

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

**Access Code 2630 487 0180, Meeting Password 85979892
6:00 p.m., Monday, July 25, 2022**

- | | | |
|-----|---|--------------------------------------|
| 1. | <u>Convene Meeting</u> | President Douglas |
| 2. | <u>Roll Call</u> | Clerk |
| 3a. | <u>Acceptance of Minutes</u> of the Regular Meeting of June 27, 2022. | President Douglas |
| 3b. | <u>Acceptance of Minutes</u> of the Workshop Meeting of July 11, 2022. | President Douglas |
| 4. | <u>Invitation for Public Comment</u> | President Douglas |
| 5. | <u>Reports:</u> | |
| | ▪ Operations Committee Reports | Trustee Rich |
| | ▪ Planning Committee Reports | Trustee Shattuck-Heidorn |
| | ▪ Administration & Finance Committee Reports | Trustee Siviski |
| | ▪ General Manager's Report | General Manager |
| 6. | <u>New Business</u> | |
| | A. <u>Resolution 22-013</u> authorizing an amendment to Resolution 21-019 to reflect the North Windham Sewer System project costs recently approved by the Windham residents. | Administration and Finance Committee |
| | B. <u>Order 22-028</u> authorizing the repeal of policy 7.05-05 Freedom of Access Law Requests. | Administration and Finance Committee |
| | C. <u>Order 22-029</u> authorizing the General Manager to execute a contract amendment with Casella. | Operations Committee |
| | D. <u>Order 22-030</u> authorizing an amendment to the 2022 Capital Improvement Plan. | Planning Committee |
| | E. <u>Order 22-031</u> authorizing the position and hiring of a Project Engineer devoted to the North Windham Wastewater Project. | General Manager |
| 7. | <u>Other Business.</u> An item may be added to this agenda provided seven trustees vote to waive the rule regarding agendas. | President Douglas |
| 8. | <u>Second Invitation for Public Comment.</u> | President Douglas |
| 9. | <u>Trustee Comments.</u> | President Douglas |
| 10. | <u>Executive Session.</u> Pursuant to 1 M.R.S. §405 (6)(D) labor negotiations, the Board will go into Executive Session to discuss the status of labor union contract negotiations with Teamsters Local Union #340. | President Douglas |
| 11. | <u>Adjournment.</u> | President Douglas |

Donna M. Katsiaficas
Clerk

Portland Water District
Board of Trustees Regular Meeting
July 25, 2022

New Business

Agenda Item 6A-6E



Portland Water District
From Sebago Lake To Casco Bay

BOARD OF TRUSTEES / AGENDA ITEM SUMMARY

Agenda Item: 6A Resolution 22-013
Date of Meeting: July 25, 2022
Subject: North Windham Sewer System – Intent to Borrow
Presented By: David Kane, Director of Administration and Finance

RECOMMENDATION

The following language is proposed for Board of Trustee approval:

RESOLVED, the Board hereby amends Resolution 21-019 to reflect the North Windham Sewer System project costs recently approved by the Windham residents. The full form of the Resolution is attached hereto and incorporated herein by reference, and shall be a part of the minutes of this meeting

BACKGROUND ANALYSIS

In compliance with Internal Revenue Service (IRS) regulation, an ‘intent to borrow’ motion must be approved by the Board before expenditures are incurred on a project that may be financed with tax-exempt financing. At the November 22, 2021 meeting, the Board adopted Resolution 21-019 indicating an intent to borrow up to \$10,610,000 for the projects including the North Windham Wastewater System. The voters of North Windham recently authorized the Town to proceed with the project and bond up to \$38,900,000. The proposed motion amends Resolution 21-019 to reflect the higher amount. The actual amount to be borrowed will be reviewed and authorized by the Board at a future meeting.

FISCAL REVIEW / FUNDING

The intent to borrow allows any costs incurred on the approved project to be tax-exempt bond financed. At this time, the actual amount to be bonded is unknown so the fiscal impact is not known. Per the Windham/PWD Memorandum of Understanding, Windham understands any debt service cost incurred will be included in their annual wastewater assessment.

LEGAL REVIEW

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

CONCLUSION(S)

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

ATTACHMENT(S)

Full Form of the Resolution

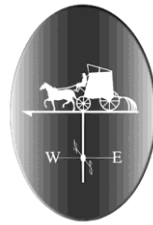
**DECLARATION OF OFFICIAL INTENT PURSUANT TO
TREASURY REGULATION §1.150-2
(Amending and Restating Resolution 21-019)**

WHEREAS, pursuant to Treasury Regulation §1.150-2, the Portland Water District (the “Issuer”) in Resolution 21-019 previously adopted a declaration of intent with respect to the projects described below (the “Projects”); and

WHEREAS, the Issuer now anticipates that the costs of the Projects will exceed its original expectation of \$10,280,000 to a new anticipated cost of \$38,900,000 and therefore desires to amend its prior declaration of intent as provided herein;

NOW, THEREFORE, the Issuer does hereby amend and restate Resolution 21-019 as follows:

1. **Declaration of Intent.** The Issuer reasonably expects to reimburse itself for expenditures made on the Projects with the proceeds of bonds or notes in anticipation thereof to be issued by the Issuer to finance the costs of the Projects in the maximum principal amount of \$38,900,000.
2. **General Description of Property to which Reimbursement Relates.** The following is a reasonably accurate general functional description of the type and use of the property with respect to which reimbursements will be made:
 - Construction of a new wastewater treatment plant and related infrastructure in the North Windham area of Windham; and
 - Renovation and repair of equipment and facilities at the Westbrook Regional Treatment Plant and various pump stations in Gorham, Westbrook and Windham.
3. **Public Availability of Official Intent.** This Declaration of Official Intent shall be maintained as a public record of the Issuer.
4. **Treasury Regulations.** This is a declaration of official intent pursuant to the requirements of Treasury Regulations § 1.150-2.
5. **Authority for Declaration.** This declaration is adopted pursuant to the following action of the Issuer: Resolution adopted by the Portland Water District Board of Trustees.



Portland Water District
From Sebago Lake To Casco Bay

BOARD OF TRUSTEES / AGENDA ITEM SUMMARY

Agenda Item: 6B Order 22-028
Date of Meeting: July 25, 2022
Subject: Repeal of FOAA Policy
Presented By: David Kane, Director of Administration and Finance
Donna Katsiaficas, Corporate Counsel

RECOMMENDATION

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

ORDERED, that policy 7.05-05 Freedom of Access Law Requests is hereby repealed.

BACKGROUND ANALYSIS

The Portland Water District is a public entity and is subject to the Freedom of Access Law, 1 M.R.S. §401-§414. The District must comply with this law in its response to public records requests.

PWD Policy 7.05-05 Freedom of Access Law Requests was last amended on August 28, 2012. The policy tracks the provisions of Maine Law. The policy is redundant and not needed because Maine state law governs this area, and the law contains all of the detail that is in the PWD policy. The forms that are included in the policy are also discontinued; they are not currently used.

FISCAL REVIEW / FUNDING

There is no fiscal impact in repealing this policy, as state law governs the fees that can be charged for response to records requests.

LEGAL REVIEW

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

CONCLUSION(S)

Staff recommends that PWD's Freedom of Access Law Requests Policy be repealed. The Committee unanimously recommended to forward to the full Board for its consideration.

ATTACHMENT(S)

Freedom of Access Law Requests Policy

POLICY NUMBER: 7.05-05

SUBJECT: Freedom of Access (“Right to Know”) Law Requests
1 M.R.S.A. § 401 et. seq.

EFFECTIVE DATE: 08-28-12

SUPERSEDES: 05-07-07

APPROVED BY: PT/RM

Purpose: To ensure that all citizens have access to public records in the possession of the District and that the time and method of providing public records to members of the public both complies with their rights under the law and allows for the smooth functioning of the District’s departments.

Definitions: Definition of the term “public records” can be found in 1 M.R.S.A. §402(3). The District is required by law to provide access to public information within five business days of a request but is prohibited by law and Public Utilities Commission’s rules, from releasing information classified as confidential.

Scope: This policy gives the right to all citizens to access public records in the possession of the District.

Responsibility: The interpretation of this policy will be the responsibility of General Manager.

Policy: Rules for Access to Public Records

1. The District’s Corporate Counsel is designated as the District’s Public Access Officer pursuant to 1 M.R.S.A. §413. Requests for access to public records shall be routed through said officer.
2. Persons requesting to see or copy public records may be requested to fill out the attached form and present it to the District in order to facilitate production of records that appropriately answer the request. Completion of the form shall not be required in order to have access to records.
3. The Public Access Officer shall acknowledge receipt of a request for access to records within a reasonable time.
4. Access to public records shall be provided within a reasonable time.. Public records may be inspected during reasonable hours at a time and in a manner that ensures protection of the records and does not disrupt or obstruct the smooth functioning of the department that is the custodian of the records.

- a. Protection of Records. To protect records, the District may require that an employee or official of the District be present during inspection and/or copying of documents.
- b. Scheduling. When the presence of an employee or official is required to ensure the protection of any record, the inspection or copying shall be scheduled as promptly as possible during regular business hours provided that the scheduling shall minimize disruption of the function of the department.
- c. Copying. Any record that is copied by the District shall be copied during regular business hours on a schedule that does not disrupt the functioning of the department.
- d. Payment of Costs. If District copiers are used, the charge to the person requisitioning the copies shall be \$1.00 for the first page and \$.50 for each additional page. Postage costs may be charged if the document(s) is mailed to the requestor. The District may also charge a fee to cover the actual cost of searching for and retrieving and compiling the requested public record of not more than \$15 per hour after the first hour of staff time per request. Compiling the public record includes review and redacting confidential information. If translation or conversion into a form susceptible of visual or aural comprehension or into a usable format is necessary, the District may charge a fee to cover the actual cost of translation or conversion.
- e. Estimate. The District shall provide to the requester an estimate of the time necessary to complete the request and of the total cost. If the estimate of the total cost is greater than \$30, the District shall inform the requester before proceeding. If the estimate of the total cost is greater than \$100, subsection f applies.
- f. Payment In Advance. The District may require a requester to pay all or a portion of the estimated costs to complete the request prior to the translation, search, retrieval, compiling and copying of the public record if:
 - a. The estimated total cost exceeds \$100; or
 - b. The requester has previously failed to pay a properly assessed fee under this policy in a timely manner.

g. Waiver. The District may waive part of all of the total fee if:

- a. The requester is indigent; or
 - b. Release of the public record requested is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.
3. Any denial by the District of a request to see a public record shall be made in writing within five working days of receipt of the request with an explanation for the denial.

Complaint Procedure: Any concerns about this policy should be made to the General Manager.

The Portland Water District

Request for Access to Public Records

I request to review the following public records of the Portland Water District:

Date

Signature

Print Name

This Space for Official Use Only

_____ Request Approved

_____ Request Denied

Reason
Denied _____

Date

Approved By

**Portland Water District
Asset Management and Planning Department
PLAN / DOCUMENT REQUEST FORM**

Date: _____

Requestor Name: _____

Company: _____

Phone #: _____

Photo ID #: _____

Project Name: _____

Project /Contract#: _____

Specific documents requested and the purpose of the request:

**PLEASE DO NOT WRITE IN SHADED AREA
DEPARTMENTAL APPROVAL**

Email this request to: _____

Department	Person Granting Approval	Date/Time
		<input type="checkbox"/> Granted <input type="checkbox"/> Denied
TOTAL COST:		
Comments:		



Portland Water District
From Sebago Lake To Casco Bay

BOARD OF TRUSTEES / AGENDA ITEM SUMMARY

Agenda Item: 6C Order 22-029
Date of Meeting: July 25, 2022
Subject: Biosolids Management Contract
Presented By: Scott Firmin, Director of Wastewater Services

RECOMMENDATION

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

ORDERED, the General Manager is authorized to execute a contract amendment with Casella consistent with the terms presented to the Board of Trustees on July 25, 2022.

BACKGROUND ANALYSIS

The treatment of wastewater at our treatment plants generates residuals, or biosolids, that must be managed on a daily basis. PWD is in the final term of an agreement with Casella to accomplish this. Since 2019, all of PWD's biosolids have been landfilled.

DEP and Legislative activity have imposed sudden and substantial restrictions on biosolids management in Maine. This has resulted in the elimination of all options but landfilling for biosolids generated and managed in Maine and has placed significant cost and logistical pressures on the landfills that accept biosolids.

PWD received communication from Casella claiming contract implications related to changes in law and possible Force Majeure events that they state warrant immediate changes to the current agreement. We expect to be able to resolve these issues in a timely manner and to continue through the remaining term of the contract, which ends in 2025.

The most significant items raised by Casella are an increase in the tipping fee and fuel charge indexed adjustment. The total cost per wet ton is anticipated to increase for this year by no more than \$25 per wet ton with a current fuel adjustment of \$2.16 per wet ton. This increase will represent an immediate increase of 27% to our biosolids management costs and increase the total cost by \$282,900 in 2022. The increase for 2023 will be part of this negotiation.

Biosolids management in Maine is extremely volatile and despite these increases, which directly address real and significant costs related to managing biosolids, Casella continues to provide a vital service in an otherwise limited market.

FISCAL REVIEW/FUNDING

The proposed tipping fee and current estimated fuel surcharge will result in an increased cost of \$282,900 in 2022.

LEGAL REVIEW

Corporation Counsel has reviewed the proposed order as to form.

CONCLUSION(S)

Staff recommends that the Board authorize the General Manager to negotiate terms of a contract amendment to continue with Casella in 2022 and the remaining term of the current agreement. The Committee voted unanimously to send 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 22-030
Date of Meeting: July 25, 2022
Subject: Douglass Street Slate Roof Replacement
Presented By: Joshua Hudak, Administrative Facilities Chief Operator

RECOMMENDATION

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

ORDERED, that the 2022 Capital Improvement Plan is amended by adding \$35,000 to 068-3053 - Douglass St Roof Replacement Phase 3 - 2022 for a total budget of \$315,000.

BACKGROUND ANALYSIS

The Douglass St. slate roof replacement was programmed in the 2022 CIP at \$280,000 to complete the final phase of the slate roof (phase 3 of 3). The project was placed out to bid and the District received one bid from The Heritage Company. Their bid came in at \$477,000 which is \$197,000 over the CIP budget. The Heritage Company completed the previous phases of the slate roof and have done excellent work and they noted that their pricing represents significant increases in labor and material cost since the original estimate of work was developed nearly two years ago. Staff reviewed their bid and asked them to provide a cost for reduced scope of work which would address the leaking section of the proposed work. They provided a cost of \$311,000 to complete this work, staff added a contingency of \$4,000 bring the project total to \$315,000.

Staff's recommendation is to amend the original CIP 068-3053 scope and budget from \$280,000 to \$315,000 in order to address the leaking section of the slate roof and reprogrammed the remaining roof replacement in a future year in the Capital Improvement Program.

FISCAL REVIEW / FUNDING

The estimated balance in the Douglass Street R&R reserve fund as of 12/31/2022 - \$495,265. The requested \$35,000 will be taken from this reserve.

LEGAL REVIEW

Corporate Counsel has reviewed the proposed Motion and has approved as to form.

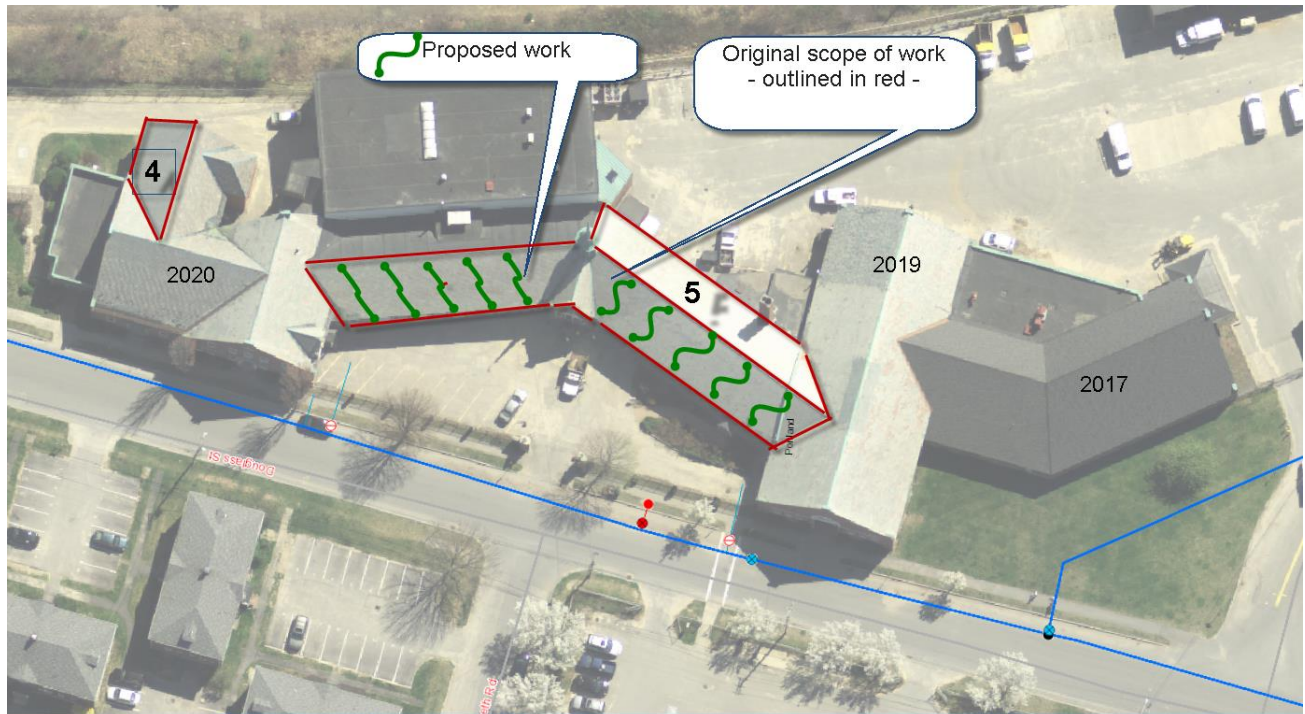
CONCLUSION(S)

Staff recommends approval of the change in scope and the additional project allocation. The Committee voted unanimously to forward to the full Board for their consideration.

Photo representation of the areas in question.

Outlined in Red: Original scope of CIP 68-3054 for 2022

Green squiggly lines: Recommended reduced scope for 2022





Portland Water District
From Sebago Lake To Casco Bay

BOARD OF TRUSTEES / AGENDA ITEM SUMMARY

Agenda Item: 6E Order 22-031
Date of Meeting: July 25, 2022
Subject: Project Engineer
Presented By: Carrie Lewis, General Manager

RECOMMENDATION

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

ORDERED, that an additional position and hiring of a Project Engineer to devote to the North Windham Wastewater Project is hereby approved.

BACKGROUND ANALYSIS

The North Windham Wastewater Project is a high profile, time sensitive project on which PWD has recently embarked. As described to Trustees during the recent 2023 Budget discussions, a Project Engineer will be needed to absorb this significant workload to keep the project moving forward and on track. It had been anticipated to include this position in the 2023 Capital Improvement Program (CIP) Budget and hire early next year.

However, there have been two recent resignations in the engineering group, including the Senior Project Engineer who has been overseeing the North Windham Wastewater Project. This has prompted our request to immediately establish and hire an additional Project Engineer to enable the project to keep moving forward and not lose momentum.

FISCAL REVIEW / FUNDING

The full time position was not included in the 2022 budget. The fiscal impact for 2022 is estimated to be \$38,000, including fringe benefits. The engineer costs will mostly be included in the capital budget of the North Windham Wastewater Project (90% or \$34,000). Only a small portion (10% or \$4,000) of the positions costs will be included in the 2022 operating budget. The operating budget has sufficient surplus to cover the amount. The position is included in the draft 2023 Budget.

LEGAL REVIEW

Corporate Counsel has reviewed and approved the form of motion.

CONCLUSION(S)

Staff recommends that an additional position of Project Manager be immediately added to the AMaP group.

ATTACHMENT(S)

None