

13 February 2018

MEMORANDUM

From: Manager
To: Board of Trustees

Subj: **MINUTES FOR THE TRUSTEE MEETING 23 JANUARY 2018**

The Board of Trustees convened at 1800 hrs. **In attendance:** Trustee Gamage, Southport (Vice-Chairman); Trustee Climo, Southport (Clerk); Trustee Lewis, Boothbay (Treasurer); Trustee Marston, At-Large; Trustee Anthony, Boothbay; Trustee Tibbetts, Boothbay Harbor; Jonathan Ziegler, Manager. **Guest:** Ms. Susan Mello, Natural Resource Program Manager (NRPM). **Absent:** Trustee Pinkham, Boothbay Harbor (Chairman).

1. The board approved the minutes for 9 January 2017 without revisions.
Trustee Climo motioned, Trustee Lewis second, vote unanimous
2. The **Payroll** for weeks ending 9 January 2018 & 16 January 2018.
Trustee Climo motioned, Trustee Lewis second, vote unanimous
3. The **Transactions** for the period of 8 January 2018 through 19 January 2018.
Trustee Climo motioned, Trustee Anthony second, vote unanimous

FINANCIAL – The manager presented to the board Table 1 - *Boothbay Region Water District Cash Account Status Report as of 23 January 2017* and Table 2 - *Boothbay Region Water District Budget Performance Summary 2017*. As previously reported the line of credit will be paid by mid-February which is the next fire protection billing and not mid-January as previously reported. The manager informed the board that over the next month and a half, district finances were going to be extremely tight until seasonal billing in late March/early April.

Table 1 BOOTHBAY REGION WATER DISTRICT Cash Account Status Report as of 23 January 2018	
Account	Balance
Business Checking	\$ 25,000.00
Deposit Sweep Account	\$ 84,242.15
Liquidity Total	\$ 109,242.15
DESIGNATED FUNDS	
BBH 2007 Sinking Fund	\$ 18,329.94
Land Acquisition Fund	\$ 14.65
Capital Reinvestment Fund	\$ 1.17
Mt Dora Easement Escrow	\$ 4,768.50
EBB Upgrade 91-20	\$ 2,410.35
Bank of Maine Unemployment CD	\$ 10,431.66
Designated Fund Total	\$ 35,956.27
TOTAL CASH RESERVES	\$ 145,198.42

- a. **2018 Boothbay Region Water District Budget Draft** – In the previous period I fell short of my goal of completing the Budget Executive Summary by tonight’s meeting. I will have everything complete and submitted within a week and the board can take action on 13 February 2018. My apologies.
- b. **2017 Replacement Vehicle** – The manager reported that he had multiple discussions with Mr. Jeremy Parker over the past two-weeks and the vehicle was nearing completion with the lift gate being installed that week. We may be taking delivery in the not too distant future.

4. NATURAL RESOURCES PROGRAM –The following written report was provided by, and delivered by the Natural Resources Program Manager:

1) CMBG: Board of Appeals upheld the CEO’s stop work order at CMBG. Decided parking for gardens aglow was moot since it is over and that CEO has the discretion to allow work in Back River watershed. The planning board’s meeting on CMBG’s application for Back River watershed work has been postponed to Jan 31. We submitted comments to PB (but are now reconsidering our stance on this issue and would like Board’s input

*2) We received a Freedom of Information Act request from CMBG on January 9
We are working with our attorneys to provide the requested documents.*

3) We meet with Forrest Bell Environmental to discuss next steps on modeling work (see notes below). Some conclusions of their work to date: under both current zoning and proposed zoning before planning board right now, full buildout likely results in unacceptable phosphorus levels and algae blooms in both ponds. For Adams, the proposed zoning is worse than current; Knick about the same. As development proceeds, septic systems become a much bigger part of the problem. Internal loading of phosphorus (from bottom sediments) is not currently a major component in either Adams or Big Knickerbocker, but over 40% of the TP in Little Knickerbocker appears to be coming from its bottom sediments.

4) An updated watershed overlay map is in the works and on schedule for putting before voters in May 2018.

5) Water quality report is also in the works.

- 5. The board reconsidered the position paper delivered to the Boothbay Planning Board spelling out the position of the water district with regard to Coastal Maine Botanical Garden (CMBG) diverting three and one-half (3 ½) acres of watershed land out of the existing watershed so that with lesser environmental controls this land can be irreparably damaged to a much higher degree. Because of efforts underway with the current ordinance review staff recommended reconsideration of this position. After lengthy debate the board directed staff to rescind the previous letter to the planning board.

Trustee Climo motioned, Trustee Marston second, Vote; Yea: Gamage, Marston, Lewis, Climo & Tibbetts, Nea: None, Abstained: Anthony on the basis of conflict of interest.

Table 2
Boothbay Region Water District Budget Performance Summary 2017

	Jan - Dec 17	YTD Budget	Annual Budget
Ordinary Income/Expense			
Income			
414-Gain on Sale-Misc Inc.	1,800.00		
415 - Jobbing	115,266.80	125,000.00	125,000.00
419 - Interest Income	575.23	500.00	500.00
460-RD Grant Revenue (KHS-RD Grant & Loan)	0.00	0.00	0.00
461 - Revenue Accounts	2,604,900.44	2,582,244.00	2,582,244.00
Total Income	2,722,542.47	2,707,744.00	2,707,744.00
Gross Profit	2,722,542.47	2,707,744.00	2,707,744.00
Expense			
403-Depreciation Expense	660,000.00	660,000.00	660,000.00
408 -- Taxes other than Income	52,452.55	50,174.16	50,174.16
427-Interest Expense	282,422.81	274,512.34	274,512.34
601 - Wages	574,376.07	539,500.00	539,500.00
603 - Trustee Fees	9,345.70	9,859.21	9,859.21
604 - Employee Pen. & Benefits	401,611.68	339,200.00	339,200.00
615 - Electricity	55,387.84	60,300.00	60,300.00
616 - Generator Fuel	0.00	500.00	500.00
618 - Chemicals	35,259.10	37,000.00	37,000.00
620 - Materials & Supplies	186,142.57	229,700.00	229,700.00
620.7 - Postage	809.54	0.00	0.00
631 - Contr.-Engineering	10,680.00	10,000.00	10,000.00
632 - Contr. Accounting	60,400.00	66,000.00	66,000.00
633 - Contr. Legal	5,594.80	20,000.00	20,000.00
634 - Other Professional Fees	3,483.80	10,000.00	10,000.00
635 - Contr-Other	221,214.06	221,850.00	221,850.00
642 - Rental of Equipment	0.00	1,000.00	1,000.00
650 - Transportation	28,837.99	31,700.00	31,700.00
657 - Insurance - Gen. Liab.	31,830.00	32,000.00	32,000.00
658 - Insurance-Workers Comp.	11,556.00	13,000.00	13,000.00
660 - Advertising	1,414.50	300.00	300.00
667 - Regulatory Expense	13,526.50	19,000.00	19,000.00
670 - Uncollectables	0.00	0.01	0.01
675 - Misc. Expenses	7,933.33	14,300.00	14,300.00
680.00 · Uncategorized	0.00	0.00	0.00
Total Expense	2,654,278.84	2,639,895.72	2,639,895.72
Net Ordinary Income	68,263.63	67,848.28	67,848.28
Net Income	68,263.63	67,848.28	67,848.28

6. **SAFETY & TRAINING UPDATE** – The manager reported no injuries, safety violations or known missed inspections during the previous period.
- a. **Human Resources (HR)** – The following efforts have occurred with regard to HR since the previous meeting:
 - 1. On 11 January 2018 the manager reported that he had met with Mr. John Gaudet (JG) who, together with him, had begun work on the Employee Handbook to clarify all things not covered within the collective bargaining agreement. Once a draft was completed it will be delivered to the board for review. Training would commence shortly after board approval.
 - 2. Annual Sexual Harassment Prevention Training will be completed within the next two months by Gaudet & Associates
 - 3. The Annual personnel file review was underway to ensure compliance with all vague, useless and applicable laws.
 - 4. There remains a few workstation upgrades necessary to meet ergonomic requirements which have been ordered to be corrected by me to JG.
 - b. **Training Update** – The Maine Water Utilities Association trade show and conference was scheduled for 6-7 February 2018 at the Holiday Inn by the Bay in Portland. Trustees, particularly those who have not attended the public officials training, were encouraged to attend. The manager informed the board that all staff, with the exception of the manager and NRPM would be in attendance.

New England Water & Wastewater Training Associates (NEWWTA) was in the process of scheduling the annual safety refresher training necessary for the district which should be completed by 1 March 2018.

7. **TREATMENT DIVISION (TD)** —

The manager reported that filter train efficiency had remained unchanged since the previous report. Filter efficiency remained at 93.3% with clarifier efficiency remaining at 100%. Both sodium hydroxide and aluminum sulfate dosing rates remained well below normal dosing rates for this time of year. Finish water flow remains significantly below average with daily production declining from 0.3578 MGD to 0.2829 MGD.

Assistant distribution foreman Trevor Morin and utilities technicians Weston Alley & Mike Hills remained assigned to the TD for treatment plant operator training. The chief treatment plant operator (CTPO) had been conducting on-site training focusing on one sub-system at a time. In addition two table-top exercises which had been conducted with simulated emergencies in operation dissected and discussed. The CTPO reported that the results were excellent with all new operators responding to, and making cogent decisions, quite satisfactorily.

- a. **Transfer Switch Problem** – The status of this project remains unchanged. The CTPO has been instructed to crank this up a notch with the contractor

8. **DISTRIBUTION DIVISION (DD)** – The manager reported since the previous meeting the DD continued concentrating on correcting “whiteboard projects” and hydrant maintenance in that each hydrant was checked weekly during the winter to ensure the barrel was dry and operating correctly. All of the patches with regard to the main breaks reported at the last meeting had been completed and were safe for winter with the permanent repair to be addressed in the spring.

There were no water main breaks in the previous period.

Most of the DD had been reassigned to other divisions for cross-training purposes leaving the skeleton force working on shop issues and that crew had now begun this year’s quota of seasonal meter testing, which should be completed in two to three-weeks.

- a. **New Building Status Report** – The plans were now at the 75% stage with a set of chop plans to be delivered by Dirigo by weeks end. These would be reviewed by both staff and trustees with comments and/or concerns returned to Dirigo Engineering for resolution.
 - b. **Unidirectional Flushing Plan** – The manager reported that the GIS system had been straightened out by Dirigo Engineering with the new comprehensive hydraulic model being run that week. This project was now moving forward.
9. **5 RIVERS REGIONAL WATER COUNCIL** – The manager reported he would be hosting a superintendents meeting on 25 January 2018 and would report on content at the next trustees meeting.
10. **LAND ACQUISITION UPDATE** – Nothing new to report
11. **CAPITAL IMPROVEMENT PLAN (CIP) UPDATE** – Dirigo Engineering had scheduled meetings with all three field divisions and was now very active with this project. The manager would provide information as the project moved forward.
12. **BOOTHBAY HARBOR COUNTRY CLUB, PHASE II** – The manager informed the board that he would be meeting with Chip Griffins Office on 24 January 2018 to begin the process of obtaining the proper easements for the district so that eventually the board would have all of the necessary documents in order to accept this project. This effort was also being completed for the Seascape Commercial Development in parallel for cost effectiveness.
13. **ISLE OF SPRINGS (IOS) WATER PRESSURE** – Nothing new to report.
14. **SEASCAPE COMMERCIAL DEVELOPMENT** – See 12. BOOTHBAY HARBOR COUNTRY CLUB, PHASE II
15. **AT-LARGE ELECTIONS** – The manager informed the board that the following e-mail was from Ms. Katie Gray at Verrill & Dana concerning the legal options open to the board with regard to changing the date for trustee elections.

Bill:

Here is a response to the Boothbay Region Water District’s question concerning election of its at-large Trustee.

The District’s Board of Trustees consists of two residents of Boothbay Harbor, two residents of Boothbay, two residents of Southport, and one at-large Trustee that is elected by all three towns. The Trustees are elected at annual town meetings.

As we understand it, in the Towns of Boothbay Harbor and Boothbay, annual town meetings occur in March, but the Town of Southport's annual town meeting occurs in February.

The District's Charter provides that "the successor of the trustee from the Town of Boothbay Harbor that served a term of one year must be elected at large by the inhabitants of the district at town meetings to be held in the Town of Boothbay Harbor, the Town of Boothbay and the Town of Southport." 2012 P&SL c. 25, § A-4 (emphasis added). In 2018, the towns will elect the at-large Trustee by way of a special election in May, presumably because the annual town meetings are not simultaneous. Special elections are expensive, however, and the District wishes to avoid this extra expense in the future. The District has asked us to lay out potential solutions that will enable the election of the at-large Trustee without an expensive special election.

There are a few potential solutions to this problem:

- (1) **Use Non-Simultaneous Meetings.** *We have found no explicit legal prohibition to having the District's election occur in town meetings in February through March, with a final election result announced in March. The District's Charter does not explicitly require that the town meetings be simultaneous. The U.S. and State Constitutions also do not prohibit non-simultaneous election of an at-large municipal official. We also could find no prohibition in Maine's statutes.*

There are, however, important policy reasons that may dictate against holding non-simultaneous elections. Non-simultaneous elections may introduce the potential for unfairness or complications in the process. For example, if voters are not voting for the same office on the same day, there is a potential for new information to arise between the separate elections. In addition, if the town that votes first announces its results, the announcement could influence the outcome in the towns that vote second and third. Similarly, it's possible that legal challenges to the election process, the qualifications of a candidate, or other similar issues could arise in between the two separate elections, resulting in a botched outcome. As one example, it is possible that a candidate for at-large Trustee could challenge the results of one of the towns' votes prior to the other towns' votes (persons claim to have been elected have 30 days to challenge an election not in their favor, 30-A M.R.S.A. § 2533), creating a question as to the validity or effect of those subsequent votes.

In sum, although non-simultaneous elections are not explicitly prohibited, simultaneous elections avoid potentially significant unfairness or inefficiency.

- (2) **Amend Charter to Elect At-Large Trustee at November (or June) Election.** *The Towns could elect the at-large Trustee at the November general election (or possibly the June election, but it is not certain that the June elections will be held annually). This is likely the easiest, most straightforward solution to the problem. The Charter would need to be amended to reflect this requirement. The Charter could be amended rather simply, as follows: ". . . the successor of the trustee from the Town of Boothbay Harbor that served a term of one year must be elected at large by the inhabitants of the district at the annual elections ~~town meetings~~ ~~to be held in~~ November in the Town of Boothbay Harbor, the Town of Boothbay and the Town of Southport."*
- (3) **Amend Charter to Make Trustees Appointed, Instead of Elected, Officials.** *The District could modify its Charter to allow for all Trustees, or just the at-large Trustee, to be appointed, rather than elected. Maine law allows for the appointment of water district trustees. 35-A M.R.S. § 6410. Many water district trustees are appointed by municipal officials.*

(4) **Modify Southport’s Town Meeting Date to Make It Simultaneous with the Other Towns’ Meetings.** *The Town of Southport could amend its laws to move its town meeting to coincide with that of the Towns of Boothbay Harbor and Boothbay. That way, the at-large Trustee would be elected by the three towns at the same time. We assume that this solution is impractical, however, as the trustee’s election is unlikely to be a compelling enough reason for the Town of Southport to modify its annual meeting date.*

16. The board discussed options concerning the change of election and trustee year. The board instructed the manager to commence efforts to meet the following:

“Amend Charter to Elect At-Large Trustee at November (or June) Election. *The Towns could elect the at-large Trustee at the November general election (or possibly the June election, but it is not certain that the June elections will be held annually). This is likely the easiest, most straightforward solution to the problem. The Charter would need to be amended to reflect this requirement. The Charter could be amended rather simply, as follows: “. . . the successor of the trustee from the Town of Boothbay Harbor that served a term of one year must be elected at large by the inhabitants of the district at the annual elections ~~town meetings to be held in~~ November in the Town of Boothbay Harbor, the Town of Boothbay and the Town of Southport.”*

Trustee Climo motioned, Trustee Anthony second, vote: unanimous

17. The board voted to go into executive session pursuant to 1. M.R.S.A. §405(6)(E) *consultation with legal counsel* at 1855 hr.

Trustee Climo motioned, Trustee Anthony second, vote: unanimous

18. The board came out of Executive Session at 1906 hr.

Trustee Climo motioned, Marston second, vote: unanimous

19. The meeting was adjourned at 1910 hr.

Trustee Climo motioned, Trustee Anthony second, vote: unanimous

END OF MINUTES

Respectfully Submitted,

Jonathan E. Ziegler
General Manager