



## **Long Creek Watershed Management District Board of Director's Meeting**

Minutes from the January 26, 2021 Meeting

Location: Remote participation due to COVID-19; members of the public may participate in the meeting telephonically by calling (207) 352-4212 and entering conference ID: 901 339 594#.

- 1. Call to Order:** Mr. Dillon call the meeting to order at 9:03a.m.
- 2. Roll Call:**
  - a. Attendance: Curtis Bohlen, Arthur Colvin, Fred Dillon, Sean Donohue, Brian Goldberg, Craig Gorris, Kerem Gungor, Will Haskell, Susan Henderson, Ed Palmer, Doug Roncarati
  - b. Absent: Angela Blanchette, Eric Dudley
  - c. Staff/Guests: Peter Carney (Long Creek Watershed Management District); Jim Katsiaficas, Esq. (Perkins Thompson); Chris Brewer (Cumberland County Soil & Water Conservation District)
- 3. Review of Board Meeting Minutes:**
  - a. The Board reviewed the minutes from the December 16, 2020 meeting.
  - b. **Mr. Dillon made a motion to approve the December 16, 2020 Board meeting minutes. Mr. Palmer seconded the motion. The motion carried unanimously.**
- 4. Treasurer's Report:**
  - a. Mr. Brewer reviewed the December Financial Report, noting there is not much to report.
  - b. Mr. Carney provided an update on his and Mr. Brewer's meetings with Maine DEP, noting that some voluntary resolutions have been reached with respect to outstanding permitting issues and past-due assessments. In addition, Maine DEP is pursuing several outstanding permitting and past-due assessment matters through its formal enforcement process.
  - c. Mr. Brewer noted that the Fiscal Year 2020 audited financial statements and report are included in today's Board packet, there were no notable findings or recommendations made by the auditor.
- 5. Landowner Assessment Requests:**
  - a. Mr. Carney advised that Rubin Portland, LLC made a request to the Board to waive any interest and/or late fees on past due amounts pertaining to its acquisition of the property at 303 Maine Mall Road.
  - b. Rubin Portland, LLC acquired the property in 2019, but only recently filed a Notice of Intent to Comply with the Maine Department of Environmental Protection.
  - c. Because a Notice of Intent to Comply was not filed at the time of the sale of the property, Rubin Portland, LLC was not invoiced for annual assessments related to the property. The assessments accrued to the prior owner's account.
  - d. Upon filing the Notice of Intent to Comply, Rubin Portland LLC paid all past due assessments, prorated to the date of its acquisition of the property, with the exception of interest and late fees.

- e. Rubin Portland, LLC requested that the interest and late fees be waived as it had not received invoices for the annual assessments. Rubin Portland, LLC's request is further detailed in a letter from its counsel included in today's Board packet.

Mr. Bohlen joined the meeting.

- f. **Mr. Colvin made a motion to waive late fees and interest pertaining to Rubin Portland, LLC's acquisition of the property at 303 Maine Mall Road. Mr. Haskell seconded the motion. The motion carried unanimously, with Mr. Bohlen abstaining as he missed most of the conversation.**

**6. South Portland Land Trust, Funding Request to Support Trail Maintenance:**

- a. Mr. Carney noted that he has been working with the South Portland Land Trust ("SPLT") on development of a trail along the Main Stem of Long Creek where LCWMD completed its stream restoration project in 2019.

Mr. Goldberg joined the meeting.

- b. Mr. Carney has also been participating in SPLT's "West End Trails Committee" which focuses on building and maintaining trails and open space preservation in the west end of South Portland, which encompasses much of the Long Creek Watershed.
- c. Mr. Carney noted that SPLT maintains several trails in the Long Creek Watershed.
- d. As SPLT seeks to increase its presence in the west end of South Portland, it is attempting to establish a base of operations in the area from which to do trail maintenance.
- e. The South Portland Home Depot store has offered to sell SPLT a shed, at the reduced price of \$2,400, to store trail maintenance equipment so volunteers can easily access the tools.
- f. Mr. Palmer asked where the shed would be located.
- g. Mr. Carney responded that Home Depot will allow SPLT to store the shed on the Home Depot property on Clark's Pond Parkway, within the fenced in area of its storage yard.
- h. SPLT plans to cover half the cost of the shed from its funds and is looking for donations to cover the balance of the cost of acquiring the shed.
- i. SPLT inquired as to whether LCMWD would be interested in contributing as SPLT volunteers spend a lot of time cleaning up trash and maintaining the trails in the Long Creek Watershed.
- j. Mr. Carney noted that LCWMD's contractor performed a cleanup of the Main Stem restoration area last year at a cost of several thousand dollars to LCWMD; future cleanups by SPLT could reduce the amount LCWMD spends on future trash cleanups.
- k. Mr. Goldberg asked whether the balance of the funding to acquire the shed was certain.
- l. Mr. Carney responded that SPLT planned to use reserve funds for the balance of the cost of the shed, but to ensure that the shed is acquired with LCWMD's donation, the donation is contingent upon SPLT obtaining the balance of the funds.
- m. **Ms. Henderson made a motion to authorize an expense in the amount of \$1,200 to the South Portland Land Trust to support trail maintenance in the West End of South Portland, provided that South Portland Land Trust secures the remaining balance of \$1,200 from other sources to fund its trail maintenance initiative. Mr. Gungor seconded the motion. The motion carried unanimously.**

**7. FY2022 Estimate of Expenditures and Anticipated Revenues:**

- a. Mr. Carney noted that Interlocal Agreement under which LCWMD was formed and LCWMD's Bylaws require that the Board adopt an "Estimate of Expenditures and Anticipated Revenues" on or before February 1 of each year for the following fiscal year.
- b. On or before July 1 of each year, the Board must adopt the final budget for the following fiscal year.
- c. Mr. Carney clarified that, today, the Board is only being asked to vote on an Estimate of Expenditures and Anticipated Revenues for fiscal year 2022, and not the final fiscal year 2022 budget.
- d. Mr. Carney advised that the purpose of the annual estimate is to provide Participating Landowners with an estimate of what their annual assessment will be for the next fiscal year for their budgeting purposes.
- e. Mr. Carney noted that with respect to the estimate, Participating Landowners are most interested in whether there will be any change in the per acre rate of impervious area upon which annual assessments are based.
- f. Mr. Carney explained that while Participating Landowner agreements provide the flexibility for the per acre rate of impervious area upon which assessments are based to change annually, it has been LCWMD's practice to maintain the same \$3,000 per acre of impervious surface rate that has been used since the inception of the program.
- g. The provisional budget upon which today's estimate is based, uses the same \$3,000 per acre of impervious surface rate that has been used since the inception of the program.
- h. Therefore, based on the estimate, there will be no change in Participating Landowner annual assessments with the exception of small fluctuations as the result of calculation of credits.
- if. Mr. Carney asked the Board to turn its attention to the draft Budget Narrative included in today's Board packet.
- j. Mr. Carney noted that many of the line item amounts in the draft budget were either carry overs from prior years, were estimates based on year-to-date figures for fiscal year 2021, or were set figures from established services agreements.
- k. Mr. Carney advised that significant changes could occur between now and adoption of a final budget later in the year with respect to two items under Account 5046, which is for construction of structural BMPs.
- l. It is unclear whether the \$1,070,000 allocated for construction of the South Branch BMP Retrofits project will accrue all in fiscal year 2021 (which is doubtful given where we are with the geotechnical analysis discussed earlier today), all in fiscal year 2022, or whether the expenditure will straddle fiscal year 2021 and fiscal year 2022.
- m. Furthermore, \$295,000 is tentatively budgeted to extend the Private BMP Incentive Program into fiscal year 2022. However, the final amount budgeted for this program in fiscal year 2022 will depend on the success of the program in fiscal year 2021.

Ms. Henderson left the meeting.

- n. **Mr. Bohlen made a motion to approve the Fiscal Year 2022 estimate of expenditures and anticipated revenues as set forth in draft Fiscal Year 2022 budget. Mr. Roncarati seconded the motion. The motion carried unanimously. Mr. Colvin did not vote on this matter as remote communications were lost at the time of the vote.**

**8. Sole Source Agreement, GZA GeoEnvironmental, Inc., Geotechnical Engineering Services Agreement:**

- a. Mr. Carney noted that at the last Board meeting the Board approved a geotechnical services agreement with GZA GeoEnvironmental, Inc. ("GZA") in the amount of \$8,000 to perform a geotechnical analysis of the gravel wetland project proposed to be constructed adjacent to T.J. Maxx. The geotechnical analysis was requested by Philbrook Avenue Associates, LLC, the owner of the T.J. Maxx parcel.
- b. Following review of the Board-approved agreement with GZA, Philbrook Avenue Associates, LLC requested changes to the scope of work.
- c. GZA revised its cost estimate to reflect the requested changes to the scope of work. The revised cost estimate is \$16,000.
- d. Mr. Carney noted that the easement is holding up moving forward with the project because the easement is necessary to proceed with acquiring state and federal permits for the project and is necessary to issue the construction Request for Proposals.
- e. Mr. Haskell noted that Philbrook Avenue Associates, LLC has retained its own geotechnical consultant which is likely where the recommendations to the scope of work originated.
- f. Mr. Haskell suggested that GZA review the requested changes to the scope of work for an opinion on whether any of the requests are out of the ordinary for this type of analysis.
- g. Mr. Haskell further reminded the Board that the GZA estimate assumes that the geotechnical analysis can be performed based upon existing soil boring test, if any additional soil borings are required it would substantially increase the cost of GZA's work.
- h. Mr. Gungor asked whether there are existing design plans for which the geotechnical analysis will be performed with respect to the proposed expansion of the T.J. Maxx store.
- i. Mr. Carney responded that there are only permitting level design plans for the proposed expansion -- no foundation plans are available for the store expansion as originally proposed.
- j. **Mr. Gungor made a motion to authorize the Executive Director to enter into a sole source agreement with GZA GeoEnvironmental, Inc. in the amount of up to \$16,000 to perform geotechnical engineering services in accordance with the attached proposal, with the understanding that Mr. Carney will inquire with GZA to get an opinion on whether any of the requested changes to the scope of work are out of the ordinary for this type of analysis. Mr. Colvin seconded the motion. The motion carried unanimously.**

Mr. Colvin left the meeting.

**9. Executive Session – Personnel Matter (re: Annual Performance Review):**

- a. **Mr. Dillon made a motion that the Board go into executive session under 1 M.R.S. § 405(6)(A) to discuss a personnel matter where public discussion could reasonably be expected to damage the employee's reputation or violate his/her right to privacy. Mr. Palmer seconded the motion. The motion carried unanimously.**

Mr. Gorris left the meeting.

- b. **Following the executive session, Mr. Haskell made a motion to increase the Executive Director's salary by 3% salary and to allow the Executive Director to accrue sick leave at an annual rate of 40 hours. Mr. Palmer seconded the motion. The motion carried unanimously.**

**10. Discussion, Revisions to Rules and Regulations, Procurement Policy and Expedited Circumstances:**

In the interest of time, this item was tabled for consideration at the next meeting.

**11. Public Comment(s):** None.

**12. Next Meeting:** The next meeting will be held on a date to be determined. Mr. Carney agreed to send a poll to the Board to determine the date of the next meeting.

**13. Adjourn:** The meeting adjourned at 11:10a.m.

Board attendance and voting record:

Member	Attendance	Approval of December 16, 2020 Minutes	Rubin Portland, LLC Request	South Portland Land Trust	Fiscal Year 2022 Estimate of Expenditures and Revenues	GZA Sole Source	Executive Director
Blanchette	N	—	—	—	—	—	—
Bohlen	Y	—	Abstain	Y	Y	Y	Y
Colvin	Y	Y	Y	Y	—	Y	—
Dillon	Y	Y	Y	Y	Y	Y	Y
Donahue	Y	Y	Y	Y	Y	Y	Y
Dudley	N	—	—	—	—	—	—
Goldberg	Y	—	—	Y	Y	Y	Y
Gorris	Y	Y	Y	Y	Y	Y	—
Gungor	Y	Y	Y	Y	Y	Y	Y
Haskell	Y	Y	Y	Y	Y	Y	Y
Henderson	Y	Y	Y	Y	—	—	—
Palmer	Y	Y	Y	Y	Y	Y	Y
Roncarati	Y	Y	Y	Y	Y	Y	Y