

**April 12, 2022**

A meeting of the Board of Water Commissioners was held on Tuesday April 12, 2022, at 4:30pm in the Michael G. MacPherson Meeting Room at the water department office located at 22 Elm St, Kingston Ma.

Chairman Richard W. Loring Jr. called the meeting to order at 4:31 p.m.

Present were Vice Chairman Robert Kostka, Commissioner Robert Erlandsen, Superintendent Matt Darsch, Clerk Stacey Smith, Mike Ohl, and Mike Carmasine of CEI, Dave Aitken, David Gilmore of Pyramid Group, Rich Tabczynski of Atlantic Design and Mark Roundtree. Attended via ZOOM were Douglas Cain of Pyramid Group and Robb D'Ambruoso, Esq for Roundtree Family.

A motion to approve the meeting minutes of March 22, 2022, was made by Vice Chairman Kostka, and seconded by Commissioner Erlandsen and voted unanimously (3-0-0).

Chairman Loring asked Mr. Aitken from Pyramid Group if his group were all present and if so, they would be heard out of order as the rest of the meeting is general internal business. Mr. Aitken said, yes everyone is here and thanked the Chairman.

Chairman Loring stated for the record, he did receive a call today from former Town Administrator Tom Calter calling on behalf of Pyramid Group.

**Dave Aitken, David Gilmore of Pyramid Group, Rich Tabaczynski of Atlantic Design and Mark Roundtree**  
**RE: Proposed car dealership and water overlay district**

Mr. Aitken said he was here last Thursday to talk with Matt and today he is back with his colleagues to discuss some technical questions regarding land not being double counted and have a conversation centered around what land if any could be used to swap. They have identified two areas on the map, labeled Area 1 and Area 2. Mr. Aitken said Rich has plans for the area in Plymouth to be developed and is happy to walk through the information. Vice Chairman Kostka asked how much acreage is Area 2. Mr. Aitken responded, Area 2 is 2.67 acres.

Chairman Loring stated his view is no matter the discussion, any decision will be based on further review by our engineers. He went on to state that Area 1, bothers him substantially, as it represents the malls roof runoff. Area 2 is behind the Kingston Fire Station and is a very sharp slope. Ideally, he said he would like an area upstream and protecting the water flowing into the well area. Superintendent Darsch corrected Chairman Loring that is the parking lot runoff in Area 1 not roof runoff in that area. Chairman Loring stated his opinion is that no decision is to be made until Mike Ohl of CEI has had the opportunity to review. Vice Chairman Kostka asked Mr. Ohl if he has had time to review these proposals. He responded, he had received these plans on Friday and while he has not had time for a full review, he does have some comments. These areas offered are not as beneficial outside the Zone 2 area. He added, is it of some benefit? Probably as it will not be developed. It is not an equal swap for area within the Zone 2 that could be offset the impervious calculations.

Mr. Aitken stated, to confirm, he believes he is understanding that Mr. Ohl is asking if there is the ability to deed restrict land within the yellow (representing Kingston Collection's property) rather than Area 1 or Area 2. Mr. Ohl says he is

viewing this as two distinct pieces. One being the removal of 2.12 acres for the Rountree dealership not being included in the impervious calculations with the mall. Secondly, looking at the Roundtree development and (inaudible to understand) That in combination with previous deed restrictions, where is the offset? The perfect offset would be something within the Zone 2. Mr. Aitken wanted to confirm that the Zone 2 is the water resource district. Mr. Ohl stated, yes. Mr. Aitken stated what is reflected the area in yellow is land within the water resource district and what is reflected in green (2.12 acres) was outside district previously and you are asking if there is a possibility to have something within the Zone 2 deed restricted. Mr. Ohl stated, yes to offset the area in brown which is in the water resource district.

Chairman Loring stated, any information regarding deed restrictions at least from what we have received from Town Counsel is still in question as to whether we can even waive the requirement or if it requires town meeting vote and special legislation. Mr. Aitken says he is aware there is a lot of conversation going back and forth and he understands there is an engineering component and a legal component, and he wants to be sure all t's are crossed and i's are dotted.

Commissioner Erlandsen said regarding the transfer of ownership and the 20% impervious calculations, is there any chance of a lease to occur? Response was unanimous, from Pyramid group, in opposition to the idea. Discussion continued as to why that is not a possibility.

Mr. Aitken asked if it was possible for us to go outside and discuss amongst ourselves while the Board continues with the remaining agenda business. Chairman Loring stated he feels the material needs to be reviewed thoroughly and to expect a decision will be made after 15 minutes is disingenuous to the Board and to the residents. Chairman Loring said he has felt throughout this entire process that we are just expected to act upon the requests of Pyramid. He stated this Boards only obligation is to protect the residents of Kingston.

Mr. Aitken clarified he understand that no vote will be taken today. He just wants to go over the information that was just discussed with the professionals. Chairman Loring stated you're welcome to return when you are finished.

Chairman Loring stated as a further discussion to what is further occurring in the mall area, former State Representative Calter called me today regarding a project that TL Edwards is trying to develop. He indicated TL Edwards would be willing to give the town 30-40 acres for a future well site. However, the question remains whether that land is outside the Jones River Watershed which is where we need it to be. He added, the former state representative, representatives from TL Edwards and the town planner are scheduled to meet this week. Chairman Loring said he was told the town planner is not in favor what is being proposed. He added, he hates the thought of cutting down one tree in town so that Plymouth can have more development.

### **Mike Ohl and Mike Carmasine, CEI Inc. RE: Engineering Updates**

Mr. Ohl stated the contractor has forecasted the end of April to do start up at the facility. The VFD's (variable frequency drives) are still not here for the backwash motors; however, we have a date of April 14<sup>th</sup> for shipping. He said it was discussed at the last meeting if we can do temporary wiring on site with the spare VFD. However, we are hoping not to do that as we would not be able to open fully.

Vice Chairman Kostka asked about solar panels. Mr. Ohl stated he has heard crickets from the electrical contractor. He has not received shop drawings and they have not been ordered. Mr. Ohl has sent a letter to the contractor telling him that money is being held out on this pay requisition and the money held is our estimate not that of the contractor.

Chairman Loring asked if his estimate would be sufficient to go elsewhere. Mr. Ohl responded, yes but it would make the SRF (State Revolving Fund) messy, and I am not sure how we would work that out. Vice Chairman Kostka said it is his best guess that should be enough to get what we need out of the contractor. Mr. Ohl stated the downside to that is Winston Builders will want to close out the contract and we will all be strung along until it is worked out. Chairman Loring stated we will not close out the contract and we will send a negative statement to the state saying the contractor was unable to complete the project. This will have a negative impact on the contractor both presently and in the future. He asked Mr. Ohl to make the contractor aware. Mr. Ohl stated the Board may want to consider additional costs for either CEI or the OPM should this contract continue to remain open and consider back charging to the contractor. Chairman Loring asked that these conversations be shared with the contractor.

Mr. Ohl stated pay requisition #14 in front of you, for Winston Builders, is for work through the end of March. He went on to add there is currently approximately one million dollars left between remaining work to be done and retainage.

Mike Carmasine of CEI added the electricity is still not on. The transformer is not on site yet.

Mr. Ohl said regarding the discussion of the MBE/WBE, he is working with MassDEP to change the scheduled presentation so we can use a project engineer who is now licensed but was not at the start of the project. Regarding the change order status, Mr. Ohl stated nothing new to update other than the facility garage. The price estimate came back at over 100K which is ridiculous. Mr. Ohl said their thought now is to just lay a concrete slab and work on it piece meal. Mr. Carmasine said the materials for the metal building were 50K.

Mr. Carmasine updated the Board on the Marion Drive project. He said the contractor is still working on a punch list in coordination with highway department. He should be finished by the end of the month. We are currently holding back 10K on the contract. Chairman Loring stated, be sure that punch list is complete before releasing the last of the retainage. Ms. Smith just wanted to clarify this is regarding the Mass Works Grant and there is a deadline on that of June 30, 2022. Mr. Ohl stated there was a lot of back and forth regarding the ending balance. It should be about 173K going back to sewer at the end of our project. Mr. Ohl stated the 173K does not include the paving that was done by water to complete, half of the funds should be going back to sewer, but it does not matter. The job was completed under budget.

### **Matthew Darsch, Superintendent RE: Departmental Updates**

Superintendent Darsch said it is important we share with Pyramid Group that any further reviews by CEI be forwarded to them. Bills are starting to come in.

Superintendent Darsch stated regarding water restrictions, last year we went with a calendar-based plan, from May 30-Sept 1 allowing watering 2 days a week unless stream flow falls below 7cfs (cubic feet per second) then the restrictions tighten. Watering is allowed Sat/Tues before 9 am and after 5 pm for even numbered houses and Sun/Thurs before 9 am and after 5 pm for odd numbered houses. Chairman Loring made the motion to keep the water restriction the same as last year as stated. Vice Chairman Kostka moved the motion, Commissioner Erlandsen seconded the motion and it passed unanimously (3-0-0).

Superintendent Darsch stated he would like to mirror the startup of the treatment plant with flushing beginning April 26<sup>th</sup>. The areas will move down from Smith's Ln, Rocky Nook, lower Main St etc.... The areas flushed will be the heavier hit areas by manganese issues in preparation for the opening of the new treatment plant. Flushing will be done at night on Tuesdays, Wednesdays, and Thursdays between the hours of 8pm and 2am. We are flushing at night to lessen disruption during the day. Smith's Lane tank was just cleaned out so this will all help to minimize discolored water.

Superintendent Darsch stated we received a request from MassDEP to supply them with our GIS layer map for them to distribute statewide. Vice Chairman Kostka asked what is the value to State to do this? Mr. Ohl said it is just a way to be transparent. Superintendent Darsch said we took the information off the town website. Chairman Loring stated why don't we push back and see what they say? Vice Chairman Kostka said he would rather not do it if it is not necessary. Commissioner Erlandsen said he read it, and it references a CMR, is it legally binding? Mr. Ohl said you can certainly share your concerns about sharing this information publicly.

Good news from MassDEP, Superintendent Darsch said we no longer must test quarterly for PFAS. We have done all our sampling the last two years and have had "no detects." Now we will only test every two years. Vice Chairman Kostka recommended we get the information out to the public as it is an important issue.

Ms. Smith stated the water shut off program will be starting in May and run through August. Currently, the threshold is \$500 from the previous fiscal year. She wanted to confirm with the Board and see if they want to maintain that threshold. Chairman Loring stated our rate schedule has not changed; therefore, he feels the threshold should not either. The remaining members agreed. Commissioner Erlandsen asked how the payments typically come in. Ms. Smith stated since Covid, when we were not chasing down money due to the pandemic, money had been coming in more frequently. She noticed last year, people who typically were sent notices were paying without receiving a notice.

David Aitken and David Gilmore of Pyramid Group, Rich Tabaczynski of Atlantic Design and Mark Roundtree entered the meeting. Mr. Aitken said they will do additional homework to see if there is land within the district that can be deed restricted. Chairman Loring asked for a clearer picture of the scale in the upper left-hand corner of the map. Dave Aitken said a PDF can be sent over electronically. Discussion continued.

Mr. Ohl referenced the legend on the bottom left of the map to Mr. Tabaczynski and referenced the area in blue says it is to be included in the Water Resource District calculations. Mr. Tabaczynski said yes, that is what we agreed on in February provided they were restricted, and they have been recorded so they are included. Superintendent Darsch stated that is not how I remember it, those areas are outside the water resource district, we agreed they would not be counted. Mr. Tabaczynski said, yes that is true but in the meeting in February that what was decided. Chairman Loring said, I am not sure that's true Rich if you look at the minutes of the meeting the concept may have been approved but nothing formal was voted on. Mr. Aitken said they would revisit that aspect. Mr. Ohl stated everyone needs to be in the same understanding whether it is in or not as it sets the standard. Discussion ensued looking over the map.

David Gilmore asked, any land within the water resource district owned by the mall that is deed restricted would that come out of the calculations? Mr. Gilmore stated the mall is grandfathered with a 20% impervious calculation. We are under that 20% and still have the right to add some impervious surface. If we were to say all around the Grassy Hole Well is deed restricted, would that satisfy what is being asked. He added, cause the only other way is to remove asphalt.

It takes away from the ability of the GLA of the mall. Mr. Gilmore stated, we are required to have so many parking spaces for the mall. If we agree to deed restrict property and not develop it, we are taking up space against the 20% threshold. Discussion ensued around the map.

Chairman Loring asked if we could have a plan of who owns what at the mall. He said it would help us all to fully understand. Dave Aitken said Trammel Crow, Target and Macy's are all privately owned. Everything else is owned by the Kingston Collection. Mr. Aitken thanked the Board and appreciated the conversation.

Vice Chairman Kostka stated he thinks it is important we are all on the same page, versus wasted time with miscommunication. Chairman Loring stated he does not feel time wasted speaking about protecting our resources is time wasted at all. It is important that we do it right the first time.

Mr. Gilmore said, this may be unrelated but the plans referencing drainage, do those meet the expectations that the Water Commissioners have? Mr. Ohl asked if anything had changed since he reviewed the plans over a month ago and submitted comments. Mr. Tababczynski said nothing major has changed just some refinements to the plans for submittal to Town of Plymouth. Rich showed an explanation of the drainage plans. Mr. Ohl asked for the electronic copy of the plan.

Superintendent Darsch stated as a reminder any engineering review will be billed back to Pyramid.

Vice Chairman Kostka made the motion to adjourn. Commissioner Erlandsen seconded the motion, and it was voted unanimously (3-0-0).

Meeting adjourned at 4:25 pm.

Respectfully submitted,

**Stacey L. Smith**

Stacey L. Smith, Clerk