

BOSTON GROUNDWATER TRUST (BGwT)
BOARD MEETING
October 11, 2005
The Lenox Hotel – Copley Room

The meeting of the Board of Trustees of the Boston Groundwater Trust was called order at 4:16pm in the Copley Room at The Lenox Hotel. The meeting notice was posted at City Hall in accordance with provision of the Commonwealth's Open Meeting Law.

Trustees in attendance, comprising a quorum, were:

Mr. Tim Mitchell, Neighborhood Association of the Back Bay
Mr. Gary Saunders, Boston Back Bay Association
Mr. Peter Sherin, Greater Boston Chamber of Commerce
Mr. Paul Chan, Greater Boston Real Estate Board
Mr. Galen Gilbert, Fenway Community Development Corp.
Mr. James Stetson, Beacon Hill Civic Association
Mr. Bill, Moy, Chinatown Neighborhood Council
Mr. Jim Hunt, Mayor's Office
Ms. Nancy Grilk, Mayor,s Office
Ms. Nikko Mendoza, Mayor's Office

NOTE: Trustee Sherin acted as Chairmen until Trustee Mitchell arrived at 4:34 pm, at which time Trustee Mitchell Chaired the meeting.

Also present were:

Elliott Laffer, BGwT Executive Director; Christian Simonelli, BGwT Technical Coordinator; Jerome Smith, Councilor Mike Ross' Office.

1. Adoption of the minutes of the August 23, 2005 Meeting

Minutes were distributed to board members for review.
Trustee Stetson moved to adopt the minutes. Trustee Chan seconded the motion.

Voted: To accept the minutes of the August 23, 2005.

2. Trustee Appointment Status

Mr. Laffer reported that the Mayor had appointed two new Constituent Trustees, Mr. Bill Moy representing the Chinatown Neighborhood Council and Mr. Michael Nairne representing the Ellis Neighborhood Association. In addition all of the existing Constituent Trustees had been reappointed. The Mayor designated Mr. Jim Hunt, Ms. Nancy Grilk, and Ms. Nikko Mendoza as Ex-officio Trustees representing the Administration. In addition, Councilor Mike Ross continues as an Ex-officio Trustee designated by the President of the City Council. Trustee Gilbert suggested that all new appointees go to City Hall and be sworn in as Trustees. Trustee Sherin agreed. Mr. Laffer will verify whether trustees need to be sworn in.

3. Update on Zoning Overlay District

Mr. Laffer presented the New Zoning and Memorandum of Understanding that was signed by the trust and various other agencies on September 15, 2005. Discussion followed.

Trustee Gilbert motioned to amend the New Zoning and Memorandum of Understanding to include sidewalks in the language related to paving, Trustee Chan seconded the motion. Discussion followed.

Trustee Gilbert withdrew his motion after discussion, with the understanding that Jim Hunt will set up a meeting to work out more of the details related to the paving language in the Zoning and Memorandum of Understanding.

4. City/State Groundwater working Group updates

Mr. Laffer reviewed the New Zoning and Memorandum of Understanding and discussed groundwater and pumping data that he has received from various entities. Discussion followed.

5. Strategic Planning

Mr. Laffer discussed what would be on agenda for the Strategic Planning retreat taking place on, Thursday October 20, 2005 from 12pm – 6pm, at the University Club in Boston. Mr. Laffer also noted that he will be meeting with Ann Donner on Friday October 14, 2005 to finalize the agenda for that retreat. Discussion followed.

6. Finance Report

Trustee Sherin reviewed the BGwT *Financial Report and reconciliation detail*. Discussion followed.

Trustee Gilbert suggested that office space be reviewed at the strategic planning session.

7. Conflict of Interest By-Laws section

Mr. Laffer presented the revisions and comments made to conflict of interest By-Laws section. Discussion followed. Trustee Hunt reported that Constituent Trustees are not considered to be either municipal employees or special municipal employees and so are not covered by those sections of the Commonwealth's Conflict of Interest laws that apply to those categories of employee.

Trustee Gilbert motioned to adopt the by-laws as established, Trustee Sherin seconded the motion. Discussion followed.

Trustee Gilbert withdrew his motion after discussion, stating that each of the prohibitive actions and reportable situations should be adopted independently. Discussion followed.

Trustee Gilbert motioned to adopt Prohibited Action 1, Trustee Mitchell seconded the motion.

Voted: To adopt Prohibited Action 1. Vote was unanimous with one abstention. Trustee Gilbert motioned to adopt Prohibited Action 2, Trustee Mitchell seconded the motion.

Voted: To adopt Prohibited Action 2. Vote was unanimous with one abstention.

Trustee Gilbert motioned to adopt Prohibited Action 3, Trustee Chan seconded the motion.

Voted: To adopt Prohibited Action 3. Vote was unanimous with one abstention.

Trustee Gilbert motioned to adopt Prohibited Action 4, Trustee Chan seconded the motion.

Voted: To adopt Prohibited Action 4. Vote was unanimous with one abstention.

Trustee Gilbert motioned to adopt Prohibited Action 5, Trustee Mitchell seconded the motion. Discussion followed.

Trustee Saunders suggested that Prohibited Action 5 be amended to include “with controlling interest therein”, added in after “Be an owner...”.

Voted: To adopt Prohibited Action 5 with Trustee Saunders’ suggested amendment included. Vote was unanimous with one abstention.

Trustee Gilbert motioned to adopt Prohibited Action 6, Trustee Mitchell seconded the motion. Discussion followed.

Trustee Gilbert suggested that Prohibited Action 6 be amended to include “with controlling interest therein”, added in after “Be a property owner or manager...”.

Voted: To adopt Prohibited Action 6 with Trustee Gilberts’ suggested amendment included. Vote was unanimous with one abstention.

Trustee Gilbert motioned to adopt Reportable Situation 1, Trustee Chan seconded the motion.

Voted: To adopt Reportable Situation 1. Vote was unanimous with two abstentions.

Trustee Gilbert motioned to adopt Reportable Situation 2, Trustee Chan seconded the motion.

Voted: To adopt Reportable Situation 2. Vote was unanimous with one abstention.

Trustee Gilbert motioned to adopt Reportable Situation 3, Trustee Mitchell seconded the motion.

Voted: To adopt Reportable Situation 3. Vote was unanimous with one abstention.

Trustee Gilbert motioned to adopt Reportable Situation 4, Trustee Chan seconded the motion.

Voted: To adopt Reportable Situation 4. Vote was unanimous with one abstention.

The motion as adopted is attached. The final language will be reviewed at the next meeting.

Trustees were asked to suggest to Trustee Gilbert any additional provisions that might cover Trust employees or the Technical Advisory Committee.

8. Executive Director's Report

BGWT Executive Director Mr. Elliott Laffer distributed his report and reviewed his activities of the past month. Discussion followed. Refer to the attached *Executive Director's Report: October 11, 2005*, for a complete list of all activities.

9. Technical Coordinator's Report

BGWT Technical Coordinator Mr. Christian Simonelli distributed and presented his activities of the past month. Discussion followed. Refer to the attached *Technical Coordinator's Well Monitoring & Installation Report BGWT Meeting: October 11, 2005* for a complete list of what was distributed and presented.

The meeting adjourned at 6:49 p.m.

NEXT MEETING: Thursday November 17, 2005 @ 4:00pm in the Lenox Hotel.

Submitted by Christian Simonelli, BGWT Technical Coordinator, on 10/12/05

CONFLICT OF INTERESTS

Prohibited Actions:

No Trustee shall:

1. Knowingly, serve as an attorney, architect, engineer, accountant, corporate officer or trustee, or in any other professional capacity for any client concerning a cause of action relating to damage to wood pile building foundations caused by lowered groundwater in Boston unless they have received the approval of their appointing authority.
2. Act as an expert witness in any litigation or adjudication concerning damage to wood pile building foundations caused by lowered groundwater without permission from the Trust.
3. Have a financial interest in any contract with the Trust.
4. Accept a fee for trying to influence legislation or administrative rule making concerning damage to wood pile building foundations caused by lowered groundwater.

5. Be an owner of real estate being developed with a controlling interest therein in the City of Boston, unless the Trustee in good faith believes that the project is in full compliance with all City requirements about the installation, use, and disposition of groundwater observation wells or unless there is a good faith dispute between the owner and City about this subject.
6. Be a property owner or manager with a controlling interest therein in the City of Boston, unless the Trustee in good faith believes that he or she is in full compliance with all legal requirements about pumping groundwater into public sewers or storm drains or otherwise removing groundwater from property or unless there is a good faith dispute between the owner and any public agency about this subject.

Reportable Situations:

If a Trustee is involved in any of the following events, that Trustee must make a written report thereof to the Trust. The Trust Secretary shall keep such reports in the permanent records of the Trust, available to anyone who wants to see such reports.

1. Having an ownership interest in any real estate in Boston that will benefit directly from any facility or improvement discussed at a Trust meeting, such as a recharging program or located near a Trust owned facility, such as an observation well.
2. Being a party to any litigation concerning Boston groundwater.
3. Any dispute between a Trustee as owner of property in the City of Boston about compliance with all City requirements about the installation, use, and disposition of groundwater observation wells, shall be reported to the Trust.
4. Any dispute involving a Trustee acting as a property owner or manager in the City of Boston or acting in a professional capacity as an engineer, architect, accountant, or attorney, about full compliance with any legal requirements about pumping groundwater into public storm sewers or drains or otherwise removing groundwater from property, shall be reported to the Trust.

EXECUTIVE DIRECTOR'S REPORT

October 11, 2005

1. **September 15** – This was a banner day for the groundwater issue. The Trust was one of the signatories to a landmark Memorandum of Understanding committing the major City and Commonwealth agencies with potential impact on groundwater to work together toward solutions to the problem. The Mayor signed an ordinance passes unanimously by the Council the day before amending our Declaration of Trust to extend our working area to all parts of the City where the groundwater problem exists (this and previously adopted changes to the Declaration have been filed with the City Clerk and Attorney General and are now in force). The BRA announced its intention to file for a Groundwater Conservation Overly District to increase recharge and require that new construction in the district not cause a reduction in groundwater levels. The US EPA announced a new

\$192,000 grant to the City to continue efforts at combating the groundwater problem. As a result of the changes to the Declaration of Trust, the Mayor has now appointed two new constituent trustees and three new ex-officio trustees.

2. **City/State Groundwater Working Group** – The Memorandum of Understanding formally established the City/State Groundwater Working Group which will meet at least quarterly to share information and coordinate efforts on the groundwater problem. The group, chaired by Jim Hunt and Andrew Gottlieb, will have its first formal meeting on Oct. 28. It succeeds the informal group that has met twice under their chairmanship. Already, there is a significant increase in information sharing among the agencies.
3. **Zoning** – The BRA will hold a public meeting on the Groundwater Conservation Overlay District on Oct. 27 at 5:30 at the Rabb Lecture Hall at the Boston Public Library. The zoning will make construction below elevation 7'BCB or any construction that adds 50 square feet to the ground coverage of a building conditional, requiring notification of abutters and a hearing in front of the Board of Appeals. It will also require new paving to be pervious or to include a recharge system.
4. **DCR** – The DCR has provided the Working Group with data on groundwater pumping at the Storrow Drive underpass. They have also laid out a schedule for reconstruction of the underpass that will include a public meeting, probably in November, to describe a conceptual design for the construction and necessary traffic diversion. If that meets with general acceptance, they anticipate a roughly one year design phase, with construction starting in Spring 2007 and completion three years later. Funding for design is in place. While construction funds are not yet set, Andrew Gottlieb anticipated that they would be available on the schedule outlined.
5. **MBTA** – The T has shared with the Trust as custodian for the working group data for its four pumping stations. We are working to analyze and understand the data and its implications for groundwater levels.
6. **MTA** – The Turnpike Authority responded to concerns that I mentioned in an earlier informal working group meeting by asking to visit the site in East Boston where we believed there was a problem. Christian and I visited along with Rick McCollough of the MTA. The house, the backyard of which overlooks the entrance to the Sumner Tunnel, has a test pit that shows severely deteriorated pilings. The MTA is gathering information to better assess what might be happening there.
7. **BRA** – In addition to several discussions about the language in the zoning amendment, I have met with the BRA to discuss standard language that can be used in cooperation agreements to assure that groundwater related commitments are met.
8. **St. Charles St** – Wentworth Institute hosted a meeting at which the students who had developed a potential solution to the St. Charles St problem, as suggested by Jim Lambrechts, presented it to interested public officials. There was substantial interest in the approach and indications that it, or an alternate approach, will be taken further.
9. **Legislative Meetings** – Christian and I hosted Byron Rushing to demonstrate to him how we read wells. I have also had meetings with Aaron Michlewitz, an aide to Speaker DiMasi, to go over the Wentworth presentation and the zoning amendment.
10. **City Council Hearing** – There was a City Council hearing on groundwater issues held on September 6 at the BPL. Over 250 people attended on the day after Labor Day, another sign of the high current interest in the issue. All of the At Large Councilors attended, as did Councilors Kelly (who chaired) and Ross. I was asked to be the first speaker after the elected officials.
11. **Meeting with City Councilors** – Along with two leaders from Citywide GET, I met with Councilors Kelly, Ross, Murphy, and Arroyo, and an aide to Councilor Flaherty to discuss groundwater issues. Much of the meeting was spent on the zoning amendment. The Councilors also committed to a periodic review of the City's progress on groundwater issues.
12. **Website** – Our improved interactive map is now live on the website. As of this week, Christian will be able to update well readings directly. Well readings now appear on the map, and it is possible to look at the readings from the map in a much more coherent

way. Traffic to the site was heavy in September. October has been light so far, but will likely pick up as the new readings are posted this week.

13. **Strategic Planning** – Ann Donner has completed her interviews and we have talked about her findings and an agenda for the planning session next Thursday. She and I will be meeting Friday to finalize plans.
14. **EPA Grant** – Jim Hunt has asked me to put together proposals for utilizing the new EPA grant. I have received a comprehensive proposal from Wentworth for four potential research projects and expect another from Northeastern. I will finalize my report to Jim after the strategic planning session.
15. **Construction Incident** – On September 26, our drill rig punctured a BWSC water line at the corner of Washington and West Dedham Streets. The location had been marked by BWSC as part of Dig Safe procedures, and the vacuum truck had previously checked the location. The line was not BWSC's map. Fortunately, there were no injuries and no serious property damage. BWSC is taking care of the cost of repairs. After receiving Christian's call, I went to the site and wound up talking to reporters from all of the local television stations. We have received no negative feedback from the incident.
16. **UMass Boston** – I was visited by a student at UMass. She is working on water issues on campus. They may be setting up a forum at which I could explain what the groundwater problem is to students at the university and possibly several other local campuses.
17. **Press** – There were articles, all posted on the website, in the Boston Globe, Boston Courant, and Beacon Hill Times, all focused on the announcements of Sept. 15. In addition, I had an interview with the managing editor of NE Condo magazine, who is doing a groundwater story that should be appearing soon.
18. **Comment Letter** – I filed comments on the FEIR for the Clarendon, posted on our website.
19. **501(c)3** – We have responded to what should be the final question of the IRS. We hope to have an approval letter soon.
20. **Annual Report** – Raphael and Raphael is completing our financial review and tax return. We should be issuing our annual report this month.
21. **Funding** – We have received the \$50,000 for additional capital projects from Environmental Bond Bill funds committed at the end of the fiscal year. The funds were used for the website update, level logging equipment, and replacement roadway box covers. As part of its mitigation commitments, The Clarendon project has committed \$75,000 for funding for the Trust.
22. **Level Logging Equipment** – We returned the originally ordered equipment that didn't fit into our wells. We have now received new smaller equipment. The first wells to receive the equipment should be fitted with it this week. We have (25) of the MiniTROLL units.
23. **Health and Safety Policy** – We have almost completed the policy statement. I expect to have it for approval at the next meeting.

WELL MONITORING

Most recent set of readings were made in September, 2005

Of the 617 o.w.'s in the network:

- 107 Wells @ Elevation >7'
- 265 Wells @ Elevation 5'- 7'
- 183 Wells @ Elevation 3'-5'
- 44 Wells @ Elevation <3'
- 18 Wells @ No Reading

INSTALLATIONS

- **Completed 114 well installation contract on 9/21/05.**
- **Began 180 well installation contract on 9/22/05.**
- **Extended depth of Vac to 8-ft. to help further identify underground utilities.**
- **Have installed 18 out of 180 wells as of 10/7/05.**
- **Installed wells for the first time around the Fort Point Channel area.**
- **Plan on being in East Boston by the first week of November.**