

As voted by the Board of Trustees and in accordance with the notice of the meeting, the Regular Meeting of the Board of Trustees of the Portland Water District was held at the Jeff P. Nixon Training Center, 225 Douglass Street, Portland, Maine on Monday, October 24, 2022. Attending from staff were S. Garrison, C. Crovo, D. Kane, S. Firmin, J. Wallace, D. Katsiaticas, and C. Walker.

The meeting was convened by President Douglas at 6:01 p.m. with the Pledge of Allegiance and a moment of silence.

### **ROLL CALL**

The roll was called by the Clerk. Trustee Beck was absent.

### **ACCEPTANCE OF MINUTES**

Trustee Siviski made a motion to accept the minutes of the Regular Meeting of September 19, 2022, seconded by Trustee Cote. It was voted all in favor.

Trustee Siviski made a motion to accept the minutes of the Workshop Meeting of October 17, 2022, seconded by Trustee Cote. It was voted all in favor.

### **INVITATION FOR PUBLIC COMMENT**

None

### **REPORTS**

#### **Operations Committee**

Trustee Rich provided a summary of the Operations Committee meeting on October 17, 2022. Staff discussed a recommendation to award an engineering services contract and construction manager at risk contract for the design build of the first phase of the North Windham Sewer Project. Staff also provided a recommendation to approve an amendment to the current biosolids management contract with Casella. The amendment will provide for a 5 year term at a cost that will include some price certainty in the aftermath of the recent legislative and regulatory changes. Both of these items will be taken up under new business.

#### **Planning Committee**

Trustee Shattuck-Heidorn provided a summary of the Planning Committee meeting on October 17, 2022. Source Protection staff shared the results of bacteria monitoring at Sebago Lake. They explained that in 15 years of monitoring our raw water for fecal coliform bacteria – more than 4000 samples – not a single one was even close to the limit of 20 colonies per sample that we must consistently meet as a condition of our exemption to filtration. We're fortunate to have such high water quality at our intakes. Even better news is that staff also sample for E coli at sites around Lower Bay and these samples – taken from the warmer surface waters at sites much closer to the edges of the No Bodily Contact Zone - also have results that are consistently in the single digits. The critical role the No Bodily Contact Zone plays in the maintenance of water quality is clear when these raw water and Lower Bay results are compared with E coli data from swimming beaches. Swimming beach testing shows clearly that when people are in and near the water the E coli numbers are usually in the double and triple digits, sometimes over 1,000 colonies. Human contact can add pathogens to the water directly and humans also bring food which attracts birds and wildlife – thus adding pathogens to the water indirectly.

### **Administration and Finance Committee**

Trustee Siviski provided a summary of the Administration and Finance Committee meeting on October 17, 2022. Mr. Kane presented to the Committee that the Public Utilities Commission (PUC) approved an exemption to their rule entitled “Late Payment Charges, Interest Rates to be paid on customer deposits, and charges for returned checks” (Chapter 870) in 2015. Recently, the PUC amended their rule to not allow late fees to be assessed on delinquent accounts if the customer has agreed to a payment arrangement to pay their outstanding balance and has made all payments as agreed. Staff recommends the District adopt the practice. The change is estimated to reduce fee revenue by \$3,000 a year.

Mr. Kane presented a proposal to amend the water terms and conditions for the following reasons:

- Updating fees to current costs.
- Section 420: Changing to charge a separate fee for turn on and turn off. Currently we charge a fee only when we turn off.
- Section 440: Changing a reference to the old T&C section 10 to the new T&C section 430.

Additionally he presented a proposal to update the Fee Schedule for Non-Water Tariff Services to reflect amending the fees assessed to treat septage and holding tank waste from septage haulers as approved by the Board at its September 19, 2022 meeting (order 22-038). Additionally, staff recommended the monthly fee assessed customers to inspect private hydrants be increased to \$4 from \$3. It was noted the motion will be presented to the Board in November as part of the adopting the 2023 Budget.

Ms. Demers presented an overview of the benefits that will be offered in 2023. The recently approved union contract now allows the additional health insurance option including an HMO, HMO with Health Reimbursement Account, HMO \$2500 and POS plans. She noted the dental, vision & life, long/short-term disability insurance are remaining the same for 2023.

Mr. Kane also noted the District received its first two payments under the new Maine Water Assistance Program.

### **General Manager’s Report**

Mr. Garrison thanked Scott Firmin, Michelle Clements and the East End staff for the positive media coverage PWD received on the 50th anniversary of the Clean Water Act.

He then went on to do a budget presentation of the 2023 budget for the Board. Highlights of his presentation are:

- The proposed 2023 budget is 55.5 Million dollars (10.9% increase)
- The capital budget is 23.1 Million Dollars
- The proposed budget does not increase beyond the rate of inflation, it will meet municipal wastewater assessment expectations of all but two of the municipalities.
- PWD will keep the same # of employees (188)
- The capital budget will be consistent with the master plan.
- The budget process had several challenges this year, which include inflation, supply chain issues, the challenges of recruiting and the availability of contractors.
- While the proposed operating budget has increased for 2023, the proposed capital budget has decreased. The largest dollar changes in the budget are related to biosolids disposal and regulatory fees, salaries/wages and benefits, contractor services and chemical costs.

- The budget, if passed, will lead to a proposed 5.6% proposed water rate increase, effective January 1, 2023.

## **NEW BUSINESS**

**Order 22-041**, authorizing Policy 870 – Late Payment Charges, Interest Rates to be Paid on Customer Deposits, and Charges for Returned Checks.

The Public Utilities Commission (PUC) recently amended one of its rules – Chapter 870: Late Payment charges, interest rates to be paid on customer deposits, and charges for returned checks. The two main changes were to set a maximum rate of 1% per month or 12% annually and prohibition of charging late fees to customers who have an active payment arrangement.

It was moved by Trustee Siviski and seconded by Trustee Cote.

It was Voted and unanimously,

WHEREAS, on September 22, 2015 the Public Utilities Commission (PUC) approved exemptions from certain regulations for the Portland Water District, effective January 1, 2016; and

WHEREAS, on November 23, 2015 the Board of Trustees adopted Policy 6.40-15 Interest Rate to be Charged for Late Payments, and

WHEREAS, it is the desire to have the Board adopt a policy in a consistent format as other PUC rule adoptions;

ORDERED, that Policy 6.40-15 is rescinded, and

BE IF FUTHER ORDERED, that the Policy 870 entitled “Late Payment Charges, Interest Rates to be paid on customer deposits, and charges for returned checks,” in substantial form as that attached hereto, is hereby approved, effective January 1, 2023.

**Order 22-042**, authorizing the General Manager to execute a professional services contract for the design build – Construction Manager at Risk (CMAR) North Windham Sewer Project.

PWD published Request for Qualifications (RFQ) packages to procure engineering and construction management-at-risk (CMAR) services for the North Windham Wastewater Treatment Facility (WWTF) Project on July 13, 2022. The selected Engineer and CMAR will work with PWD/Town throughout the Design-Build process to enhance constructability and cost estimating and certainty, develop a procurement plan to optimize the construction schedule, streamline project execution, and maintain adequate operations during construction of the proposed WWTF and collection system.

The PWD project team will commence the design phase of the project with the allocated budget. Contracts will be negotiated with the Engineer and CMAR for design phase services. Future funding will be requested when the project has reached the design-build construction milestone of guaranteed maximum price (GMP) for this phase of the project.

It was moved by Trustee Rich and seconded by Trustee Cote.

It was Voted and unanimously,

ORDERED, the General Manager is authorized to execute a professional services contract for the design build – Construction Manager at Risk (CMAR) North Windham Sewer Project (“Project”) with Brown & Caldwell Engineers for engineering services related to the Project; and

BE IT FURTHER ORDERED, that the General Manager is authorized to enter into an agreement for construction management services with MWH Construction to provide Construction Manager at Risk services for the Project: and

BE IT FURTHER ORDERED, that the North Windham Sewer System (*CIP 2022-182/3324*) budget in the preliminary amount of \$2.5M is authorized to commence the Project; and that the General Manager and the Treasurer, each acting singly, are authorized to take such steps as may be necessary to accomplish the intent of the vote.

**Order 22-043**, authorizing the General Manager to execute a contract amendment with Casella.

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 a contract with Casella to accomplish this. Since 2019, all of PWD’s biosolids have been landfilled. The contract with Casella was executed in 2006; it had three renewal terms of five years each, and was expected to be in place for 20 years, or through 2025.

PWD received communication from Casella this summer, claiming contract implications related to the changes in law implemented by the legislature, which Casella believed constituted a Force Majeure event under our Contract that warranted immediate changes to the current contract. At the July 25, 2022, the Board of Trustees authorized the General Manager to finalize a contract amendment that included a price increase of no more than \$25 per wet ton as well as an indexed fuel adjustment. It was anticipated that this amendment would be in effect for the three years remaining in the current contract term.

The tipping fee and fuel charge indexed adjustment will be retroactively adjusted to August 8, 2022, which is when the legislative changes went into effect. 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. While the actual consumer price index is yet to be determined, the increase for 2023 is expected to be in-line with the budgeted tipping fee of \$140 per wet ton.

It was moved by Trustee Rich and seconded by Trustee Cote.

It was Voted and unanimously,

ORDERED, the General Manager is authorized to execute a contract amendment with Casella consistent with the terms outlined in the Contract Amendment attached hereto as Exhibit A.

**Resolution 22-014**, requesting a Special Election for the Trustee representing Scarborough.

A Trustee seat on the Board is vacant due to the resignation of Seth Garrison effective September 19, 2022. Pursuant to the District's Charter, the vacancy must be filled by a special election; the District is responsible for the costs of the election.

Mr. Garrison's term was set to expire in November, 2023. Unless a special election is held, the Town of Scarborough will not have representation on the Board until then.

It is recommended that the District ask the Town of Scarborough to hold a special election to fill the Scarborough seat on the Board as soon as practicable.

It was moved by President Douglas and seconded by Trustee Sexton.

It was Voted and unanimously,

BE IT RESOLVED, that the Clerk of the Town of Scarborough is hereby requested to hold an election for the vacant Trustee position on the Board of the Portland Water District at the earliest possible convenience of the Town.

### **OTHER BUSINESS**

Trustee Sexton requested to recuse herself from the September 19, 2022 Business Meeting minutes vote as she was not in attendance.

Trustee Lunt made a motion of reconsideration of the vote of the minutes of the September 19, 2022 Business Meeting, seconded by Trustee Rich, voted all in favor.

Trustee Lunt made a motion to recuse Trustee Sexton from the vote of the September 19, 2022 Business Meeting minutes, seconded by Trustee Rich. It was voted all in favor.

Trustee Lunt made a motion to accept the minutes of the Business Meeting of September 19, 2022, seconded by Trustee Rich. It was voted 8-1 (Trustee Sexton abstained).

### **SECOND INVITATION FOR PUBLIC COMMENT**

None

### **TRUSTEE COMMENTS**

President Douglas thanked Trustees Rich and Sexton for their service on the Board; it was the last business meeting for both Trustees.

Trustee Cote recently attended the annual WEFTEC conference and reported he was able to attend many informative sessions on PFAS.

**EXECUTIVE SESSION**

None

**ADJOURNMENT**

Meeting adjourned at 6:54 p.m.

Submitted by,

Donna M. Katsiaficas  
Clerk