 25 participants in total. She said SMOC is expecting to release the check for that funding sometime in September.

Mr. Stuntz asked if this was money from the state to pay overdue water bills, if they have a balance, and asked if the additional \$200 is a credit they can put towards a future balance. Ms. McCarthy clarified the organization and status of the \$200 and its relationship to LIHWAP.

The Board then had a brief discussion about the SMOC program which provides heat assistance to renters and how the applicant structure of that program may prove useful when looking at defining 'low income users' for the water rate study in the previous agenda item.

Request from Town of Acton Finance Committee

Mr. Mostoller responded to the inquiry from Christi Anderson, answering some of the questions with information from the website, and explained that PFAS is a standing agenda item every meeting. Mr. Mostoller also shared the District's capital spending on the treatment plants, explaining the program they borrow through and the possible principal forgiveness. He also explained in the response that as far as operating costs they presently only have the engineer's estimate, which is between half and three fourths of a million dollars annually, however these are not firm estimates. Mr. Mostoller has not received a response back currently. Mr. Stuntz commented that the Town of Acton Finance Committee, as far as his understanding, is looking at creating a long-term planning document and have their own capital planning projects they are trying to collect detail for. While a meeting between the two bodies

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may not be necessary, they have extended an invitation to the Town of Acton Finance Committee to attend should additional information be necessary.

E. New Business

None at this time.

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

Open session closed at 8:11 pm Monday, August 28, 2023.

VOTE OF THE BOARD OF WATER COMMISSIONERS

I, the Clerk of the Water Supply District of Acton, Massachusetts (the “District”), certify that at a meeting of the Board of Water Commissioners (the “Board”) held September 11, 2023, of which meeting all members of the Board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appear upon the official record of the Board in my custody:

Voted: to approve the sale of the \$4,900,000 5.00 percent General Obligation Bond Anticipation Notes (the “Notes”) of the District dated September 20, 2023, and payable March 20, 2024, to TD Securities (USA) LLC at par and accrued interest plus a premium of \$25,676.00.

Further Voted: that in connection with the marketing and sale of the Bonds, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated August 30, 2023 and a final Official Statement dated September 6, 2023 (the “Official Statement”), each in such form as may be approved by the District Treasurer, be and hereby are ratified, confirmed, approved and adopted.

Further Voted: that the District Treasurer and the Board be, and hereby are, authorized to execute and deliver a significant events disclosure undertaking in compliance with SEC Rule 15c2-12 in such form as may be approved by bond counsel to the District, which undertaking shall be incorporated by reference in the Bonds for the benefit of the holders of the Bonds from time to time.

Further Voted: that we authorize and direct the District Treasurer to establish post issuance federal tax compliance procedures and continuing disclosure procedures in such forms as the District Treasurer and bond counsel deem sufficient, or if such procedures are currently in place, to review and update said procedures, in order to monitor and maintain the tax-exempt status of the Bonds and to comply with relevant securities laws.

Further Voted: that any certificates or documents relating to the Bonds (collectively, the “Documents”), may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document; delivery of an executed counterpart of a signature page to a Document by electronic mail in a “.pdf” file or by other electronic transmission shall be as effective as delivery of a manually executed counterpart signature page to such Document; and electronic signatures on any of the Documents shall be deemed original signatures for the purposes of the Documents and all matters relating thereto, having the same legal effect as original signatures.

Further Voted: that each member of the Board, the District Clerk and the District Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or

any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes.

I further certify that the votes were taken at a meeting open to the public, that no vote was taken by secret ballot, that a notice stating the place, date, time and agenda for the meeting (which agenda included the adoption of the above votes) was filed with the District Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the District Clerk is located or, if applicable, in accordance with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decision in connection with the sale of the Bonds were taken in executive session, all in accordance with G.L. c.30A, §§18-25, as amended.

Dated: September 11, 2023

District Clerk