

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.