

BOARD OF WATER COMMISSIONERS

MINUTES FOR THE MEETING OF

February 9, 2021

(Meeting held virtually via Zoom)

The statutory requirements as to notice having been complied with, the meeting was convened at 5:03 PM.

Members Present: Chairman Joshua M. Fox, Commissioner Robert H. Sheldon, and Commissioner Robert E. Boyd Jr. (present at 5:50 pm.)

Members Absent: None

Others Present: Special District Counsel Jillian Bargar of Anderson & Kreiger, LLP, District Clerk Susan O'Connor, District Treasurer Thomas S. Travers, Executive Director Vincent J. Roy, Customer Service Manager Renee M. Adams, and Sudbury resident Joseph Mueller of 62 Jack Pine Drive.

Chairman Fox called the meeting to order.

1. VOTE TO APPROVE 16 NORTH ROAD DEED TO QUARRY NORTH, LLC, ACCEPT RAYMOND ROAD PARCEL DEED FROM THE TOWN OF SUDBURY AND AUTHORIZE BOTH CLOSINGS:

Special District Counsel Jillian Bargar provided the timeline for closings, stating that the District is set to close into escrow on February 16th, moving to record the Deed on March 5th. Ms. Bargar confirmed that the Board of Water Commissioners (BOC) would be voting to approve the deeds and amendment to the existing easement on the 16 North Road parcel. Director Roy presented the District's quitclaim deed to Quarry North LLC, a Massachusetts Limited Liability Company, for the 16 North Road parcel for review by the Board. Commissioner Sheldon asked if the terminology for the Town's first right of refusal needed to be listed in the Deed. Ms. Bargar responded that the official vote by the Select Board to refuse the District's offer would be recorded as a separate document together with the closing documents and would be indexed accordingly. Chairman Fox asked Ms. Bargar to state the reason why the District fits into the category of a quitclaim deed vs. a release deed, to which Ms. Bargar responded that the Town's deed to the District for the Raymond Road parcel was also a quitclaim deed and that her past practice has been to use quitclaim deeds for other municipal clients. Treasurer Travers noted typos on the deed that were corrected during the review.

Director Roy presented the quitclaim deed from the Town to the District for review by the Board. Commissioner Sheldon stated his concern with wording in the deed, specifically paragraph 4, sentence 1 "This property is acquired for public water supply protection pursuant to M.G.L. c.40 s.38, 39B and 41." Commissioner Sheldon emphasized that the word "and" should be inserted between the words "supply protection" so that the sentence reads "This property is acquired for public water supply and protection pursuant to M.G.L. c.40 s.38, 39B and 41." Ms. Bargar stated that the Massachusetts Department of Environmental Protection (MassDEP) required this specific language in their approval letter to allow for the District to acquire this parcel. Ms. Bargar also suggested that the District request the MassDEP to amend their approval letter to incorporate the word "and" but that it should not delay the closings. She said that a modification to the language could be added later if all parties agreed to the rewording. Board members agreed with that approach and asked Mr. Roy to request MassDEP to amend the approval letter to incorporate this change.

Commissioner Sheldon made two motions on the parcel of land (the "Property") containing 8.9 acres, more or less, located off Raymond Road in Sudbury Massachusetts, being Parcel L08-0010 and shown as "Parcel A" on a plan entitled "Plan of Land Map L08, Parcel 10 Raymond Road in Sudbury, Massachusetts, by Sullivan, Connors and Associates Land Surveying and Civil Engineering, dated March 23, 2020, revised November 3, 2020, a copy of said plan being attached hereto as Exhibit A and to be recorded at Middlesex South Registry of Deeds:

Commissioner Sheldon moved to approve the Deed of the Property from the Select Board of the Town of Sudbury to the Sudbury Water District, substantially in the form presented at the February 9, 2021 meeting of the Board of Water Commissioners, with final changes to be made by the Board's Chairman, Joshua M. Fox, in consultation with Town Counsel. Chairman Fox seconded the motion.

During the discussion of the motion, Chairman Fox noted that the wording should be changed to say "District Counsel" instead of "Town Counsel." Commissioner Sheldon moved to amend the main motion to change the words from "Town Counsel" to "District Counsel", and the motion was seconded by Chairman Fox. The motion was approved by unanimous roll call:

Joshua M. Fox, Chairman - Aye
Robert H. Sheldon, Commissioner - Aye
Robert E. Boyd, Jr., Commissioner - Absent

There being no further discussion on the main motion, the Commissioners voted unanimously by roll call to approve that motion:

Joshua M. Fox, Chairman - Aye
Robert H. Sheldon, Commissioner - Aye
Robert E. Boyd, Jr., Commissioner - Absent

Commissioner Sheldon moved to authorize Chairman Fox to take all actions on behalf of the District that are reasonably necessary, in the judgment of the District, to complete the acquisition of the Property pursuant to the approval of the MassDEP by a public meeting held on September 9, 2020, for public water supply protection under M.G.L. c.40 §38, 39B and 41, including without limitation delivering closing funds and signing deed acceptances, closing forms, closing documents, and settlement statements. Chairman Fox seconded the motion. Following a brief discussion, the motion was approved by unanimous roll call:

Joshua M. Fox, Chairman - Aye
Robert H. Sheldon, Commissioner - Aye
Robert E. Boyd, Jr., Commissioner - Absent

Commissioner Sheldon made two motions for that certain parcel of land (the “Property”) containing 3.87 acres, more or less, located at 16 North Road in Sudbury Massachusetts, being a portion of Parcel C12-0004 and shown as “Parcel A” on a plan entitled “Plan of Land of 16 North Road in Sudbury, Massachusetts”, by Sullivan, Connors and Associates Land Surveying and Civil Engineering, dated January 12, 2021:

Commissioner Sheldon moved to approve the deed of the Property from the District to Quarry North LLC, substantially in the form presented at the February 9, 2021 Board of Water Commissioners meeting, with final changes to be made by Chairman Fox in consultation with District Counsel. Chairman Fox seconded the motion. Following a brief discussion, the motion was approved by unanimous roll call:

Joshua M. Fox, Chairman - Aye
Robert H. Sheldon, Commissioner - Aye
Robert E. Boyd, Jr., Commissioner - Absent

Commissioner Sheldon moved to authorize Chairman Fox to take all actions on behalf of the District that are reasonably necessary, in the judgment of the District, to complete the sale of the Property following the Purchase and Sale Agreement dated as of May 7, 2019, by and between and Quarry North Road LLC, including without limitation delivering closing funds and signing the Deed, closing forms, closing documents, and settlement statements. Chairman Fox seconded the motion. Following a brief discussion, the motion was approved by unanimous roll call:

Joshua M. Fox, Chairman - Aye
Robert H. Sheldon, Commissioner - Aye
Robert E. Boyd, Jr., Commissioner - Absent

2. APPEAL FOR WATER ABATEMENT DECISION/62 JACK PINE DRIVE

Director Roy provided a summary for the appeal of a denied judgment for an abatement application submitted by Sudbury resident Joseph Mueller of 62 Jack Pine Drive and the reasoning for rejecting his initial request for abatement. Mr. Roy stated that the initial request was denied because of an illegal connection between the homeowner’s private well and irrigation system and the District’s public water supply. Mr. Mueller stated he purchased the home in 2017 with the existing private well and plumbing in place and emphasized that, at the time of purchase, the home inspector certified that there were no building permit issues and that the home was in good standing. Mr. Mueller provided proof that the cross-connection was eliminated since his becoming aware of the illegal connection and was therefore requesting relief for the excessive water bill. Following a lengthy discussion, the Board agreed to consider the request and render a decision at the next Board of Water Commissioners meeting.

3. REVIEW THE MINUTES FROM THE JANUARY 26TH COMMISSIONERS MEETING

The Commissioners approved the Minutes for the Meeting of January 26, 2020, as amended. The motion for approval was made, duly seconded, and approved by roll call:

Joshua M. Fox, Chairman - Aye
Robert H. Sheldon, Commissioner - Aye
Robert E. Boyd, Jr., Commissioner - Aye

4. REVIEW DIRECTOR’S FEBRUARY 5TH REPORT

Executive Director Roy presented his bi-weekly report to the Board and addressed questions regarding several topics:

5. REVIEW WATER RATES:

Director Roy provided a brief presentation of the FY22 revenue vs expenditure forecast. Mr. Roy also provided rate increase options, recommending a 2% increase effective with the Q4 (February-May) billing cycle. Following a discussion Commissioner Sheldon moved to increase the water rates by 2 percent and the motion was seconded and approved by roll call:

Joshua M. Fox, Chairman - Aye
Robert H. Sheldon, Commissioner - Aye
Robert E. Boyd, Jr., Commissioner - Aye

There being no further discussions the meeting adjourned at 7:20 PM.

