

***CANBY UTILITY
REGULAR BOARD MEETING
APRIL 13, 2021
7:00 P.M.***

AGENDA

Due to COVID-19 Pandemic, the Board of Directors and staff will be attending the meeting virtually. The public is invited to attend the meeting virtually or in person at Canby Utility's office, with measures in place to comply with the Governor's Executive Order regarding social distancing.

I. CALL TO ORDER

II. AGENDA

- Additions, Deletions or Corrections to the Meeting Agenda

III. CONSENT AGENDA

- Approval of Agenda
- Approval of Regular Board Meeting and Executive Session Minutes of March 9, 2021 (pp. 1-5)
- Approval of Write-Offs
- Approval of Payment of Water and Electric Bills

IV. CITIZEN INPUT ON NON-AGENDA ITEMS

V. RESOLUTION NO. 307 Approving and Ratifying Amendment to an Agreement with Veolia Water North America-West – Dan Murphy, General Manager; and Mike Green and Brian Hutchins, Veolia Water (pp. 6-11)

VI. BOARD REPORT

- Chair Comments
- Board Member Comments

VII. STAFF REPORTS

Finance Manager:

- Second Quarter Financial Reports (pp. 12-15)
- Fiscal Year 2022 Budget Timeline (pg. 16)

Customer Service Supervisor:

- COVID-19 Utility Billing Comparison (pp. 17-18)

General Manager Updates

VIII. ADJOURN

CANBY UTILITY
REGULAR BOARD MEETING MINUTES
MARCH 9, 2021

Due to COVID-19 Pandemic, the Board of Directors and staff attended the meeting virtually. The public was invited to attend the meeting in person at Canby Utility's office, with measures in place to comply with the Governor's Executive Order regarding social distancing.

Board Present: Chair Thompson; Members Hill, Wagner, Horrax, and Gustafson

Staff Present: Daniel P. Murphy, General Manager; Barbara Benson, Board Secretary; Carol Sullivan, Finance Manager; Sue Arthur, Purchasing Agent; Dee Anne Wunder, Customer Service Supervisor; and Doug Erkson, Operations Manager

Others Present: Jordan Tibbals, City Council Liaison

Chair Thompson called the Regular Board Meeting to order at 7:03 p.m.

Chair Thompson presented the meeting agenda for consideration. She asked for any additions, deletions, or corrections to the meeting agenda, and there were none.

Chair Thompson presented the consent agenda for approval. Member Gustafson made the *MOTION to approve the consent agenda. Member Wagner seconded, and the motion passed unanimously.

Chair Thompson asked for citizen input on non-agenda items, and there was none.

Chair Thompson presented Resolution 306 regarding the Exempt Employee Compensation Plan, Procedure 405. Thompson said that the redline version of the Plan identifies the changes. This resolution repeals another resolution that is outdated due to changes in Section IV.A.5 in the procedure. The procedure changes include those proposed by Member Hill for Section B, language proposed by Board Secretary Barb Benson for Section B.A.5 regarding cost-of-living adjustments, and language proposed by Board Attorney David Doughman. Doughman recommended additional edits for consistency and to be supportive of the wishes of the Board. Doughman also advised that the current management team salary ranges be attached that supports Procedure 405. Member Hill made the *MOTION to approve Resolution 306, the Exempt Employee Compensation Plan, Procedure 405. Member Horrax seconded, and the motion passed unanimously.

Finance Manager Carol Sullivan recommended extending the professional services contract with Moss Adams for audit services. Sullivan complimented the audit team's work and noted they routinely rotate their audit team members so that different auditors are reviewing the financials from year-to-year. A brief discussion ensued regarding the audit cost and the locked-in rate for the extension's three-year term. Member Hill made the *MOTION to authorize the General

**Canby Utility
Regular Board Meeting Minutes
March 9, 2021
Page 2 of 4**

Manager to sign the contract extension with Moss Adams, LLP through the fiscal year 2023. Member Wagner seconded, and the motion passed unanimously.

Member Hill expressed appreciation for the Canby Utility crews' efforts to restore power to the community following the February ice storm.

Operations Manager Doug Erkson presented the quarterly reliability report. Erkson said that the February winter storm event has significantly affected the reporting averages. The outage data is calculated based on minutes, and the storm caused the entire city to be without power for more than 48 hours. Erkson noted that the power outages were beyond our control. The severe weather significantly impacted Portland General Electric's (PGE) transmission lines that feed power to Canby. Erkson noted that this event should not be an indicator of Canby Utility's reliability. The storm event was the only outage that occurred during the quarterly reporting period.

Customer Service Supervisor Dee Anne Wunder presented the COVID-19 bill comparison through January 2021. The delinquency numbers have increased, but the staff continues their efforts to work with customers to make payments on their accounts. They reach out to customers who have not made a payment on their accounts for 60 to 90 days to obtain payment commitments so that the customer's account does not fall too far behind. Chair Thompson asked if Wunder notices a flattening effect occurring or if the financial impacts are starting to lessen? Wunder stated that she feels that it is beginning to flatten out and that customers are beginning to make payments on their accounts again. Wunder added that financial resources for customers are uncertain. The Clackamas County LIHEAP Program and the Canby Center funds have been exhausted. Canby Utility's Share the Warmth Program still has enough funds to help approximately 30 customers. A brief discussion ensued about the impacts the pandemic is having on payment history. Chair Thompson said that the Board is pleased with the staff's approach to delinquent accounts.

General Manager Dan Murphy reported on the post-storm activities following the February 12 ice storm. After restoring power to nearly all our customers, Canby Utility personnel were made available to assist Portland General Electric (PGE) in making repairs to areas in their distribution system near Canby. Many PGE customers were facing extended duration outages, and we were in a position to offer assistance. Canby Utility was able to come to PGE's aid through a long-standing mutual aid agreement. They will reimburse Canby Utility for all related costs for personnel and equipment.

Canby Utility's expenses related to the ice storm are approximately \$65,000. There are some additional tree cutting and debris clean-up expected that will increase our storm costs. Murphy said that the emergency declaration was issued, which triggers eligibility for financial assistance from governmental agencies. Murphy is very optimistic that we will recover our storm losses through reimbursement with Clackamas County. Murphy expressed appreciation for Canby Fire Chief Davis in getting the disaster declaration initiated. Murphy happily reported we had no

**Canby Utility
Regular Board Meeting Minutes
March 9, 2021
Page 3 of 4**

employee injuries. He also commended staff on their hard work and long hours to restore services.

Operations Manager Doug Erkson talked about the excellent communications he had with other Canby agencies while managing the restoration efforts. Erkson said that the Verizon cellular service began to fail when the cell tower's battery backup went down. In addition to the cellular communication challenges, radio repeaters began to fail due to a lack of power. Another challenge we faced, which Erkson has added to our plan, addresses fuel sources for generators that serve critical facilities. Erkson shared that other OMEU members had experienced similar challenges with cellular and radio communications and ensuring critical facilities had enough generator fuel. The camaraderie between the various agencies was remarkable. Agencies were reaching out to other agencies in need to see if they could offer assistance. Chair Thompson asked about Canby Utility's after-action emergency briefing process and Emergency Management Plan for future-readiness and discussion ensued.

Murphy reported on the progress of the Combined Service Center Phase 2 project. He said that Essex had erected most of Building C's superstructure shell (covered truck and equipment parking). The concrete slab pour for Building B (warehouse and vehicle maintenance building) is complete. Over the next month, the superstructure construction for Building B will begin. Essex is also working on completing the shell portion of Building A (office and crew quarters). Murphy said that change orders to date are only 2.6% of the original contract price. The project is on schedule, with completion anticipated in July or August. Murphy expressed appreciation for the Board's approval for resources such as good tools, trucks, and equipment.

Murphy reported that he has tentative plans to open the office to the public in early April. Canby Utility is operating in coordination with the City to deal with the risks, restrictions, and protocols related to the COVID-19 crisis. The City announced tentative plans to open in early April, and we plan to open simultaneously. The Board had no concerns for Murphy's plan to reopen.

Chair Thompson offered Council Liaison Jordan Tibbals an opportunity to provide comments. Tibbals talked about Murphy's after-action storm report to the City Council. The Council appreciated that line of communication and the partnership with Canby Utility. Tibbals thanked everyone involved in supporting and making it a successful effort to come together as a city.

Member Hill made the *MOTION to go into Executive Session according to ORS 192.660(2)(i) to discuss the performance of a public employee. Member Horrax seconded, and the motion passed unanimously.

The regular meeting recessed at 7:36 p.m.

The regular meeting reconvened at 8:18 p.m.

Member Hill made the *MOTION to adjourn the meeting. Member Gustafson seconded, and the motion passed unanimously.

**Canby Utility
Regular Board Meeting Minutes
March 9, 2021
Page 4 of 4**

There being no further business, the meeting adjourned at 8:19 p.m.

Melody Thompson, Chair

David Horrax, Member

Tim Gustafson, Member

Robert Hill, Member

Todd Wagner, Member

Barbara Benson, Board Secretary

***CANBY UTILITY
EXECUTIVE SESSION MINUTES
MARCH 9, 2021***

Due to the COVID-19 Pandemic, the Board of Directors attended the meeting virtually.

Board Present: Chair Thompson; Members Hill, Wagner, Horrax, and Gustafson

Staff Present: None

The Executive Session was opened at 7:36 p.m. by Chair Thompson, pursuant to ORS 192.660(2)(i) for the purpose of discussing performance of a public employee.

There being no further business, the Executive Session was adjourned at 8:18 p.m.

Melody Thompson, Chair

David Horrax, Member

Tim Gustafson, Member

Robert Hill, Member

Todd Wagner, Member

Barbara Benson, Board Secretary

MEMORANDUM

Date: April 13, 2021

To: Board of Directors

From: Dan Murphy, General Manager

Subject: 5-year Extension of Water Treatment Agreement with Veolia

Suggested Motion: ***Motion that the board approve Resolution 307 extending our contract with Veolia to 2026***

Recommendation: Management recommends that the board ratify the proposed 5-year extension with Veolia for drinking water treatment.

Summary: CU has enjoyed a mutually beneficial working relationship with Veolia since 2006. Veolia handling all aspects of water treatment plant operations has enabled CU to focus on operation and maintenance of its aging water distribution system, which requires regular attention to leaks, metering issues, and new service requests.

There is no rate increase under this proposed extension. The proposed 5-year extension with Veolia will maintain fees and charges for water treatment and plant maintenance under the same current fee structure without any increase for this next five-year term.

Veolia NW General Manager Mike Greene and Veolia's Canby WTP Manager Brian Hutchins are in attendance at tonight's regular board meeting. They will present an informative PowerPoint presentation to review CU's water treatment and will answer any questions the board may have.

RESOLUTION NO. 307

A RESOLUTION APPROVING AND RATIFYING AMENDMENT NO. 2 TO AN AGREEMENT WITH VEOLIA WATER NORTH AMERICA-WEST

WHEREAS, Veolia Water North America-West, LLC (“Veolia”) operates, maintains and manages Canby Utility’s water treatment plant;

WHEREAS, Canby Utility and Veolia entered into an agreement in February 2006 setting forth the rights and obligations of the parties relative to Veolia’s services;

WHEREAS, the parties executed an amendment to the agreement in 2016 to extend the term to April 1, 2021; and

WHEREAS, the Canby Utility Board of Directors (the “Board”) now wishes to approve a second amendment to the Veolia agreement to extend the term until April 1, 2026 and make other modest changes to the agreement.

NOW, THEREFORE, THE CANBY UTILITY BOARD RESOLVES AS FOLLOWS:

Section 1. The Board approves and ratifies Amendment No. 2 to the Agreement for Operation, Maintenance and Management Services Between the Canby Utility Board and Veolia (“Amendment No. 2”). Amendment No. 2 is attached as Exhibit A and incorporated into this resolution by reference.

Section 2. This resolution takes effect immediately upon its approval by the Board.

Approved on April 13, 2021.

Board Chair Thompson

Board Member Gustafson

Board Member Hill

Board Member Horrax

Board Member Wagner

Barbara Benson, Board Secretary

AMENDMENT NO. 2

**TO THE AGREEMENT FOR OPERATION, MAINTENANCE AND
MANAGEMENT SERVICES BETWEEN THE CANBY UTILITY BOARD
AND VEOLIA WATER NORTH AMERICA-WEST, LLC**

This Amendment No. 2 (this "**Amendment**") to the Agreement for Operation, Maintenance and Management Services dated February 14, 2006 (as amended, the "**Agreement**") by and between CANBY UTILITY BOARD, a subdivision of the CITY OF CANBY, an Oregon municipal corporation ("**Owner**") and VEOLIA WATER NORTH AMERICA-WEST, LLC ("**Veolia**") is entered as of March 31, 2021. Unless otherwise defined herein, capitalized terms used in this Amendment shall have the meanings set forth in the Agreement.

RECITALS:

WHEREAS, Owner and Veolia entered into the Agreement for Veolia to provide services for the operation, maintenance and management of the Owner's water treatment plant and related water utility facilities;

WHEREAS, the term of the Agreement is until April 1, 2021;

WHEREAS, the Owner has the option and right to extend the term of the Agreement for five (5) additional years; and

WHEREAS, the parties now desire to confirm the extension of the Agreement and otherwise modify and amend the Agreement as provided herein.

NOW, THEREFORE, Veolia and Owner hereby agree as follows;

1. Term of Agreement. Subject to paragraph 7 of this Amendment, the first sentence of Section 9.1 of the Agreement is hereby deleted in its entirety and replaced with the following:

"The term of this Agreement shall begin April 1, 2006 (the "Commencement Date") and continue until April 1, 2026 unless sooner terminated as provided hereunder, or further renewed pursuant to this Section."

2. Service Fee. Section 5.1 of the Agreement is hereby modified and amended to provide that during the sixteenth year of the Agreement commencing April 1, 2021 and ending March 31, 2022, the Annual Fee payable by the Owner to Veolia shall be \$1,068,568.00. The Annual Fee shall be adjusted as provided in Section 5.2 of the Agreement.

3. Veolia Liability Limit and Exceptions and Periodic Review. Sections 8.8 and 8.9 are hereby deleted in their entirety and replaced with the following:

“8.8. VEOLIA WATER'S Liability Limit and Exceptions.

To the fullest extent permitted by law and notwithstanding any other provision of this Agreement, VEOLIA WATER'S liability for performance or nonperformance of any obligation arising pursuant to this Agreement (whether arising under contract, tort or otherwise) including, but not limited to its indemnity obligations specified in this Agreement, shall not exceed One Million Dollars (\$1,000,000.00) cumulatively for the duration of this Agreement; provided that the foregoing limitation shall not apply to any:

- Proceeds of insurance received pursuant to any insurance policy required to be maintained by VEOLIA WATER as specified in Appendix D, or
- Third party losses resulting from the negligence or willful misconduct of VEOLIA WATER in breach of its obligations pursuant to this Agreement for which an indemnity of the OWNER would otherwise be owed by VEOLIA WATER pursuant to the terms herein.

8.9 Periodic Review.

OWNER shall have the right to periodically review the types, limits and terms of insurance coverage. In the event OWNER determines that such types, limits, and/or terms should be changed, OWNER will give VEOLIA WATER a minimum of thirty (30) calendar days' notice of such determination and VEOLIA WATER shall modify its coverage to comply with the new insurance requirements of OWNER. VEOLIA WATER shall also provide OWNER with proof of such compliance by giving OWNER an updated certificate of insurance within fifteen (15) calendar days of coverage modification. Such modifications shall be considered a change in scope pursuant to Section 7.”

4. Appendix D. Appendix D shall be amended such that each reference to “in an amount not less than” shall be replaced with “in the amount of” in such Appendix D.

5. Applicability To Original Agreement. This Amendment sets forth the entire agreement between the parties with respect to the matters set forth herein and there have been no additional oral or written representations or agreements. Except as expressly modified or amended herein, all the terms and conditions set forth in the Agreement remain unchanged in full force and effect and are incorporated by reference herein and ratified by the parties. In the case of any inconsistency between the provisions of the Agreement and this Amendment, the provisions of this Amendment shall govern and control. This instrument may be executed in multiple counterparts each of which is deemed an original but together constitute one and the same instrument.

6. Signatures. The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this

Amendment on behalf of the respective legal entities of the Veolia and the Owner. This agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

7. Ratification of Amendment. Based on the amount of the fee described in Section 2 of this Amendment, the Owner's governing body must ratify this Amendment and is scheduled to do so on April 13, 2021 at its regular monthly meeting. If Owner's governing body fails to ratify this Amendment on April 13, 2021, then despite any language to the contrary in the Agreement or this Amendment, the term of the Agreement shall end on July 13, 2021 unless Owner and Veolia are able to agree to an alternative amendment prior to such date. If this Amendment is not ratified on April 13, 2021, the parties will negotiate in good faith to agree to a mutually acceptable alternative amendment prior to July 13, 2021 to extend the Agreement for an additional five years.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed and entered into this Amendment No. 2 as of the date first written above.

Approved :

CANBY UTILITY BOARD, a subdivision of the CITY OF CANBY

By: 

Name: *Daniel P. Murphy*

Title: *General Manager*

Approved as to Form:

By: *David Doughman*

Name: David Doughman

Title: City Attorney

Approved:

VEOLIA WATER NORTH AMERICA-WEST, LLC

By:  3/29/2021

Name: Joseph Tackett

Title: Senior Vice President



Memorandum

April 7, 2021

To: Chair Thompson, Member Wagner, Member Hill, Member Horrax, and Member Gustafson

From: Carol Sullivan, Finance Manager

Subject: Quarterly Financial Update as of December 31, 2020 Fiscal Year 2021

Please find attached the Executive Financial Summary through December 31, 2020, the Utility's first six months of fiscal year 2021. The report is cumulative to date and gives a quick overview of profit and loss resulting from operations and capital contributions, a comparison to budget with notes, and cash reserves compared to the budget target and minimum. For monthly information refer to the financial packet sent via e-mail.

I will present these at the next board meeting and will be available for comments or to answer any questions.

Canby Utility Executive Financial Summary
Profit (Loss) Resulting From Operations and Capital Contributions***
Year To Date (YTD) Six Months Ending December 31, 2020

Legend	
	= Electric
	=Water

Electric

Profit (Loss) From Operations

	Revenue	Expense	Operating Profit (Loss)
\$	6,575,858	\$ 6,143,377	\$ 432,481

Operations And Capital Contributions***

	Operating Profit (Loss)	Capital Contributions	Net Income (Loss)
\$	432,481	\$ 339,892	\$ 772,373

Water

Profit (Loss) From Operations

	Revenue	Expense	Operating Profit (Loss)
\$	2,196,478	\$ 1,773,062	\$ 423,416

Operations And Capital Contributions ***

	Operating Profit (Loss)	Capital Contributions	Net Income (Loss)
\$	423,416	\$ 613,689	\$ 1,037,105

*****Capital Contributions** are contributions of capital, in the form of money or assets/infrastructure to Canby Utility from a customer or a vendor.

Canby Utility Executive Financial Summary
Profit (Loss) Resulting From Operations With Capital Contributions Compared To Budget
Year To Date (YTD) Six Months Ending December 31, 2020

Electric

Net Income (Loss)	Budget	Over (Under) Budget
\$ 772,373	\$ 3,244,918	\$ (2,472,545)

Notes : YTD total operating revenue is 3.83% or \$256,240 under budget mainly due to lower small commercial sales.

YTD operating expenses are 9.37% or \$631,597 under budget mainly due to more labor capitalized and vacant positions.

YTD Capital contributions are 34.92% or \$87,970 over budget due to more hook-up fees than budgeted for.

YTD Change in Net Assets is 76.20% or \$2,472,545 under budget mainly due to the timing of the land sale to the water fund.

Water

Net Income (Loss)	Budget	Over (Under) Budget
\$ 1,037,105	\$ 1,246,705	\$ (209,600)

Notes : YTD operating revenue is 10.46% or \$200,595 over budget mainly due to higher residential sales.

YTD Operating expenses are 7.12% or \$131,965 under budget mainly due to the timing of rate studies and a vacant position that wont be refilled.

YTD Capital contributions are 47.80% or \$562,002 under budget mainly due to the timing of contributions of infrastructure from developers.

YTD Change in Net Assets is 16.81% or \$209,600 under budget due to the timing of capital contributions.

Canby Utility Executive Financial Summary
Cash Reserves
Year To Date (YTD) Six Months Ending December 31, 2020

Electric

<u>Budget Target 6/30/2021</u>	Current Cash Reserves		FYE 2021 Target		Over (Under) Target
	\$ 10,135,166	\$	4,171,027	\$	5,964,139

<u>MINIMUM</u>	Current Cash Reserves		Minimum		Over (Under) Minimum
	\$ 10,135,166	\$	4,000,000	\$	6,135,166

Water

<u>Budget Target 6/30/2021</u>	Current Cash Reserves		FYE 2021 Target		Over (Under) Target
	\$ 6,334,775	\$	2,029,489	\$	4,305,286

<u>MINIMUM</u>	Current Cash Reserves		Minimum		Over (Under) Minimum
	\$ 6,334,775	\$	2,000,000	\$	4,334,775



MEMORANDUM

April 8, 2021

TO: Chair Thompson, Member Wagner, Member Hill, Member Horrax, and Member Gustafson

FROM: Carol Sullivan, Finance Manager

SUBJECT: FY 22 Operating & Capital Budget Process

The following is the schedule for the development and completion of the FY 22 Operating & Capital Budgets.

- April 9th - E-mail Capital Budget forms to Management Team
- April 14th - E-mail Operating Budget forms to Department heads
- April 20th and 27th - Check with department heads to review budget progress, determine final steps to reach completion
- May 4th - Departmental Operating & Capital Budgets due
- May 17th - Start budget review process with General Manager
- May 21st - Complete budget review process with General Manager
- **June 4th** - Include Proposed Operating & Capital Budgets in Board packet
- **June 9th** - Review Proposed Operating & Capital Budgets with Board

If you have further questions or would like more information please let me know.



MEMORANDUM

April 1, 2021

TO: Chair Thompson, Member Hill, Member Wagner,
Member Horrax, and Member Gustafson

FROM: Dee Anne Wunder, Customer Service Supervisor

SUBJECT: COVID-19 Utility Billing Comparison

The attached report compares activity of payments and delinquencies for the months of January, February, and March 2020 to the same months in 2021. Canby Utility only mailed out delinquency notices for two billing cycles in March 2020, due to COVID-19. The data listed is the actual numbers that were mailed; however, it does not represent a true comparison for the month of March. March 2021 numbers are up from February 2021, both in number and amount of payments.

I will update the comparisons monthly to monitor impacts from the COVID-19 pandemic.

I will be available to answer questions during the Board Meeting.

Canby Utility
COVID Utility Billing Comparison 2020 & 2021
March 31, 2021

	Jan. 2020	Jan. 2021	Feb. 2020	Feb. 2021	Mar. 2020	Mar. 2021
Statements Mailed	8,057	8,258	8,051	8,244	8,041	8,302
Delinquent Notices	1,319	1,447	1,138	1,208	868	1,168
Delinquent Accounts	\$ 208,769	\$ 314,465	\$ 204,467	\$ 332,488	\$ 143,625	\$ 296,047
Average Delinquent Amount	\$ 158	\$ 217	\$ 180	\$ 275	\$ 165	\$ 253
Percentage of Delinquencies From Prior Month Billing	17%	18%	14%	15%	11%	14%
Bank Deposits, SDC's, and Misc Payments	\$ 1,753,029	\$ 1,350,873	\$ 1,637,687	\$ 1,470,169	\$ 1,463,837	\$ 1,839,164
Number of Payments	7,272	6,980	7,661	7,383	7,756	8,820