



# Water Supply District of Acton

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## Board of Water Commissioners Meeting Agenda

**Monday, July 17, 2023 @ 7:00 PM**

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

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/88647484872>

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**Webinar ID: 886 4748 4872**

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- **Comments from the public**
- **Approve minutes from the meetings of 6/26 and 7/10**
- **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
  - 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

### **NEW BUSINESS:**

- Massachusetts Water Resources Authority (MWRA) MetroWest Expansion Study

***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

Agenda posted on 7/13/2023 2:17 PM

**DRAFT**

Board of Water Commissioners  
Meeting Minutes  
Acton Water District  
693 Massachusetts Avenue, Acton, MA  
Monday, June 10, 2023

**AGENDA**

**Comments from the public**

**OLD BUSINESS:**

- A. Update on BALDCO Acquisition**
- B. Update on 549 Main Street**

**NEW BUSINESS:**

- A. Vote to approve the issuance and details to a loan from the Massachusetts Clean Water Trust for Loan No. DW-23-01 and sign related closing documents**
- B. Waiver of Fees for Powder Mill Place 40B Project**

**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**

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 03:02 PM on Monday, June 10, 2023, by Ms. Amir-Lin.

**Present at Today'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: William Guthlein

**Public Present:**

Alissa Nicol  
Kim Kastens

**Comments from the Public**

Kim Kastens mentioned there is a page on the District website related to water restrictions. She had a question about the status update on the water management act permit process, when does the public comment period take place, and will there be a request for an increase in withdrawal volume? Mr. Mostoller responded that he does not have a status update. He has reached out to

MassDEP; however, they have not been forthcoming about the status. The public comment period ended in Fall 2021, and we have not asked for an increase. We have only requested a modification to allow us to withdraw from additional points.

## **OLD BUSINESS:**

### *A. Update on BALDCO Acquisition*

Mr. Mostoller provided the update. He stated we are moving forward with the environmental site assessment field work tomorrow which will include soil borings, monitoring wells, and test pits that will be dug in the berm material. We anticipate collecting soil and groundwater samples at the site and anticipate receiving the Phase 2 environmental site assessment report in August. Additionally, the draft lease agreement was received from the seller today and the trespass letters have been received by the abutters. We do not know if there has been a response to any of the letters. Mr. Mostoller and Mary Bassett made a recommendation to formally request to extend the due diligence period to 8/31/2023 and schedule the closing for 9/13/2023. Mary believes that the request can be sent out by the end of this week.

Ms. Amir-Lin feels this is perfectly reasonable and asked for a motion from the Board.

Mr. Stuntz moved to accept the recommendations of counsel to extend the dates of the closing for the BALDCO land. Mr. Rosen seconded, and it was unanimously approved by roll call vote:  
Mr. Rosen, Mr. Stuntz, Ms. Amir-Lin

### *B. Update on 549 Main Street*

Mr. Mostoller stated we received the revised draft conservation restriction on June 29<sup>th</sup>. This was initially due on May 10<sup>th</sup>. The secondary CR holder has not had their comments incorporated. Mr. Mostoller has reached out to SVT and will solicit some feedback from them in the next couple of days. The seller is withholding comments until SVT can provide their feedback. The seller was hoping we could update our target of July 1 to submit to the State and aim for the third week of July. He is not sure if we can do that at this point, but it is something we can work towards. Similar to the BALDCO purchase, we were supposed to have a July 31 closing date, and that is not on track due to a lack of approval of the CR from the State. Mr. Mostoller and Mary Bassett will be working with the seller to obtain an extension for the closing date. The seller has indicated that they are willing to extend the closing to the end of September. This is predicated on the State giving an expedited review once the CR has been submitted to them.

Ms. Amir-Lin moved to authorize the date of the closing to be extended to a date deemed appropriate by the District and other parties.

After a short discussion the motion was then amended to: The Board moves to authorize the extension of the P&S to be negotiated between the parties. Mr. Rosen seconded, and it was unanimously approved by roll call vote:

Mr. Rosen, Mr. Stuntz, Ms. Amir-Lin

**NEW BUSINESS:**

- A. Vote to approve the issuance and details to a loan from the Massachusetts Clean Water Trust for Loan No. DW-23-01 and sign related closing documents*

Ms. Amir-Lin motioned that the Board of Water Commissioners vote to approve the issuance and details of the loan from the Massachusetts Clean Water Trust for loan number DW-23-01 and sign the related closing documents based on the document entitled "Vote of the Board of Water Commissioners" on July 10, 2023. The document reads:

- (1) that the District shall issue a bond or bonds in an aggregate principal amount not to exceed \$1,000,000 (the "Bonds") pursuant to Chapters 29C and 44 of the General Laws and a vote of the District passed April 13, 2022 (Article 17), which authorized a total borrowing of \$1,000,000, for the drinking water project identified in such votes (the "Project");
- (2) that in anticipation of the issuance of the Bonds the Treasurer is authorized to issue an interim loan note or notes (the "Notes") from time to time in an aggregate principal amount not to exceed \$1,000,000;
- (3) that each Bond or Note shall be issued as a single registered security, and sold to the Massachusetts Clean Water Trust (the "Trust") at a price determined pursuant to the Financing Agreement;
- (4) that the Treasurer is authorized to determine the date, the form, the maximum interest rate and the principal maturities of each Bond and Note, and to execute a Financing Agreement (or Agreements) with the Trust with respect to the sale of the Bonds and Notes, such date, form and maturities and the specific interest rate or rates of the Bonds and Notes to be approved by a majority of the Board and the Treasurer and evidenced by their execution of the Bonds or Notes;
- (5) 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.
- (6) that all action taken to date by the District and its officers and agents to carry out the Project and its financing, including the execution of any loan commitment or agreement by the Treasurer, are hereby ratified, approved and confirmed; and

(7) that the Treasurer and the other appropriate District officials are each hereby authorized to take any and all actions necessary or convenient to carry out the provisions of this vote, including execution and delivery of the Financing Agreement(s) and the Project Regulatory Agreement(s) relating to the Project.

Mr. Stuntz seconded, and it was unanimously approved by roll call vote:

Mr. Stuntz, Mr. Rosen, Ms. Amir-Lin

*B. Waiver of Fees for Powder Mill Place 40B Project*

Mr. Mostoller provided an overview of the Powder Mill Place Project. The project has been around since 2017 and is an approximately 230-unit apartment complex that is being proposed on the Acton/Maynard Town line. The project was originally going to straddle the two Towns and at that time the District had reviewed the preliminary plans and agreed to supply water to the entirety of the project even though part of it was located outside of Acton. The project died down and then came back in 2020 with a different developer. That developer also walked away from the project and now another developer is interested in the project. The current developer reached out to Mr. Mostoller in the middle of May to issue a will serve letter. This is not something the District normally does. Typically, an application is submitted for water service, and we then review the project to see what the infrastructure impacts are, water use impacts are, and we develop a workable path forward to supply water. We provided a conditional will serve letter which among other things requires the developer to submit a water impact report and we provided them with an estimate of the fees for connecting this project to our water system. We told them we believe we can supply them with x number of gallons to the project, but we need more information before we can fully commit to the project and for their planning purposes, we provided an estimated cost. We have not heard back from the developer.

The reason this matter is coming before the Board is we found out the developer requested on June 30<sup>th</sup> that the ZBA give a waiver of our fees. They have not requested a waiver of fees directly from the District. The developer feels that as a 40B project they do not need to abide by local board requirements. Historically, every 40B project that has connected to the water system has followed our process, complied with our rules and regulations, and paid all subsequent fees.

Mr. Rosen referenced the West Boylston decision. A discussion ensued and it was agreed that this is precedent setting. Mary Bassett stated that we need to have our position placed on record; she and Mr. Mostoller have drafted a letter that will be sent to the ZBA.

Alissa Nicol pointed out an important detail from page 19/20 of the West Boylston decision. The Acton Water District is distinct from the Town, we have our own annual meeting, and we are not a local board.

Mr. Stuntz stated that we shouldn't do anything until we are asked. We cannot make decisions if we haven't been asked.

**DRAFT**

Ms. Amir-Lin will attend the ZBA meeting being held virtually on 7/11/23 and will have material prepared. She indicated there is no case to be made, we simply need to remind what the policies and procedures are.

This item may be added to future agendas if needed.

Mr. Rosen asked if an executive session would be needed today. Mr. Mostoller said no, however we will likely require an executive session on 7/17.

Mr. Rosen moved to adjourn the meeting at 3:51PM. Mr. Stuntz seconded, and it was unanimously approved by a roll call vote:

Mr. Rosen, Ms. Amir-Lin, Mr. Stuntz

**Next meeting: July 17, 2023**

Board of Water Commissioners and Finance Committee

Meeting Agenda

Monday, June 26, 2023 @ 7:00 PM

**AGENDA**

- A. Comments from the public
- B. Introduction to Capital Strategic Solutions
- C. Approve minutes from the meetings of 6/5 and 6/13
- D. Appoint one Commissioner to sign warrants while conducting meetings virtually.
- E. OLD BUSINESS:
  - Per- and Polyfluoroalkyl Substances (PFAS)
  - Current sample data, if available
  - Discussion of Additional PFAS Upgrades
  - PFAS MDL Settlement Discussions
  - Bottled Water Rebate Update
  - Rate Increase to Support Approved FY24 Budget
  - Borrowing for PFAS Design, Kelley's Corner, BALDCO
  - Update on BALDCO Acquisition
  - Update on 549 Main Street
- F. NEW BUSINESS:
  - End of Fiscal Year Transfer to Lights, Power, and Fuel
  - Proposed Scope of Work for Rate Study from Finance Committee
  - Consumer Confidence Report for Calendar Year 2022
  - Meeting Schedule July-December 2023

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: Ronald Parenti, William Guthlein, John Petersen

Environmental Analyst- Alexandra Wahlstrom

**Public Present**

Kim Kastens, Pope Road

Brewster Conant Jr, Main Street

## MINUTES

At 7:01 pm, connected remotely, Erika Amir-Lin opened the Acton Water District Board of Commissioners Meeting.

At 7:01 pm, connected remotely, Ronald Parenti Opened the Finance Committee Meeting

### **A. Comments From the Public**

No Comments at Present from the Public

### **B. Introduction to Capital Strategic Solutions**

Jennifer Thompson & Meredith Roberts were introduced from Capital Strategic Solutions who have been brought in to assist with the Board's Meeting Minutes.

### **C. Approve minutes from meetings held on 06/05/2023 and 06/13/2023**

Mr. Rosen motioned to approve the minutes from the meeting held on 06/05/2023. Mr. Stuntz seconded, and it unanimously approved by a roll call vote; Mr. Stuntz, Ms. Amir-Lin, and Mr. Rosen

Mr. Rosen motioned to approve the minutes from the meeting held on 06/13/2023. Mr. Stuntz seconded, and it unanimously approved by a roll call vote; Mr. Stuntz, Ms. Amir-Lin, and Mr. Rosen

### **D. Appoint one Commissioner to sign warrants while conducting meetings virtually.**

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

### **E. OLD BUSINESS**

#### **Per-and Polyfluoroakyl Substances (PFAS)**

Mr. Mostoller presented the most recent sample data from May 9, 2023; 9.5 ppt fat Center Acton Plant, 17.4 ppt at South Acton Plant, with no samples currently available from North Acton. Current turnaround time for labs is on average 4-6 weeks, with some labs taking as long as 7 weeks to return sample results. They are currently working with multiple vendors as they manage the lab capacity holds ups. North Acton is currently running blind because there are no May results, however the 2-3 week on/off model should produce acceptable numbers. When asked by Ms. Amir-Lin about lab turnaround

time, Mr. Mostoller responded that Eurofins, their main vendor, is adding equipment but he expects delays through the rest of the calendar year.

Regarding PFAS treatment upgrades, Mr. Mostoller reported that they have spoken with engineering firms for both the South Acton and Center Acton projects, and both firms are committed to designs for Mid-October to comply with MassDEP deadlines. Both are exploring the option of pre-purchasing some of the equipment such as filter vessels, and electrical and control gears. Currently planned are 2 structures, a metal building and a second engineered fabric building as an alternative to 50+ year old block building currently in use. We are confirming they are in compliance with Acton's Stretch Energy Code.

Mr. Mostoller then discussed updates on the PFAS settlement. The second settlement with 3M was recently in the news, the first being the previously discussed one with Dupont. The 3M settlement will likely range between 10-13 billion dollars as a potential settlement with 2 phases of settlement parties. It is currently unclear what will define those parties. Recent bankruptcy filing from Kidde-Fenwal will likely impact their viability for settlement talks.

Kim Kastens from Pope Road asked what formula will be used to determine how the settlement is distributed. Mr. Mostoller responded that each settling party will have their own terms and that phase is too far out to answer concretely.

### **Bottled Water Rebate**

Regarding the bottled water rebate, Mr. Mostoller provided an update. For the month of June 2023, \$7,035 was issued for second quarter credits, and \$870 was issued direct to 20 tenants, bill credits will show up on the July bill, and direct pay will be received in July as well. Ms. McCarthy said that they've seen an increase of 11 applicants and may see another bump after more outreach, she also stated that some people have been removed from the Bottled Water Rebate program which is done when someone moves and their property is transferred.

### **Rate Increase to Support Approved FY24 Budget**

This agenda item requires a vote from the Commissioners and the Finance Committee. Traditionally it is done when the budget is presented for a vote, considering everything was already approved at Annual District meeting this serves as a housekeeping vote.

Mr. Parenti motioned to approve the 2.5% rate increase as seen in the Fiscal Year 2023 Budget. Mr. Petersen seconded the motion, and it was unanimously approved by a roll call vote; Mr. Petersen, Mr. Parenti, Mr. Guthlein.

Mr. Rosen motioned to increase the water rate by 2.5% effective July 1, as outlined in the Fiscal Year 2024 Budget. Mr. Stuntz seconded the motion, and it was unanimously approved by a roll call vote; Mr. Stuntz, Mr. Rosen, and Ms. Amir-Lin.

### **Borrowing for PFAS Design, Kelley's Corner, BALDCO**

Ms. McCarthy provided an update regarding the PFAS Design, Kelly's Corner, and BALDCO borrowing. They are currently working with Unibank to issue 2 bond anticipation notes. The first is a 9 month note for Kelley's Corner and the BALDCO purchase. The District will pay off BALDCO when the Note matures in

March, then roll the 1 million dollars for Kelly's Corner into long term financing. The other bond anticipation note is for PFAS Design Work and is a 1-year term .. Regarding the BAN for Powder Mill (BALDCO) and Kelley's Corner, the District will save money on short term financing, and can hopefully borrow in September for the 549 Main St. purchase. When asked by Mr. Rosen, Ms. McCarthy said she expects short-term borrowing rates to be around 4%, she then continued that bid sheets go to the Banks on July 5, and the bids are expected back on July 11. From there the expected timeline is that commissioners may sign on July 17, and it will then be uploaded into Gateway July 20, with funds available on July 25

Mr. Stuntz made a motion to accept Ms. McCarthy's recommendation for two short-term borrowings, one for 9 months the other for one year for both PFAS design and Kelly Corner Powder Mill borrowings, Mr. Rosen seconded. It was unanimously approved by a roll call vote; Mr. Stuntz, Mr. Rosen, and Ms. Amir-Lin.

### **Update on BALDCO Acquisition**

Phase one of the ESA has been completed and found 2 potential issues that were anticipated before the ESA, one of them being the ground water impact from WR Grace, and the second being the fill material. They are currently working with the LSP on next steps.

### **Update on 549 Main Street**

The Select board recently had an executive session regarding 549 Main Street, we will hopefully receive the final draft on the conservation restriction language soon. The Town did agree to pay for a baseline documentation report from the transaction and monitoring costs approved at Town Meeting. The document shows what is on the property today for compliance going forward. Sudbury Valley Trustees who are co-holder of the conservation restriction had a recent site visit, their plan was to complete field work in the month of June and see a draft report in early July. We requested the local draft of the conservation restriction be complete for a May 10<sup>th</sup> deadline which has not been met. The purchase and sale agreement has a deadline for the end of July, Matt is currently working with Mary to put together a modification request on the purchase of sale to extend the closing date to ensure it can be reviewed by the state and secure grant funds. The District is currently awaiting reply from the Selectboard.

Brewster Conant Jr, Main Street asked if there was other funding for this that was time sensitive, to which Mr. Mostoller said there shouldn't be any concerns of this nature at present.

## **F. New Business**

### **End of Fiscal Year Transfer to Lights, Power, and Fuel**

Current energy costs in FY23 continue to pose a challenge. Mr. Mostoller referred to a previously sent memo where they had a budget appropriation of \$350,000 which has already been spent, two reserve fund transfers have already been done to accommodate this, and they appropriated \$150,000 from free cash during annual meeting to bring it up to \$600,000, which will not be enough to bring them to the end of FY23. Ms. McCarthy identified an end-of-year budget transfer to accommodate the financial need. They've reviewed the bills on hand that they do not have the funds to cover, which is through the month of May, using a 5-year history of energy use and applying current rates to estimate the June bill, it is believed they will need \$150,000 to cover the necessary bills. Mr. Mostoller commented that no

unusual usage has been detected and clarified that in anticipation of the solar arrays coming on they did not have their usual purchasing agreements in place which had a hand in creating this situation, making them beholden to the market rate. They are looking for a recommendation from the finance committee and a vote from the board regarding this.

Comment from the Public: Kim Kastens, of Pope Road asked what fraction of the electricity is used for the various uses such as pumping for facilities, and how much the electricity bill is expected to go up when PFAS treatment is in place. Mr. Mostoller responded that the electrical uses cannot be separated because it's one system, and that because they have a treatment plant, they do not need to build a new one for PFAS.

Mr. Guthlein asked about the total amount of surplus from the other line items, and if funding for the water rate study might also be included in this. Ms. McCarthy replied that the surplus is about \$1 million, but transfers of this nature must be used within a certain amount of time that the water rate study would not comply with.

Mr. Petersen asked Mr. Mostoller, if given these bills, if he feels confident about the budget for FY24. Mr. Mostoller responded that at the moment he is confident with the FY24 budget.

Mr. Petersen motioned that the Finance Committee recommend the use of an alternative end of year transfer procedure as outlined in Mr. Mostoller's memo of June 26, 2023, Mr. Parenti seconded. It was unanimously approved by a roll call vote; Mr. Parenti, Mr. Petersen, Mr. Guthlein.

Mr. Rosen made a motion to approve an end of year budget transfer from debt interest and fees line item to the lights, power, and fuel item, in the amount of \$150,000. Mr. Stuntz seconded. It was unanimously approved by a roll call vote; Mr. Stuntz, Mr. Rosen. Ms. Amir-Lin.

### **Proposed Scope of Work for Rate Study from Finance Committee**

The Proposed Scope of Work for the Rate Study from the Finance Committee is a non-binding item from the town meeting. The Scope of Work includes a rate model for action, research on issues brought up for water rates. The final concept of scope of work was submitted to the Commissioners of the Water board. Ms. Amir-Lin noted that they would like more time to digest and understand how the Rate Study will fit into FY 24.

### **Consumer Confidence Report for Calendar Year 2022**

The Consumer Confidence Report for the 2022 Calendar year went out in the most recent newsletter.

### **Meeting Schedule July-December 2023**

Those in attendance presented no qualms about the proposed meeting schedule, meaning that the next meeting will take place July 17, 2023.

### **EXECUTIVE SESSION**

There was no business that required an executive session.

**DRAFT**

John Petersen motioned to adjourn the Finance Committee meeting at 8:22PM, seconded by Ronald Parenti and approved by roll call vote: Mr. Guthlein, Mr. Parenti, Mr. Petersen

Barry Rosen motioned to adjourn the Board of Commissioner's meeting at 8:22PM, seconded by Stephen Stuntz and approved by roll call vote: Ms. Amir-Lin, Mr. Stuntz, Mr. Rosen