

DENNIS WATER DISTRICT

Board of Water Commissioners

Minutes of Meeting held

September 26, 2013

A meeting, having been duly posted, was held this date at the Dennis Police Station, 90 Bob Crowell Road, South Dennis. The meeting was called to order by Paul F. Prue, Chairman at 6:02 PM. Also in attendance were Water Commissioners Charles F. Crowell and Peter L. McDowell and the following District officials:

Sheryl A McMahon, Clerk & Treasurer

David Larkowski, Superintendent

Public Comment

Mr. Larkowski stated that there was a recent report issued by Silent Spring Institute. Silent Spring has been examining why there are higher rates of cancer here on the Cape. In 2009, the District was involved in having water sampling done in Dennis. Mr. Larkowski said he has received a couple of calls with questions regarding the District's participation in the study. The District did not participate in this most recent study. The most recent study was focused on wastewater and septic systems; trying to determine the types of contaminants that can go through a septic system and get into groundwater. The conclusion was that it does happen and there were detections of some contaminants in municipal wells across the Cape. He said that we need to be careful where we place wells in relation to residential areas and commercial properties. He said that watershed protection is a key component in keeping the water safe. He noted that there had been detection of some contaminants over the years reported in their studies. Mr. Larkowski had advised the Board in 2009 (or 2010) that these newer contaminants are tested for in the parts-per-trillion. He stated that the lowest detected level set by Department of Environmental Protection regulations for water quality testing is in parts-per-billion. To give an idea of how small that number is; Mr. Larkowski noted that the District pumps approximately one billion gallons per year; it would take one thousand years to pump a trillion gallons. He hoped that Silent Spring continues to do their testing as he was sure we would want to know if something [was] out there causing higher rates of cancer. The District was not part of the most recent study and there were no definite findings but, protecting the watershed is important to reducing this risk. There were nine districts tested in the most recent study and some have watersheds that are not well protected. He said that our wellheads are well protected by the 1,000 acres the District holds for watershed. He said that Silent Spring has tested for such things as pharmaceuticals, DEET, fire retardants, etc.

Customer Issues: - Leak Abatement Request: Stone Properties, Inc., Acct. 05598, 4 Lighthouse Rd, West Dennis.

Mr. Larkowski reviewed presented a request from Stone Properties, Inc. for abatement under the Board's Leak Abatement Policy. During the reading cycle for the August bills, a high water use was noted for this account. The owner was notified and an underground leak was discovered between cottages. The leak was repaired promptly. Eight hundred seventy-nine thousand gallons was lost. Their average usage was 15,000 gallons for the same cycle over a three-year period. The total bill was \$3,061.33. In accordance with the Board's policy, the abatement would be a credit of \$1,279.20 leaving a remainder of \$1,782.13 to be paid. On a motion made by Peter L. McDowell, and duly

Board of Water Commissioners
Meeting held September 26, 2013
Adopted: January 30, 2014

seconded, the Board ***UNANIMOUSLY VOTED: to abate 864,00 gallons for the sum of \$1,279.20 in accordance with the Board of Water Commissioner's Leak Abatement Policy for the account of Stone Properties, Inc., 4 Lighthouse Road, West Dennis, Acct. No. 05598.***

Review of Clerk/Treasurer & Superintendent Vacation Policy

Mr. McDowell asked what is the length of annual vacation time for the department heads [Superintendent and Treasurer] and when is it taken. Mr. Larkowski advised that employees earn two weeks of vacation time after the first year, then a third week after five years and a fourth week after 10 years. The Superintendent has been at the District for 28 years and receives four weeks of vacation. He generally takes one-week vacation and then the rest he takes in one or two-day increments. He had not notified the Board of vacation time being taken but, lets the staff and Ms. McMahon know. He said that they are always available with a phone call. He said that the Assistant Superintendent is in charge with all of the distribution and pumping operations and that George and Brian handle the water sampling. Mr. McDowell asked if he could be advised when vacations are scheduled. Mr. Larkowski assured the Board that either he or the Treasurer is at the office if the other is on vacation. Ms. McMahon said that the Personnel Code is in desperate need of revisions, having been last adopted by the Board in 1996. She distributed the Vacation Policy (excerpt) with the Board members.

Discussion of Certain End of Year Expenditures

Mr. McDowell asked about the gasoline reimbursement for the Treasurer. Ms. McMahon had responded to Mr. McDowell's earlier email request for an explanation of the travel expense with a detailed list of trips which were reimbursed at the IRS mileage rate. The explanation had also been provided to Commissioners Prue and Crowell. Ms. McMahon noted that the travel reimbursement is listed in the annual budget narrative of the Treasurer's Expense. She noted that the amount was \$347.44 for Fiscal Year 2013.

Mr. McDowell said his next item of concern was \$10,000 paid to the University of Dartmouth for wastewater. He said that prior to November 2009, both the District and the Town had voted to transfer statutory authority to the District. In November 2009, on a vote of two-to-one, Chairman Prue and Mr. Crowell voted not to go forward with that legislation. Mr. McDowell said that the District can only provide potable water for drinking and fire protection and nothing else. He said that, in 2009, the District assessed a tax for wastewater and there may be some serious question as to whether that was lawful. He was concerned why the District is paying \$10,000 of water revenues for wastewater when the Town of Dennis should be doing it. He said that he has copies of all of the SMAST contracts and the last one was in 2011. He further asked; why we are paying for wastewater testing when we have not been doing it? Mr. Larkowski said that the District was charged with researching whether or not the District would get involved with wastewater. Originally, there were three-to-four year contracts in which we were going to do water sampling and MEP (Massachusetts Estuaries Project) reports were going to be provided. He explained that the reports are still straggling in. The \$10,000 was for work done on Swan River several years ago. He noted that the District did conduct additional sampling other than the initial three-years; three or four more years after the initial period. He said they [MEP] are behind in their billing but, the bill was owed for work finally completed under one of the original contracts. Mr. McDowell said that we do not have the authority to do it. Mr. Larkowski said that he was aware of Mr. McDowell's opinion; that we were never lawfully allowed to get involved but, two of the District's attorneys have said that we

could initially investigate whether wastewater needed to be done and whether or not the District would be involved with it. He said that those determinations were made and contracts with SMAST were signed and Stearns & Wheeler did the Needs Assessment Report. He said that it is still moving but, in a different direction right now. Mr. Larkowski said we were lawfully allowed to be involved in wastewater by doing the initial investigation. The reports are still not done. Chairman Prue said that the contracts with SMAST were approximately \$400,000. Mr. Larkowski said that there has been no new money for wastewater. Mr. McDowell said that our authority is to provide potable drinking water and that is different from wastewater. He said that there is nothing in the authorization for us to get into wastewater. He said that Comprehensive Wastewater Management Plan is [for] town-wide sewers. He said the reason he ran for Water Commissioner is because of wastewater and sewerage and all the monies that involved; but, us taking monies generated from the providing of potable drinking water [interrupted]. Mr. Larkowski said that the monies did not come from water revenues but from the real estate tax assessed in Fiscal Year 2009. Chairman Prue said that we have had two different attorneys say that we could do this. Mr. Crowell said that we have been all through this issue. Chairman Prue said that the reason we got started in this was because the Town could not afford to do the testing originally and the District stepped up and tried to help by recognizing that there was a problem with wastewater and that it would help us with studies that could show that our wells were well protected and safe.

Summary of Previous Mediation Request with Commissioner

Mr. McDowell said (reading from a prepared statement) that beginning last March there was quite a confrontation between our Clerk/Treasurer and himself over being forthright. He said that during a joint meeting March 21, Clerk/Treasurer McMahan challenged him and became vocally upset when he felt she had not been forthright after she withheld a major piece of information involving an expensive million-dollar purchase of land that the District was going to participate [in]. He said that the reason he was getting into this is that he has had a number of people ask what happened because it went over a four-five month period and especially where we had a cost attached to this. He said he would comment on the withheld information and then he will invite anyone who wishes to visit the Town's website and view the tape of the joint meeting of the Dennis Water District [Water Commissioners] jointly with the [District] Finance Committee on March 21. He said that during the next regular Water District [Water Commissioners] meeting on April 25, Mrs. McMahan read a prepared statement calling for mediation with him. He said he immediately declined participation in any such event. In his opinion, there was nothing to mediate, as actually, how can you mediate clear facts. He invited anyone to visit the Town's website and view the meeting on April 25. Mr. McDowell continued to read his statement and asked; now what was this withheld information all about? Back in March, and a year before, there had been a discussion about a million-dollar purchase of land which was marketed for the protection of drinking water. He continued to say [reading from a prepared statement] that on March 12 he learned that the Town of Dennis had received a surprise \$400,000 grant from the State. He understood that the Board of Selectmen received notice of it.

Mr. Crowell interrupted and said that we have been all through this before and he was not interested in hearing it again. Chairman Prue agreed. Mr. McDowell said that this is an issue some members asked us to talk about and that publicly it has never been discussed and that "you two water commissioners spent \$3,500 on this". He thought the public had a right to know, stating with all due respect. Mr. McDowell asked to continue. Chairman Prue said that, as an employee, Ms. McMahan asked for a hearing [mediation] to adjudicate the problem and that we had an attorney and an arbitrator and Mr. McDowell came to that meeting and said that the meeting was illegal and left; so

we never did have an opportunity to discuss the matter. Mr. McDowell thought the public had the right to know much more than just that. He said that if the others wanted to conceal what happened, then fine, they could do just that. Chairman Prue said that there has been nothing to conceal. Mr. McDowell said that, with all due respect, he thought he could relate to actual clear facts that are a matter of record that have not been passed on.

Ms. McMahon said that this was wholly unfair to her; to put her in this position because the agenda item was for a summary of the mediation request and, once again, Mr. McDowell is going to reiterate accusations made against her; that she was not forthright. She said that that means she has to sit and have no means of defense. She said the Board acts as her employer and to also sit as judge and jury is inherently unfair. She thought that these accusations; [the remedies for] which would be afforded to any other municipal employee or citizen, would be aired in executive session and hopefully, before an impartial party. She has felt that that would have been fair to her over the last few months. She also felt that considering what had taken place over the past couple of months, with the policy that was adopted on uniform communications and the modifications to the job descriptions; she had hoped that we would be past this. She felt that it was wholly unfair to have to argue points with one of the commissioners who are actually her bosses. She said it puts her at such a considerable disadvantage. She respectfully requested that any further discussion about this subject be done in mediation as she still felt it would be appropriate. Chairman Prue said that Mr. McDowell has had an opportunity to participate in mediation and has refused, so he wanted to move on to the next agenda item.

Mr. McDowell asked for a point of order and said that he has no argument and he had nothing to say except only those things that can be absolutely clearly documented. He said that everything he wanted to talk about he had documentation. He further said that this was nothing to be mediated and it never was. He asked if the intent was to have this concealed; why we spent \$3,500 and wasted it, then that was fine. Chairman Prue said that there was nothing to conceal. Mr. Crowell said that Mr. McDowell declined to mediate. Chairman Prue said that Mr. McDowell said that the meeting was illegal and our attorney said it was not. At this point in time, Chairman Prue declined to discuss the matter any further until Mr. McDowell decides to move ahead and become part of a mediation process. Mr. McDowell said that that the meeting had been a violation of law.

Update on Transmission Main Project

Mr. Larkowski advised the Board that for the last two years, the District has been working on a three-phase transmission main project. Last year, the District completed Depot Street. The second phase began with obtaining an easement from the propane farm on Great Western Road and continued with obtaining all of the easements necessary to go from Great Western Road to Eagle Pond Nursing Home. The phase continued with the installation of approximately 4,200 feet of 12" water main which is now in-service. Mr. Larkowski said that they did some flow tests for the propane farm last year. They did not meet the code requirement. Since the main has been installed in that area, it has increased the flow by 21%. He said the overall goal is to eliminate the bottle neck that happens at Route 6 because all of the pumping is north of it. There are four major and distinct water mains, and now there will be a fifth, across the highway. Phase III, which will be discussed during the budget season, will be to bring water from Great Western Road to Center Street. Mr. Larkowski said that he has met with some of the owners, walked the property and outlined what would be needed. He has not heard back from them. His goal is to work with these owners but, there are alternative routes. However, the longer the route the more the water main costs. Mr.

Larkowski said that the propane far will now be able to further develop the business because of the increase in fire flows as a result of the new water main installation.

Acknowledge receipt of audited FY 2012 Financial Statements and Management Letter; Authorize Chairman to sign disclosure for audit.

Ms. McMahon stated that the disclosure form is a standard form. The audit is issued to the Board of Selectmen [Water Commissioners] and it says that the Board acknowledges that to their knowledge they do not know of any fraud or abuse. She said that this form is rather archaic because generally, part-time boards cannot know for certain because they do not process transactions; it is a form that is required by the auditors. She noted that the audit has been published without it. She recalled that last year, the Board voted to authorize the Chairman to sign the form as apposed to having all three Board members sign. A motion was made by Mr. Crowell, and duly seconded, that the Board authorize the Chairman to sign the disclosure letter for the Fiscal Year 2013 audit. Mr. McDowell asked if was a change or substitution of the actual audit, or is this an authorization to proceed with an audit? Ms. McMahon said that the disclosure stipulates that the Board has made certain representation to the auditor such as; the financial statements classify all funds and activities, revenues are appropriately classified; inter and intra funds and activities have been appropriately classified and reported, etc. The disclosure essentially says that the Treasurer has done her job. It has been done for every audit. In recent years, the Board members have authorized the Chairman to sign. The Board ***VOTED 2-0-1 (PLM): to authorize the Chairman to sign the disclosure letter for the Fiscal Year 2013 audit already completed.***

Review Standard & Poor's recent Ratings Review for District's General Obligation Bonds

Ms. McMahon advised the Board that the firm of Standard & Poor's (S & P) recently affirmed the District's "AA+" rating for its general obligation bonds by determining that the long-term and underlying conditions for the District's outlook were found to be stable. The rating reflects what they viewed as positive: the District's ability to levy property taxes which are not subject to Proposition 2 ½ limitations, in addition to bill for charges, the strength of the service community and the District's favorable debt burden and limited future capital needs.

She said that S & P noted that the District voters established a Watershed Protection Fee of \$10 biannually to help cover the annual debt service that was incurred with the issuance of the 2007 bonds and is will be active for the life of the bond issue. They noted that the last change in water rates was in 2010 and that rates are generally raised every five to seven years and there are no plans to levy a tax rate in the future. It was also noted that income levels are good with median household effective buying income at 99% of national levels. They considered the District's finances to be strong with a general fund balance of \$4.1 million at 102% of expenditures. The District's management practices are considered standard under their assessment methodology and that there are adequate policies in some but not all, key areas.

S & P considered the overall net debt burden to be low on a per capita basis and low at .5% of market value which included overlapping debt of the Town and a portion of the DY Regional School District.

She continued by saying that overall, S & P found the outlook reflects their expectation that the District's financial performance with remain stable and that liquidity will remain strong. The

Board of Water Commissioners
Meeting held September 26, 2013
Adopted: January 30, 2014

stability is also based on the District's underlying credit quality and its ability to tax without limitation; further capital needs are minimal which should keep the debt manageable.

Chairman Prue noted that the District has not had a rate increase in four years and none are anticipated for the foreseeable future. The Treasurer indicated that over time, there are slight increases, adjustments and reductions that are made to accommodate budget changes but, eventually, rates will have to be adjusted. Chairman Prue confirmed that he understood the rating to be "AA+". Mr. Crowell said that it was good news.

Request Reserve Fund Transfer not to exceed \$2,840 for purchase of replacement underground piercing tool (mole). Property insurance claim payment received of \$2,996.

Mr. Larkowski said the District owns three moles [underground piercing tools]. He described an incident where the mole was lost because it went too deep. Attempts were made to recover it but, when worker safety became an issue, the attempts were discontinued. A claim was filed with the insurance company and the District has received a payment of \$2,996 which can be used towards the replacement purchase. Mr. Larkowski noted that he has been able to obtain a lesser price for the tool and therefore, his request has decreased to \$1,884.40. On a motion made by Peter L. McDowell, and duly seconded, the Board **UNANIMOUSLY VOTED: to transfer from the Reserve Fund the amount of \$1,884.40 for the replacement of the mole as outlined by the Superintendent.**

Review withdrawal of Agway from terminated easement area.

Mr. Larkowski said that more than 10 years ago the District granted an easement to Aborway. Aborway was subsequently sold to and is now Agway. The easement expired several months ago and will not be extended. The easement area is where they stored their nursery stock. He met with owners of the company and they are working out a plan to vacate the District's property. Agway has been reviewing options such as moving their loading dock and rearranging their parking. Mr. Larkowski said that by the end of this fall, after their stock is gone and business slows, they will be vacating the area. He said there is no agreement but, he has a sketch plan as to how the property will be left, and so long as it is to his satisfaction, there will not be a need for Board action. Mr. McDowell said that he believed it was reasonable to allow the owners to retreat once their seasonal stock is gone and said Mr. Larkowski has handled it well.

Minutes: February 28, April 25, May 23, July 25, 2013

Mr. McDowell noted that the April 25 meeting's agenda is not on the District's website. Ms. McMahon said that if Mr. McDowell finds any missing to simply email or call and she will ensure it is corrected.

Mr. Crowell noted a correction for Page 3 of the February 28, 2013, minutes. On a motion made by Charles F. Crowell, and duly seconded, the Board **UNANIMOUSLY VOTED: to approve the minutes of February 28, 2013, as corrected.**

Mr. Crowell noted a correction for the top of Page 3 of the July 25, 2013 minutes. On a motion made by Charles F. Crowell, and duly seconded, the Board **UNANIMOUSLY VOTED: to approve the minutes of July 25, 2013, as corrected.**

On a motion made by Charles F. Crowell, and duly seconded, the Board ***VOTED 2-0-1 (PLM abstaining): to approve the minutes of April 25, 2013, as presented.***

Mr. Crowell noted a correction for the first page of the May 23, 2013 minutes under *Public Comment*. On a motion made by Charles F. Crowell, and duly seconded, the Board ***UNANIMOUSLY VOTED: to approve the minutes of July 25, 2013, as corrected.***

Approve 2014 Board Meeting Schedule

Ms. McMahon noted that the meetings proposed on the schedule for 2014 are all the fourth Thursdays of the month, with the exception of November and December which are scheduled for the third Thursday. She asked that the schedule be adopted to ensure that all of the meetings would be scheduled in the Training Room of the Dennis Police Station, which she has already confirmed as being available. Mr. McDowell asked if the recently adopted by-law by the Town would conflict with any of the meetings listed on the Water Commissioners schedule for 2014. Ms. McMahon said that she did not believe the Town by-law was binding on the District and noted that the next Special Town Meeting is scheduled for November 19. She further noted that generally Town Meeting starts on Tuesday and that there is usually not something so “earth shattering” to be accomplished that a Board meeting could not be re-scheduled if there was a conflict. Ms. McMahon noted that the Board meeting in January is on the 30th, which is the fifth Thursday due to a potential conflict with her attendance at the Mass Municipal Conference the week prior. On a motion made by Charles F. Crowell, and duly seconded, the Board ***UNANIMOUSLY VOTED: to adopt the 2014 meeting schedule for the Board of Water Commissioners as presented.***

Chairman Prue noted a letter from Mark Dellner, Dennis Fire Chief, announcing that the Town of Dennis Fire Department has been rated as a Class 3 fire department by the Insurance Service Organization (ISO). In his letter, the Chief pointed out that there are 372 fire departments are rated by the ISO; only 49 are rated as Class 3 meaning that the Town of Dennis is rated in the top 16% of the State. He continued to say that there is only one department rated as Class 1; 11 are rated as Class 2 and 49 are rated as Class 3. Three hundred and eleven departments are rated as Class 4 and above. Chairman Prue explained that Class 1 is the best and that Class 9 is most likely without fire protection at all. The Town of Dennis rates in the top 5% of all fire departments in the country. Chairman Prue congratulated the voters of both the Town and the Water District for their support in this achievement.

On a motion made by Charles F. Crowell, and duly seconded, the Board ***UNANIMOUSLY VOTED: to adjourn at 6:56 PM.***

Respectfully submitted,

Sheryl A McMahon, Clerk