

**April 26, 2022**

A meeting of the Board of Water Commissioners was held on Tuesday April 26, 2022, at 4:30pm in the Michael G. MacPherson Meeting Room at the water department office located at 22 Elm St, Kingston Ma.

Present were Vice Chairman Robert Kostka, Commissioner Robert Erlandsen, Superintendent Matt Darsch, Clerk Stacey Smith, Mike Ohl, and Mike Carmasine of CEI, Kristen Berger of Resilient C.E., Dave Aitken, David Gilmore of Pyramid Group, Rich Tabaczynski of Atlantic Design and Mark Roundtree. Attending remotely via ZOOM was Nathan Hedberg.

Chairman Richard W. Loring Jr. called the meeting to order at 4:31 p.m. Chairman Loring stated reorganization would be postponed due to a scheduling conflict.

A motion to approve the meeting minutes of April 12, 2022, was made by Vice Chairman Kostka, and seconded by Commissioner Erlandsen and voted unanimously (3-0-0).

Chairman Loring told Mr. Aitken from Pyramid Group; his group would be heard out of order.

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

David Aitken explained Rich Tabaczynski of Atlantic Design had the materials for the discussion. Mr. Tabaczynski presented a map to the Board. Mr. Aitken said this should address the three pieces of information that were discussed at the last meeting. At the last meeting, the Board requested a replacement of land be deed restricted within the water resource district (WRD) equaling the green section on the map which represents the land that is currently deed restricted and the site of the potential Roundtree development. Mr. Aitken said they found some available land adjacent to Target and another piece of land, referred to as "the finger", located adjacent to the Smith's Lane Fire Station outside the district. He said he sent this information to Superintendent Darsch for review by Mr. Ohl of CEI regarding the deed restricted 5.03 acres of land immediately adjacent to the well site. Mr. Aitken said email communication went back and forth between Mr. Ohl and Mr. Tabaczynski about whether the land outside of the water resource district, which is deed restricted, should be considered into the mall's calculations.

Referring to the calculation spreadsheet, Mr. Aitken stated when the plans were first submitted, the mall's calculations were under the 20%. He went on to refer to the map and the area in blue was removed, bringing the mall's calculations to just below 19%. The two pieces above were at the request of the Board of Water Commissioners. Mr. Aitken continued, referring to the February 15, 2022, resolution approved by the Board, Mr. Tabaczynski has confirmed these plans. Chairman Loring asked, what do you think the approval was that was granted in February? Mr. Aitken said, conditional approval pending design of the plan. Chairman Loring responded there seems to be a misunderstanding as only conditional approval of the concept was given; nothing more than that. Mr. Aitken stated he has copies of the resolution; and he appreciates the perspective.

Mr. Aitken asked if there were any questions from the Board.

Mr. Ohl said he took the Board's directive and looked in detail at these final plans. The Roundtree development package pertains to five plus acres. Within the five plus acres, 2.88 acres lies within the water resource district for Kingston. The

same protections in Plymouth bylaws are in Kingston's water aquifer protections bylaw. Mr. Ohl stated looking at the detailed plans, his comments are more a reiteration of his earlier concerns regarding the parcel being owned and controlled by someone other than the mall and being included in calculations for the mall. Mr. Ohl stated his only concern is regarding the 2.88-acre parcel, represented by the tan color on the map. This parcel is fully pervious and undeveloped. If it was taken out of the mall's calculations, the impervious percentage of the mall drops to 19.17%. He agrees with the figures if that parcel is removed from the mall's calculations. Mr. Ohl stated, of the tan parcel, 68% will become impervious and that is after what we discussed in concept regarding the roof area in the WRD and the maintenance area (located outside the water resource district) recharging into the WRD. The developer would still need to meet the 15% impervious. The stormwater regulations state offset by artificial recharge. Mr. Ohl stated there is a huge disparity of 68% where the plans are currently at, and it is basically non-compliant.

Mr. Tabaczynski said it is in compliance after a review of the Town of Plymouth's bylaw. He stated the Plymouth Bylaws are like the Kingston Bylaws with the exception there is no requirement regarding stormwater infiltration. It has been confirmed with an email from the Town Planner in Plymouth. Mr. Tabaczynski said he has also received review from Plymouth DPW and they have no issue with the stormwater design. Mr. Tabaczynski said we have done everything you have asked for and he does not see anything else that we can do. Mr. Aitken added, ultimate compliance will be determined with an appearance before both Zoning Board of Appeals and the Planning Board in Plymouth.

Mr. Ohl said the plans as presently stand show all paved area runoff being collected and infiltrated outside the WRD. Mr. Tabaczynski said, that was what you asked for. Mr. Ohl said, correct and the thought with that was that would likely be a contamination source. But that is at odds with Plymouth's bylaw which allows infiltration at the site and not directed elsewhere. Mr. Ohl said he is looking at this as a water quality perspective as 2.88 acres is within the WRD. Discussion continued regarding the water resource district and the 2.88 acres and the calculations of impervious coverage. Mr. Tabaczynski said the 2.88 acres has been removed from the mall's calculations as it is land in Plymouth. Mr. Aitken said while Plymouth has not objected, we understand the standards in Kingston are appropriately more stringent.

Mr. Ohl stated the WRD for Kingston defines the boundary. Surface water can affect the WRD; regardless if the land is in Plymouth. He said, 0-68% impervious surface infiltrating the entire site into 2.12 acres provides no benefit to the Kingston Water Resource District.

Mr. Gilmore of Pyramid Group referenced an earlier conversation with the Board when the suggestion of leasing the land to the developer had been suggested and the calculations would stay under the mall. He said, in that case, it was ok by everyone in the room. Mr. Ohl stated, if the mall kept the land the impervious calculation percentage would change. He said it was suggested as a potential solution, but both the mall and developer stated it was not an option.

Commissioner Erlandsen said he would be likely to lean on the legal wording of the 15% bylaw requirement in this situation. Mr. Gilmore stated Plymouth set the precedent with the two car dealerships and Colony Place. The land lies in Plymouth and the developer will be recharging the water outside the WRD and making sure Kingston's water is protected. Mr. Ohl asked, protected as far as water quality, because the WRD is going to see an impact on water quantity as well.

Commissioner Erlandsen, referencing the map, asked a question regarding the land identified by the mall inside the district. Mr. Aitken explained the areas and the process to determine such. Commissioner Erlandsen asked Mr. Ohl if this

provides a compromise to this issue. Mr. Ohl responded, the land is already impervious and provides no net positive to Kingston. He suggested, ideally perhaps a cover over the cars as this would be collecting runoff before it hits the ground, is an idea. Discussions continued regarding a device to separate oil and contaminants from water runoff before being recharged into the system.

Chairman Loring asked about winter storm protection regarding salt and sand. Mr. Ohl responded, that would be included in a long-term protection plan, he has not seen those documents. He said we would not be privy to that information as the permitting is all in Plymouth. There are requirements such as no stockpiling snow, chemicals, etc. Mr. Gilmore said it would be the same plan as the mall has now regarding stockpile locations, no salt zones, etc. Mr. Tabaczynski said those same requirements exist in Plymouth. As a car dealership, test monitoring wells are required both up gradient and down gradient to the property. Chairman Loring asked where that information is reported. Mr. Tabaczynski said the Plymouth Engineering and Building Departments receive those reports. Mr. Gilmore cited a similar scenario with the mall, the catch basin well reports go to the Kingston Board of Health and no longer are required to be reported to MassDEP.

Mr. Ohl asked to be shown on the map, exactly where the vehicles will be going because approximately 60% of the land in question is inside the WRD. In this area, if new cars could be stored there, he would be much less concerned about any contamination. Mr. Tabaczynski went on to describe and locate areas on the map. He stated used cars, not yet serviced, will be stored in the back of the property. The developer, Mr. Rountree, showed on the map, the area in brown is where all the new cars will be shown. Mr. Tabaczynski said the Town of Plymouth had these same concerns and wanted to designate where used cars and serviced cars would be parked. Vice Chairman Kostka stated, after looking at the layout, he is much less concerned about contamination as well. Chairman Loring requested the Board receive copies of all approvals by the Town of Plymouth. Mr. Tabaczynski said they have not received all the sign offs yet. Chairman Loring said he is just looking to confirm that both towns are "in the know." He added, he wants to be sure we are giving and are being given the same cooperation between the two towns.

Mr. Aitken asked about the proposed removal of the deed restriction, is that ok to proceed with. Mr. Ohl stated that is a separate stand-alone issue, as well as the removal from the mall's calculations. The drainage and location to the water resource district, plans, comments, and exchange with the Town of Plymouth are all factors to be considered. Mr. Gilmore wanted to confirm the Board's issues remain with the recharging of the parking lot runoff, new cars being stored within the WRD and communication between Plymouth and Kingston regarding the development and test well information is shared to ensure all are on the same page. Mr. Ohl added, and the revisions within the 2.88 acres located in the WRD will get the property to less than 15% impervious.

Discussion continued concerning the 15% impervious calculations and what happens if it is not met. Vice Chairman Kostka stated, in his time on the Board he has not seen any concessions made regarding this requirement. He added, given how stressed water systems are now, it is even more likely the Board will stand firm. Conversations amongst the room continued. Mr. Gilmore wanted to confirm that all green and landscape islands can be counted to pervious and roof runoff. Mr. Ohl confirmed that is correct.

Chairman Loring said all deed restrictions must be recorded prior to any formal agreement being closed out. Mr. Gilmore said ok, but deed restrictions will not be filed until the mall finalizes the sale of land to Mr. Roundtree.

5:20pm, Pyramid Group finishes and leaves the meeting.

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

Mr. Ohl gave the Board the most recent update after today's construction progress meeting. Things are pushing out a little. However, the VFD's have arrived and are with the electrical sub-contractor. Mr. Ohl stated the biggest problem is with Eversource and getting power to the site. The transformer will be installed this week. The second part of that will be a separate crew coming in to connect the service to the transformer. Vice Chairman Kostka asked if we have temporary power. Mr. Ohl said yes but we cannot proceed with startup. Vice Chairman Kostka asked if construction can continue. Mr. Ohl responded, yes and it is ongoing. He added, the representative from the filter tank supplier will be on site this week but he will have to come back once startup is scheduled. Startup will take about three weeks so we are looking at mid-May at the earliest. Vice Chairman Kostka asked if there was any hold up with Eversource that we should be understanding about. Mike Carmasine, of CEI, said it seems like a contractor miscommunication. Chairman Loring said that is not uncommon with the Eversource mind set. Mr. Ohl said, in the big picture it looks like the plant will be pushed out about a month.

Mr. Ohl referenced the key issues with solar panels. The electrical sub-contractor is working on it – finally! Vice Chairman Kostka said he recently learned that the solar panels produced now produce double the energy as the old ones. He then asked if there was a way to produce more power. Mr. Ohl said panels can be added if more power is desired; however, that would require a change order and judging from how long this has taken already it may be something to think about later down the road.

Another issue Mr. Ohl wanted to bring to the Board's attention was grading of the access road. This was brought to light during one of the more recent storms when some wash out occurred. Mr. Carmasine said they have looked and investigated into improving the access road. Vice Chairman Kostka asked if there was money to do this. Kristen Berger of Resilient CE responded, yes, it would be part of the contingency. Vice Chairman Kostka said, we should do it. Chairman Loring stated, yes, it is better to have the same contractor do the work. Regarding the change order, Vice Chairman Kostka asked if the contractor did this intentionally. Mr. Ohl said no, different contractors think differently. Ms. Berger suggested the directive to Mr. Ohl and CEI is to notify and update the OPM when these issues occur. She stated this was a major surprise to her. She understands she was in Florida, at the time, but she was reachable by email and was working as she submitted the last SRF submittal while she was away. She added, stormwater calculations can be done by CEI that can determine the frequency. We need to know what storm model we are designing around.

Mr. Ohl said he will use this week to confirm change orders. He said there may be items that are the contractor's responsibility. Vice Chairman Kostka asked, in general, is the contractor good to work with. Both Mr. Ohl and Ms. Berger said yes. Vice Chairman Kostka said that is good then we should be able to work this out amicably. Ms. Berger said yes, this is the only major change order submitted.

Discussion went on regarding the storage shed and the high estimates to design and construct. The suggestion from CEI was to pour a slab and have the water department work on it piece meal as time and funding allows.

Mr. Carmasine said, regarding the Marion Drive Upgrade Expansion, the punch list is complete except for the PRV which will require KJS, LLC to return to set up. Superintendent Darsch stated this will not run until the manganese treatment plant is online. Mr. Ohl stated this bill got processed as part of the close out of the Mass Works Grant. He directed the

water department to submit the bill for final payment for KJS, LLC but have the check returned to the water department office until everything is completed.

**Kristen Berger, Resilient CE RE: 1-86/Grassy Hole Treatment Plant**

Ms. Berger stated the SRF received the last submittal. Overall, she stated Town Treasurer Carl Pike is happy with the submittal of funds.

Ms. Berger stated the MBE issue has been solved with CEI. The overall budget will need to be reviewed with the extension of the completion of the plant, as it will have an impact. Currently Winston Builders is at 85% complete. Mr. Carmasine brought pictures of the current construction of the treatment plant to share with the Board.

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

Superintendent Darsch stated hydrant flushing will begin tonight. Notice has been placed on town message boards. The areas to start will be Smith's Ln, Marion Dr, Ocean Hill Estates and Crescent St.

He said quarterly meter reading will start next week for the June bills.

Superintendent Darsch said they have been working on the startup of the new filter tank and renewal of piping at Trackle Pond.

Vice Chairman Kostka asked about hydrant painting. Superintendent Darsch said that will start later this fall in the Elm St, Indian Pond area, as there is not a lot of downtime this summer in the department.

Chairman Loring stated he knows information regarding the Kelleher Property was sent to the Town Administrator, Keith Hickey. He asked if we received any response to the information. Superintendent Darsch stated not yet, we sent up a summary of what is transpired.

Ms. Smith updated the Board on the Water Shut Off Program. The first group of notifications were sent to residents this week. The most recent report shows approximately 283K outstanding in unpaid water bills. Her goal is to collect as much as possible between now and June 30<sup>th</sup>.

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

Meeting adjourned at 5:45 pm.

Respectfully submitted,

Stacey L. Smith

Stacey L. Smith, Clerk