

DENNIS WATER DISTRICT

Board of Water Commissioners

Minutes of Meeting held

June 28, 2012

A meeting, having been duly posted, was held this date at the Planning Board Conference Room, 485 Main Street, South Dennis. The meeting was called to order by Paul F. Prue, Chairman at 6:00 PM. Also in attendance were Charles F. Crowell and Peter L. McDowell and the following District official:

Sheryl A McMahon, Clerk & Treasurer

David Larkowski, Superintendent

Public Comment

Mr. McDowell noted that the Superintendent monitors nitrogen in the District's wells on an annual basis. The most recent results show that 13 wells were less than 1ppm (parts per million) and four wells were essentially undetected. State standard is 5ppm. He felt that Dennis residents should be comforted in the nitrogen levels in their water. Chairman Prue stated that it is because the voters of the District have always supported the purchase of land for watershed protection and that the District even went so far as to purchase restrictions in the Town of Brewster.

Mr. McDowell noted that a vehicle drove into Fin (a restaurant located in Theater Market Place) in Dennis. He commended the responses provided by the Dennis Fire and Police Departments, Building Commissioner Brian Florence and Whelan Restoration.

Customer Issues: - None

FY 2011 Audited Financial Statements

Mr. McDowell commented on his issue with spending water revenue for wastewater purposes and he wanted to have the auditor meet with the Board so that it could be discussed. Chairman Prue read from page 3 of the audit summation which stated that during the audit the expenditure of funds for wastewater and environmental studies was reviewed and found that when the authority was called into question, the matter was referred to the District counsel for legal opinion. The auditor noted that when questioned, the Board performed its due diligence in obtaining the opinions and was transparent in performing its fiduciary responsibilities. Mr. Crowell noted that this question has been asked and answered several times. Mr. McDowell stated that the attorney for the District has been telling them that wastewater and potable water is the same thing. Ms. McMahon said that she believed saying that potable water and wastewater was a mischaracterization of the questions that were asked. The question asked was "is it legal for the District to spend money on wastewater studies?" Attorney Perrino provided specific responses to Mr. McDowell's written questions. She summarized Attorney Perrino's responses by stating that while it may be considered a gray area, it was within the District's authority and the Board's broad powers under the enabling act to undertake environmental studies to determine if there was a need for wastewater infrastructure and if the District should undertake that responsibility. In November 2009, the majority of the Board voted to withdraw its support of the legislation being drafted because the Board of Selectmen had withdrawn its support. The withdrawal would afford the Town some time to evaluate alternatives to a traditional sewer system. By withdrawing the support for the legislation, it would give more time to receive and review the reports and then make a determination if the District should be a wastewater District or should the Town assume those responsibilities. Ms. McMahon stated that she had provided all of the prior legal opinions and documentation available regarding Mr.

McDowell's issue with the legality of spending District revenues for the wastewater studies. Mr. McDowell stated that when he asked Mr. Gannon of the Department of Revenue the question, he said that Mr. Gannon said he had a problem with it too. Mr. McDowell said that Mr. Gannon's written response had nothing to do with the question that he asked. Ms. McMahon read Mr. Gannon's response aloud. Mr. McDowell continued to disagree.

Ms. McMahon noted that there was an article in the most recent edition of the Register which discussed Other Post Employment Benefits (OPEB) as being a huge unfunded liability for municipalities. The largest component of the OPEB cost is health insurance benefits for retirees and their survivors. She noted that the District has been reporting this liability in its audited financial statements for the past several years. The District has been participating in a program arranged by the County that hires one actuary to conduct identify the OPEB for all Cape Cod public entities that wish to participate. It has saved the District thousands of dollars by participating. She noted that for more than sixty years, the District has had very few retirees but recently went from four to 13 retirees. She estimated that over the next 12 to 15 years that number would likely double. She suggested that the Board consider reviewing the level of reserves and see if there might be an opportunity to begin setting aside money to meet the future funding requirement. Additional comments were exchanged regarding the potential liability and opportunities for funding. Chairman Prue suggested that the Board review it again during the next budget cycle.

Ms. McMahon requested that the Board sign the auditing disclosure form. It is a statement by the Board that they are not aware or have any knowledge of fraud, possible law suits, unreported liabilities, and that the Board is not aware of any issue that would have a significant financial impact on the District. Mr. Crowell noted a correction in item 28 the last sentence a word was missing. On a motion made by Charles F. Crowell, and duly seconded, the Board ***VOTED 2-0-1 (with PLM abstaining): to authorize Chairman Prue to sign the auditing disclosure form.***

Review Account Billing For Town Of Dennis Accounts And Private Non-Profit Organizations And Consider Billing The Town Of Dennis Transfer Station For All Water Charges.

Chairman Prue said that he felt that billing the Town for water based on an adjusted value was good for the Town but, that it would mean that there is a method of accountability for conservative use. Mr. McDowell asked for an overview of the allowances, number of accounts, etc. for the worksheet that was provided. Ms. McMahon reviewed the grouping of the types of accounts that receive an allowance such as civic and non-profit groups and municipal accounts further grouped by department. She is recommending that the District bill the Town for all water used at the Transfer Station because it is considered a "business-like" activity and essentially operates on the revenue received from operations and is not dependent on taxes. Beaches, harbors and golf courses are considered revenue-based and have been billed for all water charges and fees. On a motion made by Peter L. McDowell, and duly seconded, the Board ***UNANIMOUSLY VOTED: to advise the Board of Selectmen that, beginning in Fiscal Year 2014, the water usage at the Transfer Station be billed at the full and regular water rates.***

Report by School of Marine Science and Technology entitled "Massachusetts Estuaries Project Linked Watershed-Embayment Approach to Determine Critical Nitrogen Loading Thresholds for the Swan Pond River Embayment", Revised Draft June 2012.

Mr. Larkowski explained that since the District is the entity contracted with SMAST for these reports, the reports are first submitted to the Board of Water Commissioners. He requested that the Board accept the report and authorize the report to be forwarded to the Town for its review. He noted that Dr. Howes will speak to the committee (Wastewater Task Force) or any officials that want to hear an explanation of the report. On a motion made by Peter L. McDowell, and duly seconded, the Board ***UNANIMOUSLY VOTED:***

to acknowledge the receipt of the report and to forward it for review and analysis to the Comprehensive Wastewater Task Force.

The Superintendent advised that the existing contract for SMAST for the MEP studies will expire on July 1, 2012. He noted that there has already been one a no-cost extension but, we are essentially held hostage for renewals. The District is awaiting reports on Sesuit Harbor and Chase Garden Creek. He noted that extending the contracts by letter of agreement was reviewed by Attorney Perrino last year. He advised that although there is no harm in extending it there is nothing the District can really do to compel them to complete the reports except emphasize that in the letter. Mr. McDowell commented that the estimated cost for all Barnstable County towns is between \$4 billion to \$8 billion. He stated that he attended a seminar on wastewater approximately six weeks ago at the Dennis Pines. On a motion made by Charles F. Crowell, and duly seconded, the Board ***VOTED 2-1-0 (PLM): to extend the contract with the School of Marine Science and Technology entitled until June 30, 2013.***

Electrical Expense –Existing Contract and Consider Possible Alternative Procurement

Mr. Larkowski advised that the District is in the last year of a three-year contract for electricity with Direct Energy. The District contracts with a supplier through Power Options which is a power aggregator for large consumers. The District has contracted through Power Options for approximately fifteen years and as the price has risen, the District benefited by having in a contract price locked in. However, over the last 12 to 18 months, the cost of electricity has plummeted and the District has been paying considerably more. The District currently pays 9.1 cents per kWh. If the District terminates the contract early, there would be penalties by Direct Energy. The damages are estimated at \$19,741. Mr. Larkowski believed that the new lower rates would provide enough savings to off-set the payment of the penalties. He estimated the savings to be \$4,000. Mr. Larkowski has been in contacted with several suppliers. Dominion was at 7.1 cents per kWh. Cape Light Compact with ConEdison was at 6.67 cents per kWh for the next six months. Several other Cape water utilities are with Glacial Energy. Glacial Energy offers more flexibility in their plans. Contracts can be written for as long as three years or as short as month-to-month (market rate). He recommended to the Board that they sign on with Glacial Energy for six months at 6.799 per kWh. The estimated savings could change based on how much power is actually used over the next 12 months. He stated that Glacial Energy's focus is working with the customer to see what terms would best fit. Mr. McDowell said that it was his understanding that electrical costs are keyed to natural gas futures. Mr. Larkowski stated that the District would be the first entity to withdraw from a Power Options contract. On a motion made by Peter L. McDowell, and duly seconded, the Board ***UNANIMOUSLY VOTED: to authorize the Superintendent to terminate the current contract with Direct Energy, with the penalties and to negotiate a new contract with a supplier that will be in the best interest of the District.***

Mr. Larkowski reviewed with the Board Mr. McDowell's concerns regarding the agreement with Dennis Solar for the purchase of net metering credits. The purchase rate of the credits is adjusted annual by the Consumer Price Index over the life of the contract (20 years). Mr. McDowell is concerned that the purchase of the credits may exceed the actual cost of the power. Mr. Larkowski confirmed that this was not the case. Under Exhibit C of the intermunicipal agreement, it states that credit purchase rate will never exceed the net metering credit that would be available. Mr. McDowell noted that the District can withdraw from the contract any time prior to the construction of the solar farm. His concern is that the credit purchase rate is tied to the Consumer Price Index and that it is for twenty years.

Consider composting operation being proposed at 812 Route 134, South Dennis (a/k/a Melpet Property.)

Mr. Larkowski reviewed the contents of a letter he had sent to the Natural Resources Department regarding a proposal to compost manure once horses are stabled at the barn at the Melpet property. The Town is leasing

the barn for stabling horses. While the use of the property for horses per se is not a concern, the stockpiling of manure for composting at the site in an area 15' by 300' and then be able to sell the product. His problem with the concept is that the proposal sites the composting on the property line with the District. The site would only be 430' feet from Well 16. Horse manure contains not only nitrogen but also many types of bacteria. His intent tonight was to advise the Board that he is oppose to the location of such a composting operation. The Board discussed nitrogen levels in the wells and how some operations in close proximity to the Zone I (400' radius) can impact the water quality of the well. Mr. Prue felt that the stumps dump that is in close proximity to Well 18 has no doubt had an effect on it. Mr. Larkowski has spoken with the Health Director, Terry Hayes, and he assured Mr. Larkowski that if any proposal is brought forward the District would be made aware.

Review and Award Material Bids for FY 2013.

Mr. Larkowski reviewed the canvas of bids for water services supplies. On a motion made by Peter L. McDowell, and duly seconded, the Board awarded the bids in accordance with the recommendations outlined in the canvas of bids as presented by the Superintendent. (Copy herein attached).

Mr. Larkowski reviewed the canvas of bids ductile iron pipe and fittings, etc. He noted that the District just received 5,000 feet of 12" water main for the Depot Street project at cost savings of more than \$8 per foot compared to the new bid price which will go into effect July 1. Total savings is estimated at \$40,000. On a motion made by Peter L. McDowell, and duly seconded, the Board **UNANIMOUSLY VOTED:** to awarded the bid items to vendors as presented in the canvas of bids by the Superintendent. (Copy herein attached).

Household Hazardous Waste Collection Day

Chairman Prue inquired as to the results of the HHWCD. Mr. Larkowski had not received the final bill which would provide the final accounting of materials collected. He did note that approximately 300 cars went through the site. It rained the day of the event.

Old Bass River Tank

At the request of Chairman Prue, Mr. Larkowski provided the Board with an update on the progress of maintenance work on the Old Bass River Tank. The project is 99% complete and the tank is back on-line. There is some grouting work and repairs to the catwalk on the roof. Chairman Prue asked that Mr. Larkowski extend to the staff the Board's appreciation for the extra-ordinary effort given by staff to undertake this project. Mr. Larkowski said that the final numbers on the cost of the project should be available next month.

On a motion made Charles F. Crowell, and duly seconded the Board ***UNANIMOUSLY VOTED: to adjourn the meeting at 7:12 PM.***

Respectfully submitted,

Sheryl A McMahon, Clerk