

**AGENDA**  
**BOARD OF TRUSTEES**  
**PORTLAND WATER DISTRICT**  
**1-408-418-9388**

**Access Code 132 108 5273, Meeting Password 63984962**  
**6:00 p.m., Monday, April 26, 2021**

1. Roll Call Clerk
2. Convene Meeting with vote to conduct the meeting remotely. Clerk
3. Acceptance of Minutes of Regular Meeting of March 22, 2021, the Workshop Meeting of April 12, 2021. President Douglas
4. Invitation for Public Comment President Douglas
5. Reports:
  - Operations Committee Reports Trustee Burns
  - Planning Committee Reports Trustee Siviski
  - Administration & Finance Committee Reports Trustee Cote
  - General Manager's Report General Manager
6. New Business
  - A. **Resolution 21-004** awarding the Joseph A. DiPietro Scholarship. President Douglas
  - B. **Order 21-011** authorizing amendments to the District's Deferred Compensation Plan. Administration and Finance Committee
  - C. **Order 21-012** authorizing the transfer of the 2020 annual operating fund change for Gorham and Portland wastewater funds. Administration and Finance Committee
  - D. **Order 21-013** authorizing an in-kind contribution of up to \$40,622 to support the Sebago Lake Watershed Protection Project – Phase IV. Planning Committee
7. Other Business. An item may be added to this agenda provided seven trustees vote to waive the rule regarding agendas. President Douglas
8. Second Invitation for Public Comment. President Douglas
9. Trustee Comments. President Douglas
10. Executive Session. A motion may be made to go into Executive Session at any time during the meeting to discuss, pursuant to 1 M.R.S. §405(6)(A) personnel, 1 M.R.S. §405(6)(C) real estate, 1 M.R.S. §405 (6)(D) labor negotiations, or 1 M.R.S. §405(6)(E) legal matters. President Douglas
11. Adjournment. President Douglas

Donna M. Katsiaficas  
Clerk

**Portland Water District**  
**Board of Trustees Regular Meeting**

**April 26, 2021**

**New Business**

**Agenda Item 6A-6D**



**RESOLUTION**  
**PORTLAND WATER DISTRICT**  
**BOARD OF TRUSTEES**



WHEREAS the Board of Trustees has established the Joseph A. DiPietro Scholarship in memory of Mr. DiPietro's fifteen years of dedicated service representing the city of Portland as a Trustee of the District, and

WHEREAS Simon Bourque, a resident of South Portland, is pursuing a degree in Heating, Air Conditioning, and Refrigeration at Southern Maine Community College, and

WHEREAS Mr. Bourque has demonstrated need for the scholarship, and

WHEREAS the Board of Trustees' Scholarship Committee unanimously recommends Mr. Bourque to be a recipient of the 2021 Joseph A. DiPietro Scholarship,

NOW THEREFORE BE IT RESOLVED that the Board of Trustees recognizes the accomplishments and needs of Mr. Bourque and supports his academic endeavors by awarding him the \$1,500 scholarship for 2021 established in tribute to Joseph A. DiPietro.

Adopted this 26<sup>th</sup> day of April 2021.

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Attest:  
Donna M. Katsiaficas  
Clerk

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Louise Douglas, President  
Board of Trustees





Portland Water District  
*From Sebago Lake To Casco Bay*

**BOARD OF TRUSTEES / AGENDA ITEM SUMMARY**

Agenda Item: 6B Order 21-011  
Date of Meeting: April 26, 2021  
Subject: Deferred Compensation (457) Plan Amendment  
Presented By: David Kane, Treasurer

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**RECOMMENDATION**

The following proposed language is presented for Board of Trustee approval:

ORDERED, amendments to the District’s Deferred Compensation Plan (the “457 Plan” or “Plan”), as recommended by legal counsel, are hereby authorized to:

- Permit Participant loans from all Participant Salary Deferral Contributions, Salary Reduction Contributions, Transfer Contributions, and Rollover Contributions under the Plan, subject to standard IRS policies and procedures for Participant loans from qualified plans under Internal Revenue Code §72(p), effective January 1, 2021;
- Permit in-service Plan withdrawals for birth or adoption in accordance with §113 of the SECURE Act, effective January 1, 2020;
- Increase the Required Beginning Date age for Plan distributions from 70½ to 72 in accordance with SECURE Act §114, effective January 1, 2020, for distributions required to be made after December 31, 2019 with respect to individuals who attain age 70 ½ after December 31, 2019;
- Eliminate so-called “stretch” Required Minimum Distributions for many Beneficiaries as required by SECURE Act §401, effective January 1, 2022, with respect to Participants who die after December 31, 2021; and

BE IT FURTHER ORDERED, that the General Manager and the Treasurer, or each acting singly, is hereby authorized and directed to take any actions necessary or appropriate to effectuate the foregoing Order, including but not limited to: (i) finalizing the language of and executing one or more formal Plan Amendments; (ii) communicating Plan changes to Plan participants and eligible individuals; and (iii) working with legal counsel or the Plan’s administrator to develop appropriate policies and administrative forms for loans and withdrawals for birth or adoption; and

BE IT FURTHER ORDERED, that all actions heretofore taken by any employee of the District in connection with the transactions authorized by the foregoing resolutions, and all transactions related thereto, are hereby approved, ratified and confirmed in all respects.

## **BACKGROUND**

At the December 21, 2020 Board meeting, Joe Piccone, Bargaining Agent for the Teamsters Union, requested the Board to consider changing the terms of the 457 Plan to allow employees to borrow from their plan without a hardship reason. At the February 8, 2021 meeting, staff provided background information on a loan program and recommended not offering the program. A number of Board members expressed support for offering the program and requested Staff to provide additional detail information on the program. The information was provided to the Board at their April 12, 2021 Workshop meeting.

The recent legislation required minimum distribution to begin at 72 and eliminated so-called 'stretch' distribution. An option allowed under the new law is the \$5,000 penalty-free plan distribution for the birth or adoption of a child. The motion authorizes the four amendments be made to the plan.

## **FISCAL REVIEW / FUNDING**

There is no fiscal impact to the District for offering the loan program

## **LEGAL REVIEW**

Corporate Counsel reviewed the proposed motion and approved it as to form.

## **CONCLUSION(S)**

The full Board discussed the loan option parameters at their April 12, 2021 workshop meeting and agreed to parameters as outlined in the attached document (Attachment B). The Administration and Finance Committee reviewed at their April 12, 2021 meeting and unanimously recommended the proposed motion be forwarded to the Board for its consideration.

## **ATTACHMENT(S)**

- A. Executive Summary prepared by Verrill & Dana
- B. Loan Option Parameters

## **EXECUTIVE SUMMARY**

## **Attachment A**

### **Participant Loans**

Permitting 457 Plan participants to take a loan from their 457 Plan account is an optional, design decision. The District has decided to make participant loans available beginning with the 2021 Plan Year. Participants may take a loan from any account under the Plan, with the exception of the Matching Contributions Account. Participant loans will be subject to standard IRS policies and procedures, including the following:

- May not exceed certain limits (generally, the lesser of \$50,000 or half of the participant's vested plan account);
- Must be repaid within five years, except for a loan used to acquire any dwelling unit that within a reasonable time is to be used as the principal residence of the principal;
- Must be amortized on a substantially level basis with payments at least quarterly;
- Is a bona fide loan (evidenced by an enforceable agreement) that the borrower has a good-faith intention to repay; and
- Must bear a reasonable rate of interest.

Formal, written Plan Amendment is required by no later than December 31, 2021.

### **Plan Withdrawals for Birth or Adoption (SECURE Act §113):**

Under current law, distributions from the 457 Plan are generally included in gross income in the year of distribution. In addition, in-service distributions from 457 Plans are generally not permitted unless a specific exception (*e.g.*, unforeseen emergency) applies.

The SECURE Act provides that a "qualified birth or adoption distribution" can be made from a 457 Plan regardless of whether an in-service distribution would otherwise be permitted, and the distribution will not be subject to the 10% early distribution tax penalty (if applicable) and is exempt from 20% mandatory withholding, the Code §402(f) notice requirement for lump sum distributions, and the direct rollover rules. Pursuant to the SECURE Act, the distribution may be repaid to the Plan at any time.

A "qualified birth or adoption distribution" is a distribution taken within one year of a birth or adoption up to \$5,000 in aggregate per birth/adoption, provided that the adoption is not of a child of the participant's spouse and the child is either under age 18 or physically or mentally incapable of self-support.

This change is optional. The District has elected to make this change effective as of January 1, 2020.

Formal, written Plan Amendment is required by no later than December 31, 2021.

### **Later Required Beginning Date (“RBD”) (SECURE Act §114):**

Under prior law, Required Minimum Distributions (“RMDs”) must begin for a participant by the RBD which is April 1 of the calendar year following the calendar year in which the participant attains age 70 ½ or retirement, if later. In addition, RMDs for a surviving spouse must begin by the later of the year following the participant’s death or the year in which the participant would have attained age 70 ½.

The SECURE Act raises the RBD age from 70 ½ to 72.

This change in the law is effective January 1, 2020 for distributions required to be made after December 31, 2019.

Regulations are expected in connection with this change; the IRS has in the past, published model amendments relating to RMDs. Formal, written Plan Amendments for governmental plans are not required until December 31, 2024, but the Plan must be operated in compliance with this change until that time.

### **Elimination of “Stretch” RMDs (SECURE Act § 401):**

Under prior law, when a Participant died, a designated individual beneficiary could take distributions from the inherited account over the beneficiary’s life expectancy.

The SECURE Act provides that upon the death of a 457 Plan Participant, the designated individual beneficiary is required to take distributions of his or her entire inherited account within 10 years. There is an exception to the 10-year rule for an inherited account payable to an “eligible designated beneficiary.” An eligible designated beneficiary is a designated individual beneficiary who, on the date of the participant’s death is: (i) the surviving spouse; (ii) a child under the age of majority, (iii) disabled within the meaning of Code §72(m)(7); (iv) chronically ill within the meaning of Code §7702B(c)(2); or (v) any other person who is not more than 10 years younger than the participant. For an eligible designated beneficiary, distributions can be made over the life or life expectancy of the beneficiary, with the exception that the 10-year rule applies as of the date a child attains age of majority.

This change in the law is effective for governmental plans with respect to employees who die after December 31, 2021.

Formal, written Plan Amendments for governmental plans are not required until December 31, 2024, but the Plan must be operated in compliance with this change until that time.

## 457 Loans Options (red are IRS rules)

Option	Range of options available	Recommendation	Board's Consensus
Minimum loan amount?		\$1,000	\$1,000
Maximum loan amount?	Lesser of 50% vested or up to amount not to exceed \$50,000?	Lesser of 50% vested up to amount not to exceed \$50,000	Lesser of 50% vested up to amount not to exceed \$50,000
Loan is considered defaulted if payment not made within how many days?	Minimum of 90 days	90 days	90 days
Can former employees continue making loan payments? If not, how soon must they repay ?	Yes/No  60 days or less	Yes	Yes

## 457 Loans Options (red are IRS rules)

Option	Range of options available	Recommendation	Board's Consensus
Loans for hardship only?	Yes/No	No	No
Loans for primary residence longer than 5 years?	Maximum 25 years	10 years	10 Years
Number of loans in a 12-month period?	Maximum 5	One	One
Rolling, plan, calendar or deposit year?	Rolling, plan, calendar or deposit year?	Rolling year	Rolling Year
Restrict loans to certain types of contribution?	Yes/No	Yes, only for Employee's Vested Contribution.	Yes, Only for Employee's vested contribution
Interest Rate?	Reasonable Rate	Prime+2%	Prime+2% <small>14</small>



Portland Water District  
*From Sebago Lake To Casco Bay*

**BOARD OF TRUSTEES / AGENDA ITEM SUMMARY**

Agenda Item: 6C Order 21-012  
Date of Meeting: April 26, 2021  
Subject: Allocation of Annual Wastewater Net Income  
Presented By: David Kane, Treasurer

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**RECOMMENDATION**

The following proposed language is presented for Board of Trustee approval:

ORDERED, that a portion of the 2020 annual operating fund excess balances over the targeted balances in the Operating Contingency Fund for each of the Gorham and Portland Wastewater Funds is hereby transferred to their Capital Renewal and Replacement Fund.

**FISCAL REVIEW / FUNDING**

Due to 2020 expenses being less than the budget, the Gorham, Portland and Windham wastewater funds had a positive annual operating net change. (See 2020 Net Change amounts in the table below.)

The Gorham and Portland funds had an annual net income and have Operating Contingency Balances in excess of the targeted balance. It is recommended the excess balances over the targeted balance be moved to the Renewal and Replacement Fund and to finance future capital projects. Both the Town and City have indicated they accept the transfer.

Though the Windham fund had an annual net income, their current Operating Contingency Balance is below the targeted balance and therefore no transfer of funds is recommended.

The Cape Elizabeth fund had an annual net loss primarily due to higher allocation of treatment costs from South Portland due to the Cape Elizabeth's rising relative percent of flow being treated at the South Portland treatment facility.

The Westbrook fund had an annual net loss primarily due to additional cost related to the Presumpscott River mudslide.

The Cumberland funds had a small annual net loss and no action is requested

Operating Funds:

	1/1/2020 Balance	2020 Net Change (Unaudited)	12/31/2020 Balance	Target (25% of Budget)	Over/(Under) Budget
Cape Elizabeth	\$430,575	(\$68,576)	\$361,999	\$460,853	(\$98,854)
Cumberland	\$227,678	(\$2,141)	\$225,537	\$248,817	(\$23,280)
Gorham	\$294,783	\$63,593	\$358,376	\$300,209	\$58,167
Portland	\$3,306,961	\$519,093	\$3,826,054	\$3,427,987	\$398,067
Westbrook	\$732,991	(\$28,372)	\$704,619	\$748,115	(\$43,496)
Windham	\$53,837	\$3,209	\$57,046	\$103,730	(\$46,684)

Renewal and Replacement Funds:

	12/31/2020 Balance	Target (5% of Asset)	Over/(Under) Budget
Cape Elizabeth	\$332,639	\$871,000	(\$538,361)
Cumberland	\$221,862	\$464,700	(\$242,838)
Gorham	\$712,600	\$910,400	(\$197,800)
Portland	\$4,481,417	\$5,770,500	(\$1,289,083)
Westbrook	\$3,723,784	\$1,130,500	\$2,593,284
Windham	\$229,022	\$155,400	\$73,622

**LEGAL REVIEW**

Corporate Counsel reviewed the proposed motion and approved it as to form.

**CONCLUSION(S)**

The Committee unanimously recommended the motion be forwarded to the full Board for its consideration.

**ATTACHMENT(S)**

None



Portland Water District  
*From Sebago Lake To Casco Bay*

## **BOARD OF TRUSTEES / AGENDA ITEM SUMMARY**

Agenda Item: 6D Order 21-013  
Date of Meeting: April 26, 2021  
Subject: Request for Match to support the Sebago Lake Phase IV Erosion Control Grant  
Presented By: Kirsten Ness, Water Resources Specialist

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### **RECOMMENDATION**

The following proposed language is presented for Board of Trustee approval:

ORDERED, that the District shall make an in-kind contribution of up to \$40,622 to support the Sebago Lake Watershed Protection Project – Phase IV; and

BE IT FURTHER ORDERED, that the 2021 Water Fund Budget be amended by \$132,828 for the revenues and expenses related to revenues and expenses passing through the District from the federal 319 grant.

### **BACKGROUND**

The District is partnering with Cumberland County Soil and Water Conservation District (CCSWCD) on a watershed protection project that will be funded by a federal Clean Water Act grant (319 grant) and supported by numerous watershed partners. This project will help to protect the water quality of Sebago Lake by reducing the amount of soil and sediments that enter the lake. The Watershed Erosion Control Funding Policy (formerly the Watershed Survey, Watershed Protection Plan, and Implementation Project Grant Funding Policy) outlines the District's support for erosion control projects in the watershed and the minimum match that we require from other sources.

The District will serve as the project sponsor for the grant and will enter into a contract with DEP. CCSWCD will serve as the administrator of the grant and the project lead. The project work plan has been approved by the Maine DEP and EPA and will improve eight significant public and private erosion sites around the lake. Major project partners will include the Sebago Lake State Park, Camp O-AT-KA, and the town of Standish.

### **ANALYSIS**

The total project cost for the Sebago Lake Watershed Protection Project – Phase IV is \$173,450, which breaks down to \$79,043 in grant funds and \$94,407 in matching funds. Matching funds include in-kind services.

The recommended contribution of up to \$40,622 in matching funds meets the District policy for contributions to implementation projects in the direct watershed of Sebago Lake. The policy states that contributions to this type of project not exceed 30% of the total project cost. The in-kind contribution of \$40,622 represents 23% of the total project cost.

**FISCAL REVIEW / FUNDING**

The recommended contribution is \$40,622 of in-kind match. The in-kind match is not additional work we are required to do for this grant; it represents the lake protection work normally done by our staff during the course of their core duties.

**Sebago Lake Watershed Protection Project – Phase IV Budget request**

<u>Contributors</u>	<u>Budget Amendment</u>	<u>PWD budgeted services*</u>	
319 Grant from DEP	\$79,043		cash grant
Camp O-AT-KA	\$5,477		in kind services
Town of Standish	\$2,000		in kind services
Portland Water District	\$0	\$40,622	in kind services
Sebago Lake State Park	\$44,800		in kind services
Landowners	\$1,508		in kind services
<b>Total Project Cost</b>	<b>\$132,828</b>	<b>\$40,622</b>	<b>\$173,450</b>

\*The District’s in-kind services are services that are currently budgeted in the 2021 Environmental Services budget. DEP considers the work that the Environmental Services Group currently performs around the lake as appropriate in-kind service and permissible as match.

**LEGAL REVIEW**

Corporate Counsel has reviewed the proposed order as to form.

**CONCLUSION(S)**

Work that reduces soil erosion around the lake will benefit Sebago Lake water quality. The Committee approved staff’s recommendation and agreed to send to the full Board for their consideration.

**ATTACHMENTS**

Location map.

# Sebago Lake Watershed Protection Project - Phase IV

