

**BOARD OF COMMISSIONERS MEETING  
MINUTES OF**

**May 13, 2021**

**Buzzards Bay Water District 15 Wallace Ave. Buzzards Bay, MA 02532**

**MINUTES**

**Present:**

Wendy Chapman, Chairperson  
Robert Ethier, Vice Chairman  
Joe Carrara, Commissioner  
Galon "Skip" Barlow – Commissioner  
Mark McMahon, Commissioner  
TK Menesale, District Treasurer, Clerk  
Steven Souza – Superintendent  
Barry Woods, Admin. Support  
Louise Warren, Account Manager  
James Chapman, resident  
Christine Murphy, Compass/MMA  
Robert Troy, BBWD Attorney

Meeting was held 15 Wallace Ave recorded by TK Menesale, District Treasurer, Clerk. The meeting was called to order by Wendy Chapman, Chairperson, at 4:01 pm.

**Approval of the Meeting Minutes dated 4.29.21**

Joe Carrara a **MOTION** to approve the minutes of the **4.29.2021** Annual meeting. Galon "Skip" Barlow made seconded that motion, and all in favor. The motion passed unanimously.

**Approval of the April 2021 billing commitment**

Joe Carrara made a **MOTION** to approve the April 2021 billing commitment. Galon "Skip" Barlow seconded that motion, and all in favor. The motion passed unanimously.

**Superintendent's Report**

Steve Souza had meeting with DEP this morning and noted that BBWD did receive a draft permit for the amount of water that we requested. The permit is pending mitigation, that we have to arrange with the Town of Bourne to mitigate. It's a draft permit, but we did get kind of a head nod approval from the state, that it should go through as presented.

Wendy Chapman asked if everyone had reviewed the letter from Keegan and Werlin. Wendy explained that this is a preliminary discussion on the Mass Maritime Application for increased water usage which is referenced in the Keegan and Werlin letter. Wendy said we will not be taking a vote today, but we will listen to the discussion on it.

Robert Troy said he understood that traditionally, only the superintendent approved applications, as an administrative matter, the superintendent makes a decision as to whether or not the application should be granted or not. Robert Troy was not aware of the practice. and I'm not prepared to say that practice is not permissible, but it seems to me that when you're deciding an issue as to who is going to be granted access to water that is a matter of public business, that would be subject to the open meeting law, and for the protection of the districts, and what the process itself, it would seem to me that those types of decisions would have to be made at publicly posted hearings of the district. And I said I'm not prepared to, at this juncture to say that that is absolutely required but I certainly would recommend to the district that a review of that issue be undertaken because it seems to me otherwise. The public is locked out of the process, and other applicants for instance, would not have a right of appeal. And so it's, it seems that most government agencies when they do business of this nature. But, do, do it through the public process of a meeting that subject to the Open Meeting Law, and also they have board ensures that there is going to be a right to go to judicial review of the district's decision. So I just want to present that to the permissions for their consideration in their own decision at some point as to whether or not that is the correct practice.

Wendy Chapman moved onto the letter, and said she'd like to state that the Buzzards Bay Water District Board of Commissioners, as per the commissioner's handbook, we are tasked as fiduciary responsibility and ethical responsibilities to the public, they placed their trust into us, as commissioners for the water district, it is our responsibility to respect all district customers, large or small, we have to treat them all equally. So, when considering this, we have to take that into consideration the impact it's going to have on the whole district, not just on one customer. Wendy stated what isn't in the letter, is a conversation the District had with Paul O'Keefe and other members of Massachusetts Maritime Academy (MMA) regarding an inquiry the BBWD made of MMA about a Dorm Project in the future. Wendy expressed to them how they needed to keep the district in the loop when they were going to be building a dorm. Wendy said BBWD had another communication with Paul O'Keefe afterwards, also in 2018, stating that there was going to be a dorm. After that point, Wendy said that BBWD was told that the dorm project was on hold. Wendy said that BBWD had no communication from Massachusetts Maritime Academy later in 2018 to July 25, 2020 on whether or not the dorm project was going to go forward. Wendy stated that MMA did not share what plans were made for the dorm, and how much water they would need. Wendy said there was totally no communication from Mass Maritime to the district on the dorm project. Wendy said had we had an application prior to July 2020, before the district was into the water restriction, they might have gone ahead of some of the other projects that were approved. Calamar was the last one that was approved, but we had no indication of what they (MMA) were doing, or the plans are the water allocation that would be needed for the new dorms, we did not even know the schedule for the building of the new dorm, there was no communication from Mass Maritime to the district on this at all. Wendy said she thinks that has an impact on today's events, even on the letter, on that fact is that for over two years we had nothing coming from the Academy. We ran into the problem once we asked to increase our water pumping capacity, but we were not getting the numbers from the town, nor from Mass Maritime so that we could include in it the new growth, all the additional data that was going to be required to increase the amounts that are pumped. If we had had the information from the town, as well as Mass Maritime, we would have been able to apply sooner, and get the permit

approved sooner at the DEP level, but where there was a breakdown on the communication we were not able to file any sooner than we did.

Does anyone have any other comments on this. Steve, do you want to splay the numbers on how much we're pumping, how much we're allocated right now. What was online last year and if you add in the fact that mass maritime was not in session last year, civic Park was only doing seasonals the hill. The hotel was not able to pump to help tenants. Calamar is not online. And the splash pad was done online, I have been informed the splash pad is going online in June. So if you want to explain the numbers 2020 We pumped 188 million gallons. That's what the campus closed to the students. The splash pad/playground was shut down and almost empty. Typically, larger users such as the Hampton Inn were projected to use at max capacity 5.5 million gallons a year; Kalmar which was the last project has a projected usage total of 6 million. Last year we pumped 188M gallons. So the MMA project would have definitely put us over. Last year, just alone, pumping was down 5 million gallons from the normal. So all of those projects, combined if everything was up and running at full capacity, we would have been over our permit. So, in the letter from MMA, they indicate that we have more water than we're using, that we're able to pump it up and your numbers don't show that daily averages have been point five one per day, and the permit is point five daily. But when you have lower numbers in the winter and high numbers in the summer, it really comes down to a yearly average daily average. There's not a whole lot of wiggle room the yearly average. Based on our meeting today with the draft permit, that would give us the ability to take on additional customers. The DEP did not indicate how long between the draft permit and the final permit, the final approval is depending on the mitigation. Mitigation is basically groundwater recharge. We would get mitigation credit for some of the water being put back in the ground, such as with land purchases for conservation: that it wouldn't be another drawer on the system, it's just to stay open space. Steve said parking lots with drainage repairs the street, in the town would count as mitigation.

Steve said it's just a matter of getting all that information now to show that we can mitigate, BBWD is in a unique position. They (DEP) don't know how to handle Buzzards Bay because it's three water districts, between two different water basins, and we have the canals. The water on the other side of the canal and the water basins, on this side of the canal. So that's going to take them some time and truly to determine how do they handle it. Because the town does mitigation outside of the Buzzards Bay Area, we agreed that they're going to take that information within the Town and use that as part of the mitigation, the town as a whole, because you wouldn't be able to quickly get it to see Buzzards Bay WD. So all of the work that the town has done from 2005 going forward, and probably another 10 year forecast if they have already, is what's going to be used for funds to turn around and replace the additional water that we're going to be withdrawing from the ground. Steve said in letter from the lawyer he also indicates that on a court case that you have to be on total Town water. Steve said MMA does have a connection to the district water.

Steve said he believes there's a two inch service and a six inch main the fire suppression, and then two inch for domestic, so all the additional cost to make this bigger lines going in to MMA, and the difference is 1000 gallons a day. Steve said he thinks they are currently using, about five to 6,000 gallons per day, and what MMA is asking for is, 1500 per day. And the 1500 per day will put us over our limit on the old permits.

Wendy asked for any other discussion, and Christie Murphy spoke up from Compass/project management on the dorm project. She stated she works for the Mass State College building authority, who is working with Mass Maritime. Ms. Murphy said first she's like to say that it sounds like very positive news for the superintendent and of course that's what we've been tracking the project was supposed to go to bid in March of this past year, and then obviously with this news, we held off getting it because they didn't want to lose their current space, certainly with COVID they really didn't want to risk taking it down in advance of this news so I think what is really, as everyone knows, construction prices are really fluctuating escalations. Ms. Murphy said on May 19, the MSBA has our next board meeting and they'd like to request the bond to move forward with this project, and for them the only obstacle they see is that memo that came out in July of 2020 stating that there was no available water, and so what we would like to request is, is there a possibility now with this news to supersede that memo, with a, with a more affirmative memo.

Wendy said we will not be taking any votes right now, there's a lot to consider, they have to find out if we have mitigation. If there's not a mitigation in the town, that would put the draft permit in question. So at this point we're not actually able to move forward until we at least even find out if we have the appropriate mitigation to offset the increase.

Christie Murphy said as part of the project, we will be mitigating our own stormwater as part of our project so certainly not adding or contributing to what you're trying to mitigate our new parking lot has full auto recharge. Christie asked if that be able to be used to get with our mitigation?

Steve Souza said we would need the numbers from you to also supply to the EPA.

Christie Murphy said our engineers, who are Stuart Clark at Greenseal can supply that.

Wendy Chapman said at this point we can't do anything until we find out about the other parts to the equation, but at least all the commissioners have now been made aware of the situation, it's not we don't want to supply mass maritime, it's just at this point, There is a consequence, if we go over a permit. Steve and Barry can probably tell you what the detriment, would be to the district, if we did exceed the permit. Wendy said the hotel is starting to gear up, Scenic Park is overcapacity, they are full up, the splashpad is going back on so we are going to have the full draw this year.

Christie Murphy said we won't need this water connection until probably the middle of 2022. That's why we're really just looking for affirmation to borrow the money to move forward to fit the project, if that makes sense. We won't really need this connection permit till the middle of 2022. Christie Murphy said she wanted to share one other piece of data that she recently learned: the Academy's daily use fluctuates anywhere from 6,000 to 8,000 gallons per day. So, that 1,000 delta that we're looking for this dorm was almost within that, within that fluctuation that happens. Christie Murphy said she is not here to try and ask you for anything more, she just wanted to share some information, communication is very good between mass maritime and the district.

Wendy Chapman said we know the project was in the works two years ago but we heard nothing from MMA, so we were unable to prepare for it, and as a result we okayed other developments ahead of Mass Maritime because they (MMA) had not submitted anything to us.

Christie Murphy said that's because it was being studied from all different scales. Anywhere from what I was just brought on last summer also right around the time of your memo, frankly, and they had already done a dozen studies in different sizes, trying to really work with the neighbors on the scale of the building and not to belabor you with the details but just sharing that that's why I don't think they knew what it was going to be even when I was on it fluctuated from anywhere from 72 beds to in the 30s. So that's, that's the reason I think what when your memo came out, we were really just getting to the point that we were landing on 72 beds, which allowed us to, as you requested in that memo to give you some data that you could use in your DEP permit so we did that August submission with the 1500, beds, based on 70 I'm sorry 1500 gallons per day based on 72 beds so the timing just the line.

Steve Souza said there is a list of known upcoming projects, there are seven on the list, but there's only two that have fully completed the application, that being Mass Maritime and gas stations.

Resident Jim Chapman offered his opinion, and said he had gotten word that Calamar may be opened in the fall and a company called Richmond company, he's also looking for 128 units, somewhere in Bourne/Buzzards Bay today, that just something that you keep an eye out for because it's when you talk about taking water from one area and putting into another area, it's going to it's going to change rapidly, and if they start coming up with more building projects, you know that's going to happen. Jim Chapman said: I'll tell you I have been very, very disappointed with Mass Maritime. As a public citizen. I think that leadership is terrible. I think that they have been browbeating the water district for years. This all started with, with the wealth that had to be put in, they are the biggest users, they've been invasive. They've shown up to this district twice, whether it be okay for his protege and gave us a line of bologna and never showed up again. We've had state representatives in here that they showed up to make themselves look good and never came here before and I wonder why mass maritime would instead of sending threatening letters to the district about, you know, we got to get this out we got to get that out to get investors and to get that when it's your fault, not you personally, and your fault for sitting back and not listening to what the water district has been saying and the town is just as guilty. Why is it that, you can't use that influence in these same state reps with the DEP, And I think that you have a powerful resource there instead get threatened we have to turn around now and spend more money, where quite frankly you don't pay any taxes, and you're buying a property that provides taxes for our infrastructure and everything going offline, and I think you're going up filter. Yeah. and, at the same time, it's gimme, gimme, gimme, and you don't share your plans with him. And the town's just as guilty as that. And, and, you know, there's been plenty of opportunity for that to happen. And, you know when you, when you have a lawyer, which we have to turn around pay the lawyers now as well send letters, with quite frankly the cases that he has mentioned have nothing to do with this water district, which are completely misleading.

Wendy Chapman asked James to wrap it up please.

James Chapman said this is my public opinion Madam Chairman, and I have the right to my public opinion. James Chapman said to Christie Murphy you can go back and tell your lawyer to check out the Massachusetts General Laws chapter 14 section 103 1022 Mass C 4039 80 Chapter 41 And I can go on and on with 171 73 and some other things to tell them they apply to the commissioners in this water district. And those laws also apply these people have a right to do the commission work to protect the people the residents of Buzzards Bay, me being one of them, and they have to ensure that all this gets done. And if everybody had done their job in the beginning and took it seriously and it's been years now. For those that are new to the water district we've been after for years now trying to get this done. And nobody wants to listen until all of a sudden, I need water I need water and now it's your obligation. And now we're all in a mess because of that.

Christie Murphy just wanted to share that with if you weren't around at the time you said, you will know, some of the commissioners, and they have understood. She said she will share it back, I do want to just say, for knowledge building authority did reach out to DEP in support of this, that would be great if they did all the help we can get would be great, to the executive director himself.

Wendy Chapman said sorry we couldn't give you a decision today but with there's a lot to be considered for the next meeting.

### **Treasurer's Report**

TK Menesale asked for Conflict-of-Interest certificates, noted that we refinanced our BAN with CC5 for .38% representing an interest savings of over \$11,000. TK mentioned the flooring in the operations building was not able to be replaced with the selected flooring and will be significant structural improvements in the future. For now, the flooring has been replaced with indoor/outdoor commercial carpet. Financials will be provided at monthly meetings as one print out copy for the Commissioners to review or on request at any time.

### **Commissioners Comments**

Next regular Board of Commissioners meeting is scheduled for Tuesday July 13, 2021.

### **ADJOURNMENT**

Galon "Skip" Barlow made a **MOTION** to adjourn the meeting at 4:49 pm. Joe Carrara seconded that motion, and all in favor. The motion passed unanimously.

Prepared by: TK Menesale, District Treasurer, Clerk  
Buzzards Bay Water District