LINCOLN WATER COMMISSIONERS

August 11, 2021

Regular Meeting

The regular monthly meeting of the Lincoln Board of Water Commissioners was held via zoom meeting with Commissioners Kenneth Booth, Edward Fox, Edward Sliney, Julie Labreche and Louis Long present. Also present were Acting Superintendent Lewis Prescott, Anna Nascimento and Legal Counsel Stephen Antonucci. The meeting was called to order at 6:05 p.m.

Motion to move item 10b Decision and Presentation – Anchor Subaru Auto to the front of the Agenda passed unanimously (EdS/LL)

Decision and Presentation – Anchor Subaru Auto

Mr. Josh Teverow introduce himself as the Providence Attorney of Anchor Subaru Auto therefore, he has been the general counselor for over twenty plus years. He is also very familiar with the owner and the operation he does not want to repeat what is in the document. So he knows he made a formal request which he filed he also understand it was distributed to each of the Commissioners a couple weeks ago is that correct for the exhibit. Acting Superintendent Prescott replied yes. Mr. Teverow stated everyone has that exhibit he would like to give just a quick summary and approximately four years ago. He was involved back then with Bob Benoit from Anchor Subaru and they approach Lincoln Water thru Romeo Mendes they talk about it thru Anchor Engineers with Mr. Mendes they talk about water connection possibility for Anchor Subaru it started in 2017 the discussion. At that time it was represented to them with major concern was the State Resources Board how they view it along with the Public Utility Commission how they view it because Lincoln Water clearly did not wanted to bring water and put themselves under the jurisdiction to the Public Utility Commission, which it was otherwise, be under that jurisdiction. They first went to the Public Human Resources Board, which Lincoln Water submitted the application to go there with the State Resources Board. In addition, he was present at the meeting with Mr. Benoit also Mr. Mendes was present at the meeting. They made it clear they had no objection to the Lincoln Water providing water to Anchor group as long as the PUC did not issue some sort of ruling therefore they did not put Lincoln Water under the control of the Public Utility Commission to do so. Then they had a meeting and discussion telephone meeting he believed after that, where they all agreed that Lincoln Water would submit the application to the Public Utility Commission. That the Lincoln Water would not place themselves under the PUC jurisdiction because it will be a demines change and a demines water to the entire system value. The application submitted to the PUC was signed by a Commissioner of Lincoln Water and it was not signed by Mr. Mendes he believes it was signed by George Hadley he was the Commissioner at that time. So they have Mr. Mendes and Mr. Hadley and everyone represented at the State of the Public Utility Commission that Lincoln Water Commission wanted to sell water to Anchor under the probable condition, one Anchor take all the expenses for the lines two a line had to be design and installed by Lincoln Water specification and number three no one could access to other than Lincoln Water. Lincoln Water made therefore that application to the PUC and the PUC reached their decision in the enclosed request package. Then the decision was that this is a reasonable demines additional customer. He does not place Lincoln Water under the PUC jurisdiction by selling to Anchor Subaru and the Anchor's sons. The PUC decision he played out the formal request certain section of the PUC decision that was made afterward and ask Lincoln Water some questions about the servicing Anchor Auto and Lincoln Water responded all the details. Once the PUC see all the positive ruling of the Commission, they design further they spent a lot of money with the engineers, they sent their plans and Mr. Benoit had brought them with him he can show them some of them. There are two set of plans as they can sees from the plans there are a lot of them and a lot of investment in the plans. Mr. Mendes had certain changes he wanted to make then he made those changes he wanted to then they took the time to review it. And they were told that Mr. Mendes was no longer at the authority also they needed further to make some changes to the plans. They made those changes that was requested they heard it would be on the agenda for June it was for discussion they did not think much of it since they already had the agreement with the authority. The Lincoln Water had already submitted to the PUC their plans have been reviewed by two sets of engineers, two Superintendents they had no reason to suspect that there was any issues what so ever. To be honest with them he watched that meeting online when Mr. Benoit was present here they were both shocked to see that it was an issue. They were not aware of one issue or anyone not from the Superintendent or formal counsel from nobody they were aware of the problem or possible issue getting natural permission since it was something they already talk about it. When that happened a continuous and the Commission gave them a continuous ultimately tonight, they were then surprised by the fact that they was some email exchanges continuous. His office's phone call of the continuous to be confirm that it was actually confirm of some sort of a meeting in July that it was going to take place and it was told it was going to continue. There was some sort of denial that took place without of them being here in prior to his specification so he does not want to make a big deal out of it because everybody understand there was a mix up in that. There should not have be a kind of vote in here on that day because of the presentation made both by email with Mr. Benoit verbally to his office of the July meeting. It was postponed until August so he does not want to make a big deal of the July meeting here are they now until they continue the meeting from June which is where they are supposed to be. But they believe that if they look at the history for this matter that Anchor is entitled to this connection or for the minimum the Commission should favor upon the connection. He would suggest that to the extend he had some of this at the other meeting and said that Lincoln Water knowing about a precedent he cannot imagine that there are any kind of precedent being said to hook up anyone else unless they present the same circumstance represented. So if they can find another guy who represented Lincoln Water for four years and went to the PUC, went to the State Resources Board and spent $200,000 on engineers to get the connection they always understood they had an arrangement. In fact, the PUC filling by the State laws and the Water Resources Board that is the PUC indicated it was a commitment. He questioned is there anyone else the same as their position so he guesses it is a precedent they are not being in that position so he does not view it as a remote possibility of precedent because there is nobody who is situated like that or respectful four years, $200,000 in cost. They are already application signed by Lincoln Water and all the presentation to the state agencies therefore; they believe it is fair and reasonable to grant their request not to send precedent it is a demines and addition usage will be determine by Public Commission. Lincoln already has town customers he does not have the numbers he believe it is 10-19 as they already reviewed out of town customers whether it is to oppose some liability but they are not the first out of town customers. Moreover, obviously because of everything they have invested in as well as time and energy on it they do not want to assert their right they want to work on it so it can be resolved. They are prepared with their right if is necessary he is not treating them all he is saying this is a practical resolution for both sides and nobody wants to go to the time and expenses and passed to the litigation they are not in the litigation business. They are in car business and they want to stay in car business now that being said all the time and energy they have invested in the town council but they hope they can work on something, it is not necessary in a reasonable fashion. He stated he could answer any questions if they would like.

Acting Chair Labreche asks if Commissioners or Legal Counsel have any question. Mr. Antonucci relayed he does not have any question but he would like to make a statement to the Commissioners if they have questions they would like to ask now it is the time to do so. Therefore, they are going into the executive session to have a discussion where he can provide them with legal advice he also would refrain to make any statements. But if they have any questions for any information purposes from Mr. Teverow, Mr. Benoit or Mr. Kelly they are all here and they are willing to answer any questions that any one may have. He also would like to refrain any statements when they have a chance to discuss this on the executive session. Mr. Teverow expressed the only thing he would request since there was a vote taken on that last meeting he would ask perhaps tonight that July vote which should not have taken place should be rescinded. It should not stop them to take another vote based on the new information they received but he does not think it is reasonable to leave the vote for July. When July would have been a continuous meeting by email or telephone representation they were in the voting place so he asks that if they would allow him to do that. Mr. Antonucci expressed that he brought up some valid point Mr. Teverow he would like to reserve until he has an opportunity with his clients and would like to provide them with legal advice. He does not foresee that any decision will be made they may want to continue until next month meeting, until they have an opportunity to discuss this. Mr. Treverow expressed they do have some concern about the vote that was taken in the last meeting since they was some decision made he is not sure if it was formerly in the record. But they are so many days they have to appeal to go back to the decision so they can postponed to the next one theoretically they will not allow them to appeal after certain day from that time the decision was made and issue they have not receive a copy of it. He knows for the July decision and he is concern of the negative impact on the appeal of the July decision if it is not rescinded. Mr. Antonucci replied he does not know if a formal decision has been made and he asks Anna if the minute from the last month meeting have been prepared yet. Ms. Nascimento replied a copy was included on everyone packet. Mr. Antonucci stated he does not believe they have voted on the minute yet so once the minute are approved that is when the time frame will kick in but they have not been approved. He thinks it is on the agenda this evening so he thinks it may be prudent to table the approval of these minutes this evening and then give us an opportunity to discuss this executive session. Being conscious of the time table of the appeal the deposition will be it has been official rendered the minutes have not been approved by the board or ordained. Mr. Teverow stated based on the minutes they will not be approved tonight therefore the decision in July is not official since the appearance has not begun yet they will wait.

Acting Chair Labreche stated she does have one question and asks did Mr. Mendes explains how decision are made here and what the Board does. Mr. Teverow replied no and he indicated to them that they did not feel the need to explore and check on his representation. When he indicated to them that he had the approval of the board he did not neither Mr. Benoit question whether that made a vote or a phone calls by the Water Commission. But he knew that he was looking forward to it he knew that the Town Council was looking forward to it they also knew that a Commissioner had signed the PUC that was good enough for them in 20 to 20 sight they should be prudent. But they had no reason to question it the Superintendent, a Commissioner and the Town Council they had no reason to. Acting Chair Labreche said right there is no reason she is just saying as he had discussed that. Mr. Teverow replied no. Acting Chair Labreche said ok and asks if anybody else have any question. No further questions and she thanked them for filling them in with some more information's and as there counsel stated they will discuss it with all the information that was provided to them as well. Mr. Teverow replied thank you. Mr. Kelly asks whether or not they should stay until after the executive session is done or they will make their decision. Mr. Antonucci replied he does not foresee if there is going to be a decision made tonight he thinks this is something that needs to be discussed. He needs to provide them with legal advice to his clients he would not like to tight them up essentially for no reason. He cannot tell them for certain it will be from his advice due diligence that they need to do on behalf of the Commission of the board. He is making the presentation today it is not going to be a decision if they would like to have it on the record he will be happy to ask the chair to provide that to you. He would like to re-reserved that and examine this a little bit then they can explore with a proper decision next month meeting. Mr. Kelly replied it is fine that will be continued until the next meeting. Mr. Antonucci expressed to Madame Chair to take a vote while the party is still here and just to table it since there will be no decision until the next meeting.

Motion hold on vote for Anchor Subaru until the September 8, 2021 meeting passed unanimously (EdS/LL)

PUBLIC COMMENT –None

CONSENT AGENDA

Motion to approve the Consent Agenda remove item 1a June 9, 2021 minutes – 1b July 14, 2021 minutes passed unanimously. (EdS/LL)

The following items were approved with the consent agenda for the August 11, 2021 meeting:

Capital Accounts –July 2021

Account Transaction Report –July 2021

Correspondence

The meeting returned to the regular order of business.

March 10, 2021 EXECUTIVE SESSION MINUTES

April 14, 2021 EXECUTIVE SESSION MINUTES

May 12, 2021 EXECUTIVE SESSION MINUTES

June 9, 2021 EXECUTIVE SESSION MINUTES

Acting Chairman Labreche relayed that the minutes were not available. Anna is still working on them.

January 13, 2021 EXECUTIVE SESSION MINUTES

The Board reviewed the session minutes. Motion to approve same passed unanimously. (EdF/EdS)

SUPERINTENDENT REPORT OF DAILY ACTIVITY

Acting Superintendent Prescott provided few items that he would like to relay:

- Other than the station rounds they repaired the hydrant that Commissioner Sliney requested on Musket Drive. Commissioner Sliney replied thank you very much. They did regular curb stop check and hydrant repairs for the upcoming of termination services.
- They did some valves check for Town paving projects.
- They did some dead end flushing also performed some road restorations for watermain breaks one on the short of River Road and Lonsdale near Front Street and two state road.
- The watermain break that occurred on 44 Albion Road and another one occurred on 265 Old River Road. The final paving on the side walk restoration have been completed.
- The crew installed a new service on RockyRoad Avenue when NationalGrid broke a telephone poll thru it.
- As of today about 120 plus hydrants have been painted.
- One of the crew employee Garrett has been on Military leave for the past two weeks and he is due back this coming Monday.
- Also in front of them he gave them copies from the Water Resources board correspondence which is a report that was done on January of 2021. As part of the WSSAMPP which is the Water Supply Maintenance Plan, he gave them copies so they can see what step he needs to do in order to answer those questions. There were number of things that were not completed and they have some questions on some items that were completed.

- He also gave them a copy of the current rates of the Water Commission follow as this present time, the last increased he believe was in 2014. That is all he has for his report.

Motion to accept the Superintendent's report passed unanimously (EdF/LL)

MONTHLY FINANCIAL REPORT

The July 2021 operating and revenue report was presented to the Board for approval.

Motion to accept the expenditure and revenue report for the month of July 2021 passed unanimously (EdF/LL)

FINANCIAL REPORT TO TOWN FINANCE DIRECTOR

Motion to send the July 2021 financial status report summary to the Town Finance Director passed unanimously. (EdF/LL)

OUTSTANDING BALANCE REPORT

The July 2021 Account Balance report was presented to the Board for approval.

Motion to accept the Account Balance Report for the month of July 2021 passed unanimously. (LL/EdS)

CAPITAL ACCOUNTS

Motion to approve The capital accounts report for the month of July 2021 was passed unanimously. (EdS/LL)

MONTHLY INVOICES

Motion to pull Ted's Paint and Decorating 2 invoices from the payments passed unanimously (EdF/LL)

Motion to approve payment of the July 2021 Accounts Payable in the amount of $325,002.43 as well as Direct Payments in the amount of $453,909.32 passed unanimously. (KB/LL)

Motion to pay Ted's Paint and Decorating 2 invoices passed unanimously (LL/EdF)

ABATEMENTS-

Monthly Abatements were passed unanimously. (LL/EdF)

ACCOUNT TRANSACTION REPORT

The Account Transaction Report was passed with the Consent Agenda and will be placed on file.

CORRESPONDENCE

a. None

UNFINISHED BUSINESS –

a. Discussion and Action to Advertise the Superintendent's Position

Commissioner Sliney relayed he thinks they are all set to go since he sent them a practice application to Denise and to Human Resource from the Town of Lincoln. They also tweak a few things and he thinks they are ready to send it out as a matter of fact they can send it as early as tomorrow. It was a question as to where they were going to send the application and they have the legal series in the town they have a prelisting in there. The journal, the Valley Breeze and New England Water Works for all the places they think they can post them so he said they are ready to go. Commissioner Fox asks if he said there is no charge. Commissioner Sliney explained that the legal in town from HR stated they can listed in there for free.

Commissioner Booth relayed there is something they have to do is the advertisement can go out if they can put a 3 weeks window on that waiting period before that period end they have to meet. So there are people who have to respond to the application and they have to agree on whatever ranges on the items. That is the task they have to do before that period end or something. Commissioner Sliney stated to discuss who will do the interview they have to be consistent. Commissioner Booth also expressed to know where it would take place. Acting Chairman Labreche asks if it is that something they should vote on tonight. Mr. Antonucci expressed that he knows the last meeting they gave Mr. Sliney some latitude on the item process so he thinks in the Board in its discretion they could allow Mr. Sliney continue that process as long as carrying or the interview panel of his made up with the same people that is consistent he does not see any problem with that if they want to delegate the authority to Mr. Sliney to share that. He knows there was some talk with the Acting Superintendent involved maybe somebody else in the Water Commission to do that to act as a subcommittee of this Commission to conduct the interviews and then to report back to the full Commission for a final decision to involve the appropriate.

Acting Chair Labreche stated she would like to back up so by doing that they are allowing Mr. Sliney to determine how long to have the application like a three weeks period. Commissioner Booth stated he thinks before the interview starts the Commission should get together again for the things to work out and get some consensus before the process start. By taking and setting it up beforehand once the process starts they will be consistent with the candidate. Commissioner Fox and Commissioner Booth they can discuss more on the next special meeting. Acting Chair Labreche relayed they can determine the time right now to have another meeting before this. Then she will need a motion to allow Commissioner Sliney to have the authority to move on with the application and going forward. Acting Chair Labreche relayed now they will need to set up another meeting prior to the next September monthly meeting. Commissioner Booth explained they will need an executive meeting before they open a regular session then go to an executive session so it has to be posted otherwise they do not know what can happen. Commissioner Sliney asks does it have to be broadcast. Commissioner Booth replied yes it does. Acting Chair Labreche asks Lillian if she is going to take care of the meeting. Lillian replied not necessary since Denise usually does take care of their meeting also if they want to have the meeting at the Town Hall. She does have a calendar handy with her it is up to them. She does not know how she would do it at Lincoln Water Commission since she the streaming is in this room. Commissioner Sliney asks what night are available around the 24th. Lillian relayed that on the 25th is available since there was a meeting that was switch. Acting Chair Labreche and all the Commissioners agreed to have a special meeting on Wednesday August 25th at 6:00pm at the Town Hall. Also they will have an open session then go into an executive session.

Motion to allow Commissioner Sliney to move forward posting the application and advertising passed unanimously (EdF/KB)

b. Decision and Presentation – Anchor Subaru Auto

Motion to move 10b to the front of the agenda passed unanimously (EdS/LL)

NEW BUSINESS

Commissioner Sliney relayed as they know a dock on the town and it seems that every time they say to them they do not have enough water. It has become little more serious than before originally so he has meet with Lewis a couple times he also stressed to him how important it was that he address the situation. They went to Pare Engineering and asks them to do a presentation as to their current standing of water availability. He would like to address the committee maybe on that same day. Commissioner Booth said that would be right to be done on the same meeting. Commissioner Sliney expressed he would thing that it is important since they do not know what is going behind the Mall, something on Manville there seems to be another hotel he believes. He thinks they will need to address the water availability. Commissioner Long said Twin River has not reopen yet for business and it is still closed so when they will reopened it is going to open another issue. Acting Chair Labreche said are they going to take a vote on that.

Mr. Antonucci expressed they can contingent on the fact if they are available if not they can put them on the agenda so they can be under new business on August meeting make the matter that is beneficial.

Motion to have Pare Engineering on the Agenda if they are available to do their presentation for the August 25th on the Special Meeting passed unanimously (EdS/LL)

a. None

CLAIMS –

a. Organic Dyes and Pigments LLC – 1 Crownmark Drive

Acting Superintendent Prescott relayed he does not know what is the outcome it is in the hand of the Trust their insurer Company also he question Anna if she has heard anything. Ms. Nascimento replied no. Mr. Antonucci expressed that the last he heard of was told and he did check in with them. The Trust is still examining the claim also they have not made a determination on it. So he is going to check on it again and see what they happened and it has been referred to the Trust therefore they are handling the issue. Acting Superintendent Prescott stated the last he knows he gave them his statement and he has not heard anything. Commissioner Fox asks what is the hold up with Organic Dyes company is that their insurance company or our insurance company. Mr. Antonucci replied yes they are insured by the Interlocal Trust so he imagine they are going to provide them with a resolution on this issue examining the claim. Then they will determine and he will also imagine to negotiate the crown at what the actual damage are and what exactly what the insurance covers. He would also say that it is out of the Commissioner's hand but the insurance company is handling it. He can reach out to them and see if he can update for the special meeting. Commissioner Fox relayed his question really is he sure that it is going to be a small claim. Ms. Nascimento expressed that she thinks it is approximately $10,000 but it is not approved yet. Commissioner Fox said so it is a $10,000 does their insurance is responsible for payment. Mr. Antonucci replied yes.

NEWS ARTICLES

None

EXECUTIVE SESSION

Motion to go into Executive Session (EdF/JL). Roll Call: Commissioner Long – yes, Commissioner Sliney – yes, Commissioner Fox – yes, Commissioner Booth – yes, Chair Labreche – yes.

Motion to go into of Executive Session according to RIGL 42-46-5 (a) (C) discussion on potential litigation on Anchor Subaru Auto passed unanimously. (EdS/LL)

Motion to come out of Executive Session (EdS/EdF)

Motion to have the Legal Counsel Stephen Antonucci to act in accordance with the discussion in Executive Session. (EdS/EdF)

Motion to adjourn passed unanimously. (EdS/EdF)

There being no further business before the board the meeting adjourned at 8:05 p.m.