

DENNIS WATER DISTRICT

Board of Water Commissioners

Minutes of Meeting held

February 24, 2022

A meeting, having been duly posted, was held this date at the Dennis Town Hall, 685 Route 134, South Dennis and called to order by Paul F. Prue, Chairman at approximately 10:02 AM. Water Commissioners Peter L. McDowell was present while Alan Tuttle participated remotely. Also present were David Larkowski, Superintendent and Sheryl A McMahon, Treasurer. Members of the public were allowed to participate remotely or attend the meeting in person.

The Pledge of Allegiance was recited.

Public Information - None

Consider FY 2023 Budget Review:

Discussion of anticipated revenue loss due to watering restrictions – Mr. Larkowski reviewed the memorandum that was distributed to the Board prior to the meeting. The memo identified a potential loss of revenue due to the anticipated mandatory two-day per week watering restriction. Ms. McMahon did some calculations using some averages of customers that are known to have irrigation systems. The budget for FY 2023 has essentially been finalized. Between the various scenarios developed, the possible loss might be \$150,000 to \$200,000. In anticipation of a loss, management is proposing that the Board increase the amount to be borrowed for Painting the Old Bass River Tank from \$200,000 to \$500,000. This will mean that in the spring of 2023, when the actual cost of the painting project will be known, the Board will have a better idea of the revenue projections for the Fiscal Year and may be able to allocate additional available funds to the project and reduce the need for borrowing. Ms. McMahon reminded the Board that the project schedule will require that she sign the contract in the fall and in order to do that, the entire amount of the appropriation has to be authorized. On a motion to amend the borrowing authorization made by Peter L McDowell, and seconded by Alan Tuttle, the Board **UNANIMOUSLY VOTED: to increase the amount of the borrowing authorization for Painting the Old Bass River Tank from \$200,000 to \$500,000. A roll call vote was called by the Chair which was found to be as follows: Peter L. McDowell “yes”; Alan Tuttle “yes”; Paul F. Prue “yes”.**

Discussion on future graduating water rate schedule The Superintendent further reviewed the memorandum he had provided to the Board in which he wished to initiate a discussion on adopting a future graduating water rate schedule in order to incentivize those customers that use inordinate amount of water for irrigation of lawns. He reminded the Board that lawn irrigation is the single largest non-essential use of water. There was a brief discussion regarding the existing expired Water Withdrawal Permit, which Mr. Larkowski explained, continues at the previous permitted withdrawal limit until re-authorized by the Department of Environmental Protection. At this time, Mr. Larkowski was asking if the Board would entertain reviewing rate structures that would take into account high rates for exceptional usage. Mr. Tuttle said that he agreed with maintaining rates that were reasonable for those users who only use water as necessary and would consider higher rates for those customers using water for irrigation.

Operating and Maintenance Budget Revisions – Mr. Larkowski noted that the O & M budget includes a correction for one employee that was supposed to receive a \$3 per hour increase but it was only calculated at \$1.50. The difference was approximately \$3,200. Ms. McMahon advised that the O & M Budget as previously voted, including all debt service and the Elected Officials Salaries represented a total of \$5,002,905.

Consider updating District Bylaws – Article 5 – Water Use Restrictions

The Superintendent advised that he and the Treasurer met with counsel to review Article 5 of the existing District bylaws. Discussed was the process of enforcement. Presented for their consideration was a revised model bylaw provided by DEP and currently being edited for District purposes. The new bylaw has improved definitions, an increased fine structure and the ability to shut off a customer's water service if they are in violation of emergency restrictions. He is proposing that the Board include an article on the Annual District Meeting to replace the existing bylaw. Mr. Larkowski further stated that during the Water Withdrawal Permit renewal process the state is going to require that the water use restriction bylaw be updated. The Board discussed the process of how the fines are issued and how they will be collected. Initially, customers will be issued warnings. If there is a subsequent violation, the fine can be paid directly to the District. Mr. Tuttle expressed a concern that if the courts will enforce the payment of fines and if so, will it cost the District more money for legal representation. Ms. McMahon said that that has and may occur with the District issued fines, however, she was of the understanding that the vast majority of violators simply pay the fine as issued. Mr. Larkowski clarified that this bylaw applies to outdoor watering and the violation has to be directly observed by the District. The Board agreed to meet in a workshop setting, perhaps with counsel, to gain an understanding of how the bylaw would be implemented.

Consider Requesting a Distribution of American Rescue Plan Act (ARPA) funds from the Town of Dennis

Mr. Larkowski advised the Board that the Town of Dennis will be receiving an additional allocation of \$700,000 to \$750,000 of ARPA funds. The Select Board has not yet made any determinations on how those funds will be spent. He asked the Board to consider filing a formal request of the Select Board for an allocation of money for the cleaning of wells due to reduced production capacity. It is important that these wells be brought up to their capacity due to the low groundwater levels. The request would be for \$78,064 for the work. Mr. Tuttle suggested that the Board request that the Select Board put this on as an agenda item for their meeting. Mr. McDowell asked for what purposes the funds can be used. Ms. McMahon said that it can be used for wastewater and drinking water infrastructure and many other purposes that is authorized by the legislation. Mr. McDowell wanted to know what the limitations might be on spending ARPA funds as the District. Ms. McMahon said she was unable to be that specific. On a motion made by Alan Tuttle, and seconded by Peter L McDowell, the Board ***UNANIMOUSLY VOTED: to request a grant of ARPA funds from the Select Board for the cleaning of four wells at a cost \$78,064 to be presented by a representative of the District. A roll call vote was called by the Chair which was found to be as follows: Alan Tuttle “yes”; Peter L. McDowell “yes”; Paul F. Prue “yes”***

Superintendent's Report

Mr. Larkowski reviewed a copy of the well level at the USGS monitoring well in Brewster. He stated that we have been below average on our well levels for the last 14 months. He thinks that what action

was taken to implement the two-day watering restriction is still what is projected because there would have to be a large and rapid swing in the groundwater levels rising. He said they would have to reach normal and stay there for a significant period of time. Mr. Larkowski said that it would take a steady increase over the next two months in order to have the groundwater levels return to normal.

Treasurer's Report

Ms. McMahon forwarded a letter from a customer addressed to the Board to the Commissioners. The customer agreed with the restrictions, but was questioning why the Board would allow new lawns to be established under these restrictions. Mr. McDowell raised the question if there should be a provision for exceptions in the revised bylaw for something like the establishment of new lawns. Mr. Larkowski advised that establishing a new lawn is an exception was addressed in the newsletter sent in February.

Minutes: September 23, 2021 and January 11 & 28, 2022

Mr. McDowell provided a copy of edits he wanted entered into the record for the minutes of September 23rd. Mr. McDowell said he has had issues with the minutes and concerns about including the relevant substance. He asked that the sentence that states he “referred to Mass. General Law Chapter 131, Section 40” be stricken and that the following be inserted: *Referring to Mass. General Law Chapter 131, Section 40, with fines of up to \$25,000 and, or imprisonment up to 2 years for any person, including anyone from the commonwealth or subdivision thereof, for altering in any way a natural resource such as Swan River Natural Resource Area without first filing and gaining the consent and conditions of a Conservation Commission.* Mr. McDowell said that this was relevant as it pertained to the Board’s meeting with the Chair of the Wastewater Implementation Committee. Mr. Tuttle asked if Mr. McDowell reviewed the tape. He said he had been unable to find it on the tape. Mr. Tuttle asked if Ms. McMahon had reviewed the tape. She said that she prepared the minutes from the tape. She said she has understood that the Board does not want verbatim minutes but, she tries to paraphrase. As the Clerk, she stated that the law prohibits including references and statements that were not actually made during the meeting and suggested that the Board strike the sentence that Mr. McDowell has requested and enter the additional information he wants included as a footnote. Mr. McDowell said that minutes of any meeting are for the material substance leading to the discussion and is not intended to be transcripts. On a motion made by Alan Tuttle, and seconded by Peter L McDowell, the Board **UNANIMOUSLY VOTED: to strike the phrase that is in the minutes and have a footnote explaining what Mr. McDowell had said. A roll call vote was called by the Chair which was found to be as follows: Peter L. McDowell “aye”; Alan Tuttle “aye”; Paul F. Prue “aye”.**

On a motion made by Alan Tuttle, and seconded by Peter L McDowell, the Board **UNANIMOUSLY VOTED: to accept the minutes of January 11, 2022, as presented. A roll call vote was called by the Chair which was found to be as follows: Alan Tuttle “aye”; Peter L. McDowell “aye”; Paul F. Prue “aye”.**

Ms. McMahon said that she has asked the Board a number of times that if they have any edits that they would like to make on the draft minutes, that they send them to her and she can make a mark up of the proposed edits for the entire Board to consider. Mr. McDowell pointed out that on page 4, in the top paragraph, there was no mention of his objection to the use of the word “tentative” in the motion to approve the Capital Appropriations vote and that the vote recorded had him abstaining. Ms. McMahon offered to make the corrections to the draft, and send the redline version to Mr. McDowell for him to review and once he agreed, she would redistribute them to the Board.

Executive Session: M.G.L. Chapter 39, Section 23B, Reason #6: to consider the purchase, exchange, taking, lease, or value of real property as the Chair has declared that an open meeting may have a detrimental effect on the District's bargaining position.

At approximately 11:23 AM, on a motion made by Peter L McDowell, and seconded by Alan Tuttle, the Board ***UNANIMOUSLY VOTED: to adjourn to Executive Session in accordance with M.G.L. Chapter 39, Section 23B, Reason #6: to consider the purchase, exchange, taking, lease, or value of real property.as the Chair has declared that an open meeting may have a detrimental effect on the District's bargaining position. A roll call vote was called by the Chair which was found to be as follows: Alan Tuttle "in favor"; Peter L. McDowell "yes"; Paul F. Prue "yes".***

Respectfully submitted,

Sheryl A McMahon, Clerk