

The Public Works Commission met at 7:15 p.m. on Wednesday, February 3, 2016, at 141 Keyes Road, Concord, Massachusetts. Pursuant to Chapter 303 of the Acts of 1975, notice of the above meeting was duly filed with the Town Clerk, Town House, and Monument Square, Concord, Massachusetts.

PRESENT:

Commissioners:

Andrew Boardman
Arthur Fulman
Toby Kramer
Nick Pappas
Peter W. Wallis

Staff:

Richard K. Reine, PWLF, Public Works Director
Alan Cathcart, Water/Sewer Superintendent
Rod Robison, Environmental Services Program Administrator
Anna R. Trout, Administrative & Special Projects Coordinator

A: ACTION ITEMS

A-1 through A-4 - The meeting was convened at 7:15 p.m. by Commissioner Fulman.

There was some discussion about Article 2 – Authorize Long Term Lease for Nagog Pond Ground Mounted and Rooftop Solar Panels, which is being voted on at the Special Town Meeting on February 4. Director Reine explained that if Commissioners are available to go to the meeting and vote affirmatively it would be appreciated.

The January 13, 2016, meeting minutes were approved.

The next two PWC meetings were scheduled for Wednesday, March 9, 2016 and April 13, 2016 at 7:15 P.M. at 141 Keyes Road.

D: DISCUSSION/ACTION ITEMS

D-1: Review PWC Calendar Draft

The Special Town Meeting is on February 4. The Enterprise Fund Hearing is on Monday, February 29.

D-2: Solid Waste & Recycling Program Public Rate Hearing

Commissioner Wallis **MOVED** and Commissioner Pappas **SECONDED**, and it was **UNANIMOUSLY VOTED** as follows:

To open the Public Hearing for the Solid Waste & Recycling Program
Subscription Rates.

Director Reine explained that Article 27 of the 1989 Annual Town meeting established the Solid Waste Disposal Fund. There is a requirement that the Public Works Commission set the rates for this program each year. The budget for this fund will be heard at the Enterprise Fund Hearing on February 29. The vote on these rates is necessary at this time because of all the pieces that must be put in place for this program, including barrel sticker, subscription renewal documents and mailers. The Solid Waste and Water/Sewer Enterprise Budgets were reviewed last week with the Town Manager and Finance Director which allowed CPW to develop the proposed rate schedule for Solid Waste and Recycling.

Rod Robison, the Environmental Services Program Administrator, provided information relative to the curbside collection program. Our “Pay-as-you-throw” program encourages recycling and discourages trash generation. The curbside fee is not included in the tax base. Collection is made weekly for trash and recycling. Our dual stream recycling program has a very low rate of contamination. This also allows the Town to have an attractive paper rebate program when the paper market is strong. The current recycling rate is at 40%.

In the nineteen year history of the program there has been an increase in subscribers at the end of each year, with the current total of 3,591. There is a reduction in the volume of recycling linked to a variety of factors including online magazines and newspapers and reduced size of packaging. Based on an average of 1.36 bags/barrels of trash each week the overall cost increase is 3.6% for FY17. The dollar amount per year is going from \$336.08 for FY16 to \$348.08 for FY17.

As compared with private haulers that operate in Concord, the Town program remains the most economical option. In the Town survey that took place in 2014, when asked if you feel solid waste is priced appropriately, there was a large increase in residents that felt it was excessively priced. CPW has been focusing on providing more detail about price comparison to educate the public. The service provided by the Town is significantly more than what is provided by private haulers, which also includes a free pass for attendance at the Household Hazardous Waste event.

The Town just signed a contract with Waste Management that was negotiated for a five year extension. Within that extension there are defined costs each year. Waste Management has been a good partner to work with. They have well maintained equipment, knowledgeable staff and good customer service. Part of the negotiated contract includes two new dual stream recycling trucks during the first half of FY17.

The increase in trash volume has been in line with the increase in the number of subscribers. The decrease in recycling is due to a combination of increased electronic access to magazines and newspapers and eco-friendly bottles and smart packaging.

Commissioner Wallis **MOVED** and Commissioner Kramer **SECONDED**, and it was **UNANIMOUSLY VOTED** as follows:

To close the Public Hearing for the Solid Waste & Recycling Program Subscription Rates.

Commissioner Boardman **MOVED** and Commissioner Wallis **SECONDED**, and it was **UNANIMOUSLY VOTED** as follows:

To adjust the curbside subscription rate from \$230 to \$242 annually for solid waste and recycling subscribers, and from \$120 to \$126 annually for recycling-only subscribers effective April 1, 2016. The cost of weekly disposal tags will remain at \$1.50 each. The cost of six month barrel stickers will remain at \$39 each. Retailers purchase disposal tags and barrel stickers at a 5% discount to cover administrative costs and overhead. Retailer cost is \$1.425 per disposal tag and \$37.05 per barrel sticker.

D-3: MassDEP Drinking Water Regulations – Comment Letter

Director Reine explained that 310 CMR 22.00 are the State drinking water regulations and they are currently undergoing a public comment period as the MassDEP are promulgating regulations to align with the Federal EPA regulations on the Total Coliform Rule. Superintendent Cathcart was part of a working group evaluating overall chemical safety control strategies as well as staffing levels of various facilities and how that relates to new developments and technology with SCADA, automation, remote monitoring, etc. The existing regulations do not take into account these new technologies – so this is an area that Concord would like to comment on. If the regulations remain as is it will have an impact on the staffing levels that will be required for the Nagog Facility. A comment letter will be drafted for circulation to the Public Works Commission prior to submittal to the DEP.

Superintendent Cathcart explained that there are seven or eight water facilities – at which there would be significant cost associated with having them staffed 24 hours each day, seven days each week. In its comment letter CPW will be requesting that the MassDEP recognize the significant gains in technology, remote monitoring and automation over the years and adjust required on site staffing to reflect this progress when automation controls are in place.

Commissioner Wallis **MOVED** and Commissioner Kramer **SECONDED**, and it was **UNANIMOUSLY VOTED** as follows:

To support the items described in the Massachusetts Water Works Association letter to the MassDEP Drinking Water Program regarding comments on Proposed Changes to 310 CMR 22.00 dated January 25, 2016.

D-4: Nagog Pond Water Treatment & Photo Voltaic Update

Director Reine reinforced that this is a strategic project that has been included in the proforma for over a decade. A significant amount of planning and foresight went into the acquisition of all of the parcels and the technology needed has

been reviewed comprehensively through various studies including the most recent water treatment technology pilot studies as required by the MassDEP. At the recent Acton Board of Selectman special permit site and use hearing the Town agreed to a continuance until February 22 . The next meeting would have been sometime in late April – our goal is to have a better understanding of where these permits lie prior to the April 4 Annual Town Meeting in Concord if possible. There are two main permitting tracks underway – the Board of Selectmen approval and the MEPA approval. There is an Environmental Notification Form that is filed that is a fairly straight forward process to get approved however public comments and issues related to Article 97 land may complicate the approval process. We are working with the MEPA representative. An extension was requested because the dewatering for the intake is actually going to exceed a MEPA threshold which triggers an EIR (ten acres of land under water dewatered). There is a waiver request for that that has been granted for other projects that have gone through this dewatering process without a lot of complexity however given the public input and interest in this project we don't believe this is a proforma request. We have requested a waiver.

There are several main issues that the Town will be addressing in their response. The issue with the variance and the filing with the Registry of Deeds as well as the granting of the variance back in 1994, for the existing ozone facility. The contention by certain abutters and project opponents is that we shouldn't be at the Board of Selectmen, we should be back at the Board of Appeals to get another variance for this new building. The Town's counsel disagrees with this contention and indicated that there is case law indicating that the failure to record a variance does not disqualify the decision. If the applicant and grantee takes action on the variance within a time frame stipulated, in this case one year, and a building permit is issued the decision is not null and void.

As far as the variance required, counsel is fairly confident that the process the Town is following, which is directed by the Acton Planning staff is appropriate. In addition there was a change in the Zoning Bylaw in the Town of Acton at the time. The Planning Director has indicated that at the time they had us go to the Zoning Board of Appeals for this variance – which may have not been correct but the process was new at the time. The special permit granting authority the "SPGA" is the Board of Selectmen on a special permit. They very well could have granted the variance on the issues that were under review. Between the time that the variance was granted by the ZBA and the new regulations went into effect it is thought that a lot of those requirements were actually incorporated into this new zoning district that was basically developed for Concord which was the "other municipality" referred to in the Bylaw. Furthermore, we are not asking for any of those variances for this new building.

Another large issue is the status of the PV system as accessory use. We think it is very clear that it is accessory use based on Acton's bylaw and definition. We are on solid ground that the area where the PV system is proposed to be sited is a "lot" as opposed to a "parcel" which is another point challenged by project opponents.

The other issue is the one acre of clearing and the size of the actual array. There are limitations if it is not an accessory use. If it is a primary use PV system the applicant is restricted to less than one acre of clearing. We believe as an accessory use we are able to clear more than an acre and that we are able to build a Photo Voltaic (PV) system larger than one acre. The proposed facility is 19,000 square feet – well under one acre as a footprint for the PV system which by Acton’s definition is comprised of the solar panels and spaces between the panels.

In the Zoning Bylaw there is a reference when they talk about Primary Use – Solar Generation, where they refer to different zoning districts that it can take place in, with requirements such as the acre of clearing, size of the PV facility, etc. Then it indicates that all of the requirements are not necessary if this project is an accessory use – and to refer to another section. That other section happens to refer to two zoning districts – the village and business districts. Counsel has indicated that this is an erroneous reference and it is a typographical or drafting error in their Zoning Bylaw. It should refer to all zoning districts. The Attorney for Acton has agreed that he will advise the Board of Selectmen that it should be “all zoning districts” not just the business and village districts, which we are not in – we are in the residential zoned district as well as the other municipal. There was a letter drafted by an opponent that made the case that it may not be a drafting error – that it was intentional to limit the accessory use solar to only the business and village districts. This will be another issue that will require resolution.

Another issue is a need for an archaeological study. PAL, Public Archeology Laboratories, a consultant specializing in this area has been hired to perform this work. This is the same firm that did the archaeological study at Quail Ridge and Acorn Park. They are mobilizing tomorrow to do a sensitivity analysis and do their abbreviated study to determine the issues and come up with findings and recommendations for additional actions that may need to be taken.

The net metering and surplus energy accessory use status was also raised. The PV facility will generate about 25% of the energy demands of the Nagog Water Treatment Plant with the assumption that it is running at essentially 50% of the design capacity. This would be January through December. The total demand for that facility at that run rate is about 1.3 million kilowatt hours AC. The generation of this facility is about 349,000 kilowatt hours AC annually. It is significantly less further substantiating the accessory use status.

There are certain requirements for restricting access through fencing around the building, dam and intake. This has been managed by the Town in a respectful way allowing people to use passive recreation.

Article 97 compliance is another issue. This is an issue that needs to be clearly documented to ensure our project is consistent with Article 97 requirements or demonstrating that the property does not fall under this Article 97 process and restriction.

The intent is to take these issues and develop a letter to respond to the Board of Selectmen through their counsel to ensure we are in agreement. We will determine if the Board of Selectmen is satisfied with these answers and what the next steps would be.

Commissioner Fulman added that Concord's policy on connection to the water system should be included. Director Reine said it was a significant issue that is pressing right now. In 1971 there was a lot of activity around connections on Route 2A. For a number of reasons there was documentation of a policy discussion that said we would not accept connections greater than one inch on Route 2A in Acton. It did not say "no connections" and it was silent on Fire Protection. Since 1971 it's been reported that no new connections were brought on the Concord system in Acton. There have been a handful of Fire Protection connections brought on the system. Our Fire Protection program is significantly less expensive than Acton's. If the Town of Concord is denied the right to construct the Nagog Water Treatment Facility and Intake which will provide up to 1.5 million gallon per day of reliable and dependable drinking water, then the Town will be strapped with providing 14-20 Million Gallons annually to Acton businesses and residents. This volume of water is currently being provided from Concord groundwater well resources and pumped back to Acton customers on Route 2A when the Nagog supply is offline. In my opinion this was not the intent of the 1884 Chapter 201 legislation which established Concord's right to Nagog Pond. This is not a situation we could continue to accept given the pending Water Management Act regulations and historical water demand experienced in Concord.

We also have a request from an individual on Great Road who wants to develop his property in Acton, requiring Fire Protection. It is believed that the property also has frontage on Acton's water main in this section. He is currently a Concord customer for potable water, but we believe the customer may have the option to switch to Acton's water system. CPW is not inclined to approve an increase in demand for this or any other Acton customers given the nature and unknowns of the current permitting status in Acton.

With regard to the transportation of chemicals, these are the same materials that are being transported to most of the other facilities that we own in Concord and the Acton Water District is transporting these same chemicals to their water treatment facilities.

D-5: Town Meeting Coordination

A PowerPoint presentation was provided by Director Reine along with a detailed explanation of CPW's snow removal procedure and PWC policies in preparation for a response to Petition Article 30 "Snow Removal From Sidewalks". Article 30 states that snow shall be removed from sidewalks, streets and gutters by 8 A.M. following a snowstorm from Concord Center Main and Walden Streets; Thoreau Street in the Depot area and Commonwealth

Avenue in West Concord. Details of CPW's Sidewalk plowing and Snow Removal Program were outlined.

There has been minimal change in the snow removal procedure for the last 9 years. The presentation identified the primary methods CPW conducts for snow removal, either using CPW forces over a period of multiple mornings or using contractors during one large overnight event. Both of these methods are still used and the decision which is employed is based on several criteria as detailed in the presentation. When snow removal is necessary, utilizing Town employees costs approximately \$5,000. When contractors are also required the cost can go up to \$20 - \$25,000 for one removal.

The majority of residents responding to the 2014 Town wide survey were satisfied with the Town's Snow Plowing and Winter Maintenance. Details of the specific circumstances of the December 29 storm response along with photos were reviewed. In order to mobilize contractors to clear snow by 8 A.M. for six events the cost of snow removal would be \$215,544.00 in addition to the normal snow removal costs. The presentation provided tonight or a refined PowerPoint could be made at Town Meeting in response to Article 30 if necessary.

The main message is that a good job is being done today taking into account safety, available funding, minimizing impacts on commerce, There are a number of other articles that should be given some thought including: Article 15 – School Transportation Facility; Article 16 – School Bus Terminal Location; Article 20 – Community Pres. Comm. Appropriations; Article 23 – Ball's Hill Rd. Land Acquisition; Article 25 – Cemetery Improvements; Article 45 – Polystyrene Prohibition and Article 47 – Moratorium on Synthetic Turf Installation.

Commissioner Fulman volunteered to present Article 28 (Nagog Pond Water Treatment Facility, Intake Piping and Reservoir improvements) at the upcoming Town Meeting.

Director Reine will put the presentations together including the consent agenda items in the event they are pulled. The presentation for Article 30 will be abbreviated to 3-4 slides. It would be great if a member of the Chamber of Commerce would speak on this article.

D-6: Director's Report

- **Christmas Tree Recycling** – Residents delivered 1,179 Christmas trees to the compost site this season.
- **Brine Application** – This process works really well to eliminate the bonding of the snow to the pavement.
- **Pot Hole Patching** – CPW has aggressively been repairing pot holes.
- **Asphalt Recycling** – Asphalt is brought back to the plant and it is also used with the Hot Box that allows us to make it into new asphalt and use it for patching.

- **Tree Removal** – A lot of tree removals have been performed. A new chipper has been purchased.
- **Water Monitoring** – Grab samples of Nagog Pond are done for different types of bacteria or any other type of contaminant that we want to sample.

D-7: Commissioner's Comments

D-8: Public Comments

ADJOURNED: 9:20 P.M.

Respectfully submitted,

Anna R. Trout
Administrative & Special Projects Coordinator
Concord Public Works

Approved,

Arthur Fulman
Public Works Commission