

DENNIS WATER DISTRICT

Board of Water Commissioners

Minutes of Meeting held

April 15, 2010

A meeting, having been duly posted, was held this date at the District Office, 80 Old Bass River Road, S Dennis. The meeting was called to order by Paul F. Prue, Chairman at 3:05 PM. Water Commissioners Charles F. Crowell and Peter L. McDowell (3:09) were present along with the following District officials:

David Larkowski, Superintendent

Sheryl A. McMahon, Clerk & Treasurer

Chairman Prue welcomed Tom Michelman of Boreal Renewable Energy Development to the meeting and asked that he proceed with his report on the Preliminary Site Analysis. Mr. Michelman said that this first assessment was to determine if there were any fatal flaws with the proposed location. The next step is time sensitive as it is the avian study. Mr. Richard Pedosky is the expert (subcontractor) that will be conducting that particular study. He further stated that the current road access is too “bumpy” for the type of large low-riding trucks that will deliver the wind turbine components. Access will require a roadway nearly a mile-long at a very flat grade from Airline Road into the proposed site. He anticipates that there will not be an issue traversing under the power lines in the electric company’s right-of-way.

Mr. Michelman stated that the site does appear to have the appropriate soil type for this project. The bore depth will be at least 60 feet. The foundation for the turbine will need to be at least 20 feet by 20 feet.

The interconnection is available with NSTAR. It can be overhead or underground. There was some discussion regarding the proposed zoning amendment to allow greater height for wind turbines on the District’s property.

Mr. Michelman stated that his group believes the wind to be virtually equal to what they found at a site in Harwich (private party).

There was some discussion regarding the installation of a wind turbine on property not owned by the District but having the District hold an easement. Mr. Michelman stated that there may be an issue regarding the net metering regulations. Net metering allows for full retail value. Crossing property boundaries may revert the value of the power back to wholesale rates. There was further discussion on a possible acquisition of property or easement in Brewster in order to move the turbine out of the Town of Dennis Old Kings Highway Regional District.

The Board members continued to ask questions of Mr. Michelman during their review of the Preliminary Site Analysis. On a motion made by Charles F. Crowell, and duly seconded, the Board ***UNANIMOUSLY VOTED: to authorize Boreal to proceed with the full scope of work in accordance with the Wind Power Feasibility Study.***

It was noted that the scope of work for the Feasibility Study does include a search for and assistance with the filing of grant applications for which the District may qualify.

At 4:03 PM Chairman Prue welcomed Attorney Thomas Perrino to the meeting. Attorney Perrino was present to review his response to a set of legal questions submitted by the Board regarding the legality of the District's expenditure of funds for wastewater purposes.

Attorney Perrino opined that in his letter dated April 15, that Section 9 of the District's enabling legislation, Chapter 277 of the Acts of 1945, vests the Commissioners with broad authority so long as the purposes further the objectives of the District. Section 9 grants all authority not otherwise provided for, but in his opinion, is not for all "municipal purposes".

Mr. McDowell asked where the legal line is that can't be crossed, in other words, what are the limits of our [the Board's] discretion? Attorney Perrino stated that there are limits but, in attempting to determine where will naturally be some "gray areas". He further opined that the legislature intentionally gave board authority to the commissioners subject to the instructions of the voters of the District in order to further the goals and objectives of the District. The goals and objectives of the District, as authorized by the voters, were to investigate whether it wants to be a wastewater district. Mr. McDowell asked if there was any case law regarding this issue and Attorney Perrino said he had not found any to date.

The Board and Attorney Perrino further engaged in the discussion regarding the expenditure of funds from an existing appropriation for wastewater studies on the Massachusetts Estuaries Project (MEP) and if the contract for those services is within the District's scope of authority. Mr. McDowell stated that the \$600,000 appropriated had nothing to do with potable water. Mr. Larkowski offered to share the history of the circumstances surrounding the Board of Water Commissioners decision to become involved with the study of wastewater management issues. He began by saying that the Town of Dennis had been approached by the Massachusetts Department of Environmental Protection and the School of Marine and Science Technology to participate in the MEP. The Town did not participate and in 2004 there was considerable media attention regarding Barnstable County's attempt to develop a regional approach to wastewater management. The Board assigned the task of investigating what it would take for the Town/District to identify and solve its own wastewater issues without having county involvement. Mr. Larkowski reported that the Town established a Comprehensive Wastewater Management Plan Task Force, which included three members assigned from the District, to develop a multi-phased approach to developing a plan. The strategy included the development of a Plan of Study, a Needs Assessment Report and the determination of the maximum total daily limit for nitrogen in the Town's estuaries (MEP). The MEP is a component of the overall investigation as to whether or not the town needs wastewater management and if there is a need for centralized sewer system should the District undertake that responsibility and authority.

There was a consensus among the Board members that Attorney Perrino had responded to the Board's request for legal advice based on the agreed upon questions.

Ms. McMahon reviewed the Annual Warrant with the Board members. She noted that, according to her records, the Finance Committee had not voted a recommendation as to the funding sources for the Capital Expenditures. She advised that the Finance Committee will be meeting at 6:30 PM the night of the Annual District Meeting in order to vote that recommendation (Article 5). On a motion made by Peter L. McDowell, and duly seconded, the Board ***UNANIMOUSLY VOTED: to sign the***

Warrant calling for the Annual District Meeting, and further, to authorize the use of facsimiles of their signatures on attested copies of said Warrant.

The Board members reviewed a draft of the agenda for their regular monthly meeting to be held Thursday, April 22, at the Dennis Police Station. On a motion by Charles F. Crowell, and duly seconded, the Board ***UNANIMOUSLY VOTED: to adjourn their meeting at 4:42 PM.***

Respectfully submitted,

Sheryl A McMahon, Clerk