CITY OF PORTLAND, MAINE

Standing Committee on Sustainability and Transportation
Councilor Belinda Ray (D1), Chair
Councilor Spencer Thibodeau (D2)
Councilor Andrew Zarro (D4)

Agenda
July 21, 2021
5:30 PM
Council Chambers

1. Zoom Information
   Please click the link below to join the meeting: https://zoom.us/j/96998448235?pwd=dFdtWGZkaGVVTzJqSis2dFVaaTdMdz09 Passcode: 181660 Or One tap mobile : US: +16465588656,,96998448235# or +13017158592,,96998448235# Or Telephone: Dial(for higher quality, dial a number based on your current location): US: +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799 or +1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 Webinar ID: 969 9844 8235 International numbers available: https://zoom.us/u/au5NjOZj5

2. Review and approve minutes from June 16
   Review minutes from June 16. Presenter: Councilor Ray No public comment

   a. Minutes

3. Sustainability Program Updates
   Sustainability Updates for June, 2021

   a. Sustainability Updates for July 2021

4. Presentation and Discussion

   a. Solarize/Electrify Program to Promote Adoption of Solar Energy and Energy Efficient Electric Appliances
      Presenter: City Manager Jon Jennings and Staff
      No public comment
      15 minutes

   b. Green CIP
      Presenter: City Manager Jon Jennings
      no public comment
      15 minutes

   c. Eastern Promenade Trash and Litter
      update and discussion by Committee Members and staff
      no public comment
      20 minutes

   d. Casco Bay Trail Resolution
      Presenter: Councilor Ray

Public comment will be taken
20 minutes

e. Presentation by Northeast Energy Efficiency Partnerships about Building Energy Labeling
Presenter: NEEP staff
No public comment will be taken
30 minutes

5. Upcoming Agenda Items

a. Amendments to the tree protection ordinance and practices to enhance the tree canopy
Amendments to the sidewalk material policy
Bike lane investments
Bayside parking proposal

CITY OF PORTLAND, MAINE
Standing Committee on Sustainability and Transportation
Councilor Belinda Ray (D1), Chair
Councilor Spencer Thibodeau (D2)
Councilor Andrew Zarro (D4)

Draft Minutes June 16, 2021

Members Present: Councilor Ray, Councilor Zarro
Members Absent: Councilor Thibodeau
Staff Present: Troy Moon, Peyton Siler-Jones, Casey Zorn
Guests: Councilor Fournier, Kim Cheslak, Charlie Agnew, Simon Pritchard

Meeting called to order at 5:35 PM.

May Minutes
Councilor Zarro motions to approve the May meeting minutes. Councilor Ray seconds the motion. May minutes passed unanimously, 2-0 (Councilor Thibordeau absent from meeting).

Sustainability Update
<u>Presented by Troy Moon</u>
Sent out non-compliance letters to those that have not completed their benchmarking reports. Currently getting ENGIE energy management platform going. Food composting program has been very successful with only positive feedback. EV charging is still getting use with 644 vehicles charged in the last month, a 100 vehicle increase from the previous 3-month period. Also getting 4 new EV chargers at corner of Spring St and High St. City attained 4 new Hundai Konas through Efficiency Maine and Hundai incentives/rebates. Governor just signed LD 1666, the data access bill that will require PUC to issue RFI for what it will take to make an aggregated platform for the whole state. The Clean Energy Accelerator LD 1659 has passed both the House and Senate. LD 1682 did not make it out of Energy Utilities Commission. LD 57, the bill which would put surcharge on Landfills has not come to vote yet. And 1541, the product stewardship bill, is still waiting for votes in the House and Senate. But next month will have full understanding on this legislation. Hosted land use-themed Coffee and Climate last Friday.

Committee Comment on Sustainability Update
Councilor Ray wonders about LD 1682 and whether it was a split vote. *Troy does not know what the objections were or the final tally of the vote.*

IECC 2021 Energy Stretch Code
<u>Presented by Kim Cheslak of NBI</u>
The IECC 2021 will be Portland's energy code starting July 1, 2021. This is a significant improvement in energy efficiency from Portland's current IECC 2009 code and is an important step toward net-zero energy buildings.

Moving from IECC 2009 to IECC 2021, there is a big jump in efficiency of approximately 25%. What people are building will not be fundamentally different and are people already building to a higher standard than the current requirement largely due to climate needs in Maine. There are great local and national expertise on how to work within these codes and enforce these codes. Some of these efficiency increases are due to technological improvements and natural market transformations, as with LED lights.

Committee Comment on IECC 2021 Energy Stretch Code
Councilor Ray wonders how often the IECC is updated, since now the Portland Code will always be the newest stretch code. *This is updated every 3 years. However, the efficiency is not oriented like clockwork and does not follow any set pattern.* Wonders if this is going into effect July 1st whether the new stretch code apply to pre-dated approved projects installed after the July 1st effective date. *Usually, cities have transition provisions dated to the code at the date of issue. Heat pump installations, specifically, are all above code minimum simply due to the type of installation and natural market.* Also wonders about people who have scheduled renovations to their home. *Because lumber is so high, this will likely not change your quote. There is specific language in the code that does not make renovations or fully meet the code. It's important to properly train the code inspectors to help with this process.*

Councilor Ray was looking through the Green New Deal (GND) referendum language and believes there is a piece in Section 6-173 which says that if any of the following conditions are met then Sections 167 and 168 will apply to all new buildings in Portland regardless of the funding component. Wonders Troy's understanding of these. *Troy will have to take a look at the GND language to see if this is something we need to be publicizing. His understanding is that IECC 2021 is more rigorous than the LEED standard required in the GND.* This may be something to have Corporation Council take a look. *Troy will bring this before Corporation Council.*

Troy Moon wonders how the appendices work in terms of the base code. *Within the IECC structure, the appendices are voluntary. On a city-by-city basis, the implementation of these appendices is based on the state. Portland must allow but cannot mandate that the zero-energy appendices be used. Can use zoning incentives and other levers to encourage the adoption of the appendices.*

Councilor Ray wonders about the EV provisions which were not adopted by the IECC but could be adopted by the state. *Cannot roll these into the code because they were not adopted by the state. They could instead be incorporated into some sort of ordinance. Within the next Maine stretch code update, this could be added. Troy adds that it's also likely that the next base code will be IECC 2021 since they are already reviewing the next base code and the stretch code will need to be more rigorous.*

Councilor Zarro wonders if it can be generally assumed that the market will adapt to things like EV charging on its own. *This does not really happen easily or on its own. Market rate is also far below recommended base codes, disregarding California. It is very expensive to retrofit these buildings. Troy adds that the Planning Department recently updated technical manual in which* *they enforce charging requirements.* Wonders about the path forward to each next IECC standard. *NBI works with cities and states to figure out these paths. Pretty close to tapped out for lighting improvements and standards. For HVAC, improvements are focused on integrating demand responsive controls, but it is hard to get more efficiency out of HVAC due to federal preemption. However, can mandate heating, cooling, water heating systems be integrated with the grid. Still a long way to go with envelop testing and tightness requirements.* Wonders if municipality can adopt more stringent requirements. *Currently capped at IECC 2021. When next code and stretch code come up, can work to amend the stretch code. MUBEC also looks for suggestions and feedback from Portland and South Portland.*

Renewable Energy Credits
Presented by Charlie Agnew and Simon Pritchard of Competitive Energy Services
Through the Solar Consortium, the City has approximately 23,000 MWh of mostly solar projects currently under development which will be coming online in the next couple of years.

Renewable energy credits (RECs) relate to the electricity sector and have the potential to offset some of the carbon emissions generated by the city. Due to market transition to natural gas and the State requirements for renewables, the carbon emissions of electricity have been going down significantly. States have renewable energy targets called Renewable Portfolio Standards (RPS) which will continue to push the state to include more renewables in its electricity generation. Without additional action from the City of Portland, electricity will still continue to get cleaner and cleaner based on these RPS's. Will begin to see issues with finding land to site renewable energy especially near demand centers and also issues with longer range transmission. A city can either have renewable electricity they generate, or they can buy the RECs which support renewable energy projects outside of the city. Can buy RECs to meet compliance and purchase the environmental benefits. Can also retire the RECs and the benefit can go back to the City of Portland, but there is a cost associated with that.

There are two types of RECs, those that are purchased to meet compliance obligations and those that are retired in a voluntary marketplace to meet an additional goal beyond the standard claims. Could take the revenue from the sale of these RECs and fund other sustainability projects that could reduce more carbon in the long term. Solar Class I RECs are currently trading at around $30-40/MWh. The City also owns some Hydro Class II RECs, which are selling at around $3/MWh and will by default be retired.

Electricity in Maine will generate less carbon emissions due to the state's RPS. Questions posed: (1) How does the City value a ton of avoided carbon dioxide emissions? and (2) Can the City achieve a greater and long-term reduction in carbon dioxide emissions by investing REC revenue into projects such as energy efficiency or electrification?

Committee Comment on Renewable Energy Credits
Councilor Ray wonders about retiring RECs, who gets the environmental benefit. *It is correct that the City would receive a financial benefit but would lose the carbon footprint reduction*

credit. Wonders where the REC goes when it is retired. *Think of it as being locked up and saved as carbon avoided.*

Councilor Zarro wonders how the REC marketplace is regulated. *Any of these renewable energy projects that generate RECs need to be verified to make sure the generator qualifies. Verifies the location, metering, technology, etc. This ultimately gets cleared through NEPOOL GIS. Everything beyond this process is voluntary and not regulated.* Wonders what the next step forward looks like for One Climate Future and RECs. The Consortium projects are all outside of the city but there are also opportunities and capacity for behind the meter infrastructure. There is language in One Climate Future about both outside of the city projects and household/behind the meter projects.

Councilor Ray wonders about the composition of Portland's RECs. *The majority of the 23,000 RECs are Class I Solar RECs with a very small number of existing hydropower which are the less valuable RECs.* Wonders if the RECs are expected to continue to increase in value. *The RECs are expected to stay in the $20-40/REC range for the next 5 years. The big change in the REC market will be when offshore wind reaches some scale and may suppress the value of the RECs. Not too worried about the change in value of the RECs. If they lose value, will retire them. If they are worth money, will likely sell them.* Wonders what percentage of our goals will be met by the state RPS. *By 2050, 100% of electricity will be renewable based on the State of Maine's RPS goals, but this will only matter if things are electrified along with the shift to renewable electricity.* Wonders what the process will be to determine what to do with these RECs. *Will need to discuss the process with the Finance Committee. This could be as much as $700K, which is a significant amount. But will need to have discussion on this mechanism as soon as possible.*

Electric Vehicle Charging Deployment

<u>Presented by Troy Moon</u>

City has been building their own chargers at several points around the city. Want to continue expanding this network. Many people in apartments will need convenient charging locations, as well as visitors. Best way to build charging infrastructure at scale is to look for a private partner to build charging stations. Have put out an RFP to help identify best spots to place chargers and install the chargers in a public/private partnership. City would offer spaces in public right-of-way; private partner would install the chargers and recoup investment through charging fees. This would save the City money while still owning the brand of the charging network. The private partner would also help identify the best charging locations. Have seen that Canada (Quebec and Montreal) has done a great job of installing such infrastructure. The goal is to have Portland's EV charging network as convenient as Canada's model.

Committee Comment on Electric Vehicle Charging Deployment

Councilor Zarro wonders about rebates/funding from Efficiency Maine or the State to install charging stations. *Yes, have used some grant and rebate money from both Efficiency Maine and Central Maine Power. Efficiency Maine will also be putting out solicitations for DC fast chargers, which the private partner could potentially use. Also looking toward Biden infrastructure money. Private partnership will lay groundwork to best use money when available.*

Councilor Ray wonders when the RFP closes. *It was at least 30 days.* Wonders when could we expect to see these chargers go online. *Maybe by end of year or next spring, more likely next spring.* Wonders how quickly these chargers can charge. *Putting in level 2 chargers which could take 4-6 hours for a full charge on a fully depleted vehicle.* Wonders about the current fee structure. *Currently there is no fee but working internally to come up with a policy that will be put in place before the private partnership. Fee will likely be different for partner's chargers.* Wonders if the private partner would take over management of the public chargers. *Not likely, management is not hard. City will likely maintain management and ownership of them in order to receive revenues.* Councilor Ray would want us to contemplate City regaining ownership or split ownership of the privately installed chargers to gain revenues from this project down the line. *City included language in RFP to see what benefits could be offered for City.*

Councilor Zarro wonders about level 2 and 3 chargers. Have said in RFP that they would like a number of level 3 chargers included in the installation. Wonders if there is an opportunity to put chargers off peninsula and/or at some schools. *The City does intend to have chargers off peninsula as well. City has also had conversations with some school on possibility of installing charging stations there, too, for public use outside of school hours and employee use during school hours.* Wonders when the time comes to create the contract if negotiations will go through the committee or council. *The contract is written by the administration but will need to be reviewed and ratified by the full council. Contract could come through this committee for a first read.*

Future Agenda Items
Here are some of the proposed items to discuss in future Sustainability and Transportation Committee meetings:

-Bayside Parking Proposal (not ready for July)
-St Lawrence and Atlantic Railroad Corridor Resolution and process to get it studied
-Sidewalk material policy
-Tree canopy (day of action, tree well regulations, tree protection ordinances)
-Sustainability fund
-Energy disclosure ordinance
- SWCD Community Agriculture Planning
-Food trucks and associated litter (trash receptacle policy and carry-in-carry-out park policy)

For the July committee meeting, the committee has agreed to discuss the St Lawrence and Atlantic Railroad Corridor Resolution, tree canopy mitigation strategies, and building energy labeling with NEEP.

Meeting Conclusion
Councilor Zarro motions to adjourn. Councilor Ray seconds the motion. Passed unanimously, (2-0). Meeting adjourned at 7:20 PM.

CITY OF PORTLAND
Sustainability Office
Troy Moon
Sustainability Director

Sustainability Updates
July 2021

Energy:

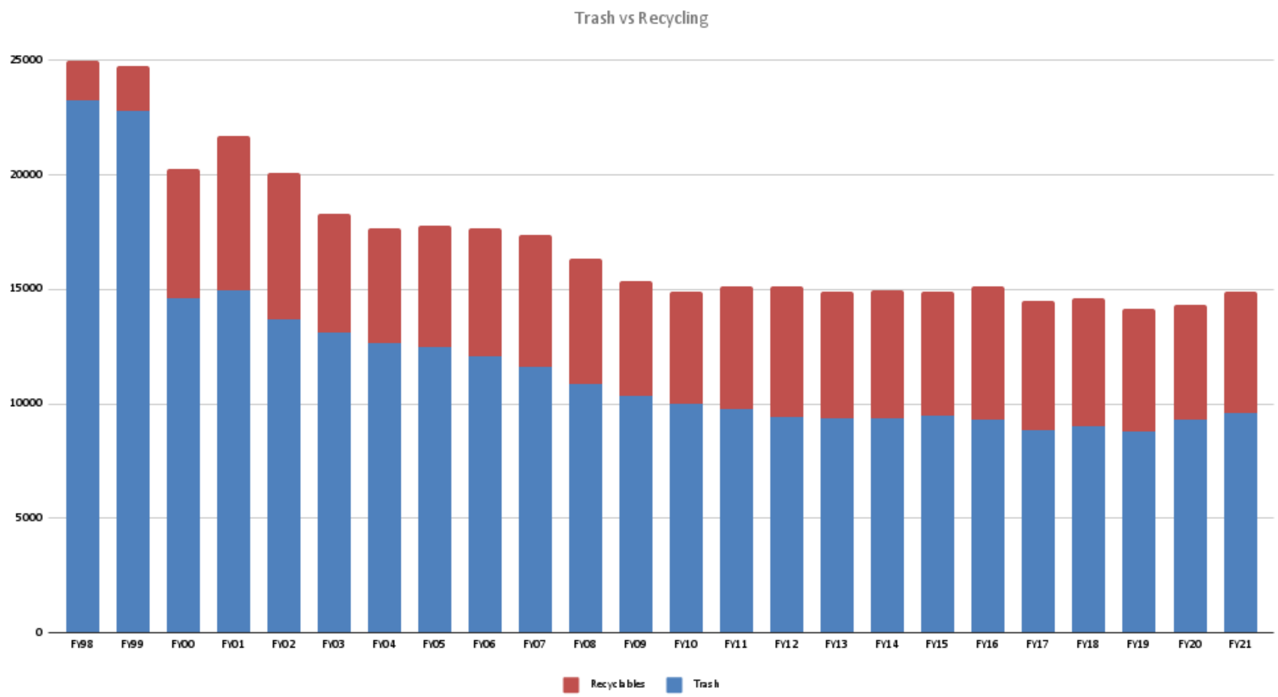
We are preparing an RFP for a program to help Portland residents and businesses install solar arrays and electric appliances that will help residents electrify their homes such as heat pumps and heat pump water heaters. The City Manager will lead a presentation about the program during the meeting.

The City began enforcing the new energy code, IECC 2021, on July 1. Portland now has one of the most efficient codes for new construction in the United States.

Waste Reduction

The City's waste and recycling tonnages for FY 21 were:
Trash: 9,578 tons **Recycling**: 5,329 tons **Recycling rate**: 35.7%
Portland had the 2nd highest recycling rate of ecomaine communities.

Portland's recycling and waste reduction efforts continue to lead the state. Annual waste disposal has fallen over 60% since 1999 from about 23,500 tons to about 9,500 tons last FY.



Trash and recycling tonnages FY 98 - FY21

Electric Vehicles

June was the highest usage month yet for the City owned EV chargers with 265 charging sessions throughout the month. This indicates strong demand for this infrastructure and points to the need for us to install more charging stations. Our RFP for a charging station network closes on July 30 and we look forward to reviewing the responses.

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Legislation

Here are updates on legislation we have supported

LD 1666 (Data Access) was signed by the Governor. The PUC will now issue a request for information (RFI) for the industry to educate them about the costs and benefits of an statewide platform with aggregated data about energy usage.

LD 1659 - the Clean Energy Accelerator bill was signed by the governor. Efficiency Maine will now serve as the host of a “green bank” to receive Federal funds as well as funds from foundations and other private sources in order to finance clean energy projects.

LD 1682, the bill to reform the PUC’s mandate to require it to consider greenhouse gas reductions and compliance with Maine’s climate statute, alongside equity and environmental justice, in its decision-making was signed by the governor after a committee amendment. It requires the PUC to factor achieving the State's climate goals in its procedures and directs the Governor's Office of Policy, Innovation, and the Future to develop definitions of "frontline community", "environmental justice community", and other definitions necessary to promote equity in decision making.

LD 57 places a $1 fee on all waste landfilled in Maine. It was signed by the governor.

LD 1541 requires the producers of consumer goods and packaging to reimburse some expenses municipalities have to collect, recycle, or dispose of packaging waste. It was signed by the governor and makes Maine the first state in the US to adopt a producer responsibility law for packaging. The DEP will now create rules to implement the law.

Education and Outreach:

We held our sixth monthly One Climate Future coffee hour on June 9 and focused on heat pumps. About 20 people attended. Everyone is welcome to attend these informal community conversations that happen on the 2nd Friday of the month at 9 AM. Information is one www.oneclimatefuture.org .

CITY OF PORTLAND

To: Jon P. Jennings, City Manager
From: Dena Libner, Chief of Staff; Troy Moon, Director of Sustainability
Date: July 13, 2021
RE: Proposal for Solarize Portland Campaign

Staff recommend that the City launch a "Solarize Portland" campaign with a private partner to take the next step in meeting goals set forth in One Climate Future: namely, the installation of 50 MW of solar within Portland and South Portland by 2030 (as well as 245 MW by 2050).

What is a Solarize Campaign?

Solarize campaigns result in cost-savings for residents and small businesses that want to adopt solar. The City of Portland would seek a partnership via RFP with a qualified vendor(s) to:

- Install solar panels for program participants (private property owners) at a competitive rate;
- Offer competitive rates for property owners and/or renters to participate in community solar projects;
- Sell appliances that complement solar installations, such as heat pumps, smart thermostats, and hybrid hot water heaters, at a competitive rate.

Respondents would provide fixed pricing for goods and services that decline based on the number of participants. Once a vendor is selected, the City would recruit residents and businesses. The vendor would work directly with participants to complete installation and/or register them for community solar.

Success Stories

In Maine, solarize campaigns have been successfully launched in Bangor, Freeport, and the towns on Mount Desert Island. The State of Massachusetts has an ongoing program to help towns sponsor solarize campaigns, which has led to the installation of almost 3,800 solar arrays across the State. Successful programs have also been launched in Vermont, Portland, Oregon and Washington State. Rhode Island, Connecticut, and New York have also used solarize programs to great effect.

Cost to City

The campaign sponsor (in this case, the City of Portland) has no hard costs associated with the program. The City's contribution is in-kind, through the recruitment and marketing efforts of staff as well as contract administration with the contractor.

RESOLVE X-20/21

RESOLUTION REQUESTING THE ESTABLISHMENT OF A RAIL CORRIDOR USE ADVISORY COUNCIL FOR THE CASCO BAY TRAIL AND THE ENFORCEMENT OF THE 2018 AMENDED DISCONTINUANCE AGREEMENT FOR THE CASCO BAY SLA CORRIDOR

WHEREAS, the Casco Bay Trail refers to a 10-mile, disused rail corridor from Portland to Falmouth, Cumberland, and Yarmouth, currently known as the St Lawrence and Atlantic rail corridor (hereinafter "Casco Bay SLA Corridor"), that was acquired by the State of Maine in 2007 and 2010; and

WHEREAS, the Casco Bay Trail Alliance, formed in 2019, created a vision, and is leading the effort, to convert the Casco Bay SLA Corridor to a multi-purpose "trail-until-rail" to be included in an off-road bicycle and pedestrian trail network connecting Portland, Lewiston-Auburn, and Brunswick, Maine; and

WHEREAS, the Casco Bay Trail is part of a broader Maine Trail Plan issued by the Maine Trails Coalition in 2020, which calls for the construction of multiple specific rail-trail projects over the next decade, each of which would connect with existing multi-use trail infrastructure; and

WHEREAS, long-distance multi-use trails are a key recommendation of a 2010 report "Improving Maine's Quality of Place Through Integrated Bicycle and Pedestrian Connections" by the Maine Dept. of Transportation, State Planning Office, Dept. of Conservation, and Center for Disease Control and Prevention; and

WHEREAS, the possibility of a trail alongside the existing rail was explored in a 2017 GPCOG/PACTS study "Rail with Trail: Preliminary Feasibility Assessment of Building an Active Transportation Corridor from Portland to Yarmouth;" and

WHEREAS, the focus of the 2017 study was to add a future trail to the existing rail right-of-way so as to preserve the potential for future restoration of freight and/or passenger rail service to the currently inactive rail corridor; and

WHEREAS, the study included a well-attended regional public meeting that indicated a high level of community support for adding a trail to the rail corridor, but also some concerns; and

WHEREAS, the 2017 report recommended that a more detailed feasibility study be developed; and

WHEREAS, the Governor has recently signed into law LD 1133, allowing for the creation of Rail Corridor Advisory Councils to "facilitate discussion, gather information and provide advice to the commissioner regarding future use" of rail corridors owned by the State, and

WHEREAS, the SLA rail right-of-way was originally purchased by the Maine Department of Transportation for rail purposes; and

WHEREAS, a freight operator holds a freight railroad easement, but has discontinued freight service on the rail line, and

WHEREAS, the freight operator is subject to a contract with the Maine Department of Transportation ("the 2018 Amended Discontinuance Agreement"), stating that, unless freight rail service is resumed by November 1, 2021, the operator "shall . . . seek authority from the [Surface Transportation Board] to abandon the Railroad Line," which, once granted, would terminate the freight railroad easement over the Railroad Line, and

WHEREAS, the Casco Bay SLA Corridor has been studied for possible conversion to passenger rail, but, according to a 2019 study commissioned by the Maine Department of Transportation (the Lewiston Auburn Passenger Rail Service Plan – Operating Plans and Corridor Assessments), converting the Casco Bay SLA Corridor to passenger rail would require transit through the East End with a new "Ocean Gateway Station," and

WHEREAS, the above referenced 2019 study made a recommendation to "eliminate options that require an Ocean Gateway Station," and

WHEREAS, the June 2021 Legislative Document 991, "Resolve, Directing the Department of Transportation to Conduct an Economic Evaluation Study for Commuter and Passenger Train Service between Portland and the Lewiston and Auburn Area," lists two options to be further studied, neither of which includes the Casco Bay SLA corridor south of Yarmouth, implying that the Casco Bay SLA corridor is currently no longer being studied for future passenger rail use; and

WHEREAS, it may be worthwhile for the City of Portland to express its interest to Maine DOT to explore the future use of the Casco Bay SLA Corridor as a multi-use trail.

NOW, THEREFORE, BE IT RESOLVED that the Portland City Council hereby petitions the Department of Transportation to:

1. create a Rail Corridor Use Advisory Council to consider future use of the Casco Bay SLA Corridor as a multi-use "trail-until-rail."

2. enforce the 2018 Amended Discontinuance Agreement, or, in the alternative, provide a notice-and-comment procedure to consider public comment before amending or extending that agreement.

AGREEMENT REGARDING THE DISCONTINUANCE OF FREIGHT RAIL SERVICE OVER CERTAIN RAILROAD LINES IN CUMBERLAND COUNTY, MAINE

THIS AGREEMENT Regarding the Discontinuance of Freight Rail Service Over Certain Railroad Lines in Cumberland County, Maine (this "Agreement") is entered into as of the 10 th day of June, 2013, by and between St. Lawrence & Atlantic Railroad Company, a Delaware corporation ("SLR"), and the State of Maine, acting by and through its Department of Transportation ("MaineDOT").

WHEREAS, in 2007 and 2010 MaineDOT acquired certain railroad line segments in Cumberland County, Maine (collectively, the "Railroad Line") from SLR, i.e. between Berlin Subdivision milepost 1.74 in Deering, Maine and the town line between New Gloucester, Cumberland County, Maine and Auburn, Androscoggin County, Maine (approximately Berlin Subdivision milepost 25.97); and

WHEREAS, SLR presently holds a freight railroad easement over the Railroad Line, and MaineDOT and SLR are parties to an Operating Agreement dated September 27, 2007, as amended (the "Operating Agreement"), pertaining to the Railroad Line; and

WHEREAS, side letters dated September 27, 2007, and December 30, 2010, that were executed in connection with the acquisition of the Railroad Line (the "Side Letters") provide that if SLR decides to seek authority to terminate its freight operations over any portion of the Railroad Line indefinitely, SLR will seek abandonment, rather than discontinuance, authority from the STB; and

WHEREAS, SLR has informed MaineDOT that SLR would like to seek discontinuance authority to terminate its freight operations over the Railroad Line; and

WHEREAS, MaineDOT is willing to consent to, and will not object to, such discontinuance authority provided that SLR abides by the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements contained in this Agreement, the parties hereby agree as follows:

1. No Objection to Discontinuance. MaineDOT hereby consents to, and shall not object to, SLR's request for authority from the United States Surface Transportation Board (the "STB") to discontinue freight rail service over the Railroad Line.

2. Notice of Discontinuance. SLR shall promptly notify MaineDOT of (i) the date when SLR is granted authority from the STB to discontinue freight rail service over the Railroad Line, and (ii) the date when freight rail service over the Railroad Line is discontinued.

3. Termination of Operating Agreement. Upon the discontinuance of freight rail service over the Railroad Line, the Operating Agreement shall terminate.

4. Inspections of Railroad Line Following Discontinuance. Following the discontinuance of freight rail service over the Railroad Line, SLR shall, at SLR's expense:

a. Perform monthly hy-rail inspections of the Railroad Line between April 15th and December 1st; and

b. Promptly prepare and submit to MaineDOT reports of those inspections.

Such inspections shall continue until either SLR resumes freight rail service over the Railroad Line (as set forth in Paragraph 5) or SLR files the Notice of Abandonment Consummation referenced in Paragraph 7. SLR shall have no liability to MaineDOT arising from the performance of such inspections. For the avoidance of doubt, SLR shall have no obligation to maintain or repair the Railroad Line or the right of way after the discontinuance of freight rail service over the Railroad Line unless SLR resumes freight rail service over the Railroad Line (as set forth in Paragraph 5).

5. Resumption of Freight Rail Service. SLR may file with the STB to resume freight rail service over the Railroad Line at any time prior to filing the Notice of Abandonment Consummation referenced in Paragraph 7; provided, however, that prior to any such resumption of freight rail service the parties shall enter into a new operating agreement, the terms and conditions of which shall be substantially the same as the terms and conditions of the current Operating Agreement. Upon such resumption of freight rail service, this Agreement shall terminate without any further force or effect.

6. Abandonment Authority. Unless SLR in the meantime resumes freight rail service over the Railroad Line (as set forth in Paragraph 5), SLR shall, within 3 years after the discontinuance of freight rail service over the Railroad Line, seek authority from the STB to abandon the Railroad Line. MaineDOT shall not object to the proposed abandonment.

7. Consummation of Abandonment. Once abandonment has been authorized, SLR shall, as promptly as practicable (but in no event later than 60 days after abandonment has been authorized so long as there is no legal impediment to consummation), file a Notice of Abandonment Consummation with the STB. At the same time SLR files the Notice of Abandonment Consummation with the STB, SLR shall provide to MaineDOT a copy of the Notice of Abandonment Consummation so that MaineDOT may record the Notice of Abandonment Consummation in the Cumberland County Registry of Deeds, thereby terminating the freight railroad easement over the Railroad Line.

8. Solicitation of Proposals. If, after SLR files a Notice of Abandonment Consummation, MaineDOT elects to solicit proposals for the operation of freight rail service over the Railroad Line, MaineDOT shall include SLR on the list of potential operators to whom the solicitation is sent. The inclusion of SLR on this list shall not affect SLR's rights under Paragraph 9.

9. Right of First Refusal.

a. If, after SLR files a Notice of Abandonment Consummation, MaineDOT elects to lease the Railroad Line to a freight rail operator for the operation of freight rail service, SLR shall have a right of first refusal to enter into a lease and operating agreement with MaineDOT on the same terms and conditions that MaineDOT negotiates with a third-party freight rail operator.

b. If SLR elects to exercise its right of first refusal, SLR shall (i) so notify MaineDOT within 30 days after receipt from MaineDOT of a copy of the lease and operating agreement that MaineDOT has negotiated with the third-party freight rail operator, and (ii) execute a lease and operating agreement with MaineDOT within 30 days after SLR sends its notice of exercise to MaineDOT. Failure by SLR to execute a lease and operating agreement with MaineDOT within the stated time shall be deemed a waiver of SLR's right of first refusal.

c. SLR's right of first refusal shall apply only to the first lease and operating agreement that MaineDOT negotiates after SLR files the Notice of Abandonment Consummation with the STB, and SLR's right of first refusal shall not extend to any subsequent lease and operating agreement; provided that such first lease and operating agreement (i) is actually entered into by MaineDOT and the third-party freight rail operator, and (ii) has a term of no less than 10 years.

d. SLR's right of first refusal shall not extend to any sale of the Railroad Line.

e. Unless previously terminated, SLR's right of first refusal shall terminate upon: (i) a sale of the Railroad Line; (ii) SLR no longer being controlled, directly or indirectly, by Genesee & Wyoming Inc.; or (iii) a sale by SLR of SLR's connecting railroad line segment in Auburn, Androscoggin County, Maine that is the subject of the Passenger Operating Agreement between MaineDOT and SLR dated December 30, 2010 (the "Passenger Operating Agreement").

10. Interchange Agreement. If MaineDOT enters into a lease and operating agreement with a third-party freight rail operator in accordance with this Agreement, or if MaineDOT sells the Railroad Line to a third-party freight operator, SLR shall (i) negotiate in good faith to reach a mutually acceptable interchange agreement with that freight rail operator governing the interchange of freight rail cars at a mutually convenient location, and (ii) facilitate the timely and efficient interchange of freight rail cars at that location in accordance with the terms and conditions of such interchange agreement.

11. Assignment. Neither this Agreement nor any right, interest or obligation under this Agreement may be assigned by any party, by operation of law or otherwise, without

NLB

the prior written consent of the other party, and any attempted assignment without the prior written consent of the other party shall be void; provided, however, that SLR shall assign this Agreement and SLR's rights (other than its right of first refusal, which shall terminate in accordance with Paragraph 9(e)(iii)) and obligations hereunder to any successor owner of SLR's connecting railroad line segment in Auburn, Androscoggin County, Maine that is the subject of the Passenger Operating Agreement.

12. Side Letters. To the extent that this Agreement is inconsistent with the Side Letters, this Agreement supersedes the Side Letters; provided, however, that if this Agreement terminates due to the resumption of freight rail service by SLR over the Railroad Line (as set forth in Paragraph 5), the Side Letters thereafter shall be reinstated and once again be in full force and effect, as if this Agreement had not been entered into.

13. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Maine (without regard to conflicts-of-laws principles that would require the application of any other law).

14. Amendment. This Agreement may be amended, modified or supplemented only by a written instrument executed by MaineDOT and SLR.

15. No Waiver. Neither the failure nor any delay on the part of any party to this Agreement to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and signed by the party asserted to have granted such waiver.

16. Counterparts. This Agreement may be signed in any number of identical counterparts, each of which shall be an original (including signatures delivered via facsimile or electronic mail) with the same effect as if the signatures thereto and hereto were upon the same instrument. The parties hereto may deliver this Agreement by facsimile or electronic mail and each party shall be permitted to rely upon the signatures so transmitted to the same extent and effect as if they were original signatures. This Agreement shall become effective when each party hereto shall have received a counterpart hereof signed by each other party hereto.

17. Notices. All notices, requests and other communications hereunder must be in writing and will be deemed to have been duly given only if delivered personally against written receipt or by facsimile transmission or mailed by prepaid first class mail, return receipt requested, or mailed by overnight courier prepaid to the parties at the following addresses or facsimile numbers:

(a) If to MaineDOT:

Director, Rail Program
Maine Department of Transportation
16 State House Station
Augusta, Maine 04333-0016
Facsimile No.: (207) 624-3561

(b) If to SLR, to:

General Manager
St. Lawrence & Atlantic Railroad Company
415 Rodman Road
Auburn, Maine 04210
Facsimile No.: (207) 782-5857

All such notices, requests and other communications will: (i) if delivered personally to the address as provided above, be deemed given upon delivery; (ii) if delivered by facsimile transmission to the facsimile number as provided above, be deemed given upon facsimile confirmation; (iii) if delivered by mail in the manner described above to the address as provided above, be deemed given upon the earlier of the third business day following mailing or upon receipt; and (iv) if delivered by overnight courier to the address as provided above, be deemed given upon the earlier of the first business day following the date sent by such overnight courier or upon receipt. Either party from time to time may change its address, facsimile number or other information for the purpose of notices to that party by giving notice specifying such change to the other party hereto.

18. Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of any party hereto under this Agreement will not be materially and adversely affected thereby, (i) such provision will be fully severable, (ii) this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, (iii) the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom, and (iv) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

IN WITNESS WHEREOF, SLR and MaineDOT have caused this Agreement to be executed as of the day and year first above written.

ST. LAWRENCE & ATLANTIC RAILROAD COMPANY,
a Delaware corporation

By: Mario Brault
Name: MARIO BRAULT
Title: PRESIDENT

THE STATE OF MAINE,
acting by and through its Department of Transportation

By: NEM
Name: Nathan E. Moulton
Title: Director, Rail Program

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78 FR 71037-01, 2013 WL 6177807(F.R.)
NOTICES
DEPARTMENT OF TRANSPORTATION
Surface Transportation Board
[Docket No. AB 1117X]

St. Lawrence & Atlantic Railroad Company—Discontinuance of Service Exemption—in Cumberland County, Me.

Wednesday, November 27, 2013

On November 8, 2013, St. Lawrence & Atlantic Railroad Company (SLR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to discontinue service over approximately 24.23 miles of rail line, owned by the State of Maine, between milepost 1.74 near Deering, Cumberland County, Me., and milepost 25.97 at the town line between New Gloucester, Cumberland County and Auburn, Androscoggin County, Me. (the Line).[FN1] The Line traverses U.S. Postal Service Zip Codes 04101, 04102, 04103, 04104, 04105, 04096, and 04069. According to the petition, the Line is stub-ended and therefore not capable of handling overhead traffic.

There is one shipper on the Line, B&M Beans, and SLR states that B&M Beans ships all of its outbound products and some of its inbound ingredients by truck. SLR estimates that B&M Beans will ship 12 cars of inbound ingredients in the forecast year.[FN2]

SLR states that, based on information in its possession, the Line does not contain any federally granted rights-of-way. Any documentation in SLR's possession will be made available promptly to those requesting it.

The interests of railroad employees will be protected by the conditions set forth in Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by February 26, 2014.

Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking, and public use conditions are not appropriate. Similarly, no environmental or historic documentation is required under 49 CFR 1105.6(c)(2) and 1105.8(b).

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) to subsidize continued rail service will be due no later than March 7, 2014, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Each offer must be accompanied by a $1,600 filing fee. See 49 CFR 1002.2(f)(25).

All filings in response to this notice must refer to Docket No. AB 1117X and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001, and (2) Eric M. Hocky, Clark Hill Thorp Reed, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103. Replies to the petition are due on or before December 17, 2013.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238 or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Board decisions and notices are available on our Web site at "WWW.STB.DOT.GOV."

Decided: November 21, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013-28477 Filed 11-26-13; 8:45 am]

BILLING CODE 4915-01-P

Footnotes

1 SLR owns an exclusive, perpetual freight easement over the Line. See Maine—Petition for Declaratory Order, FD 35440 (STB served Dec. 29, 2010); Maine—Acquisition Exemption—Certain Assets of St. Lawrence & Atl. R.R., FD 35018 (STB served Sept. 13, 2007).

2 For the purposes of its petition, SLR uses June 1, 2013, through May 31, 2014, as the forecast year.

End of Document

FIRST AMENDMENT TO AGREEMENT REGARDING THE DISCONTINUANCE OF FREIGHT RAIL SERVICE OVER CERTAIN RAILROAD LINES IN CUMBERLAND COUNTY, MAINE

This First Amendment (this "**Amendment**") to that certain Agreement Regarding the Discontinuance of Freight Rail Service Over Certain Railroad Lines in Cumberland County, Maine, dated as of June 10, 2013 (the "**Original Agreement**"), between **St. Lawrence & Atlantic Railroad Company** ("**SLR**") and the State of Maine, acting by and through its Department of Transportation ("**MaineDOT**") is made this 18th day of July, 2018.

Recitals

WHEREAS, SLR and MaineDOT entered into the Original Agreement in connection with the discontinuance of freight rail service over certain railroad lines operated by SLR in Cumberland County, Maine; and

WHEREAS, SLR and MaineDOT desire to amend the Original Agreement as set forth in this Amendment.

ACCORDINGLY, in consideration of the premises and mutual covenants and agreements contained in this Agreement, the parties agree as follows:

1. Section 6 of the Original Agreement is hereby amended and restated in its entirety as follows:

   "Abandonment Authority. Unless SLR in the meantime resumes freight rail service over the Railroad Line (as set forth in Paragraph 5), SLR shall, no later than November 1, 2021 (i.e. within 6 years after the discontinuance of freight rail service over the Railroad Line), seek authority from the STB to abandon the Railroad Line. MaineDOT shall not object to the proposed abandonment."

2. All other terms and conditions and provisions of the Original Agreement shall remain in full force and effect.

[*Signature Page Follows*]

IN WITNESS WHEREOF, this Amendment has been executed by the authorized representatives of SLR and MaineDOT as of the date first written above.

ST. LAWRENCE & ATLANTIC RAILROAD COMPANY

By: ______________________
Name: Louis Gravel
Title: President

THE STATE OF MAINE,
acting by and through its Department of Transportation

By: Brian Reeves
Name: Brian Reeves
Title: Director of Rail Transportation

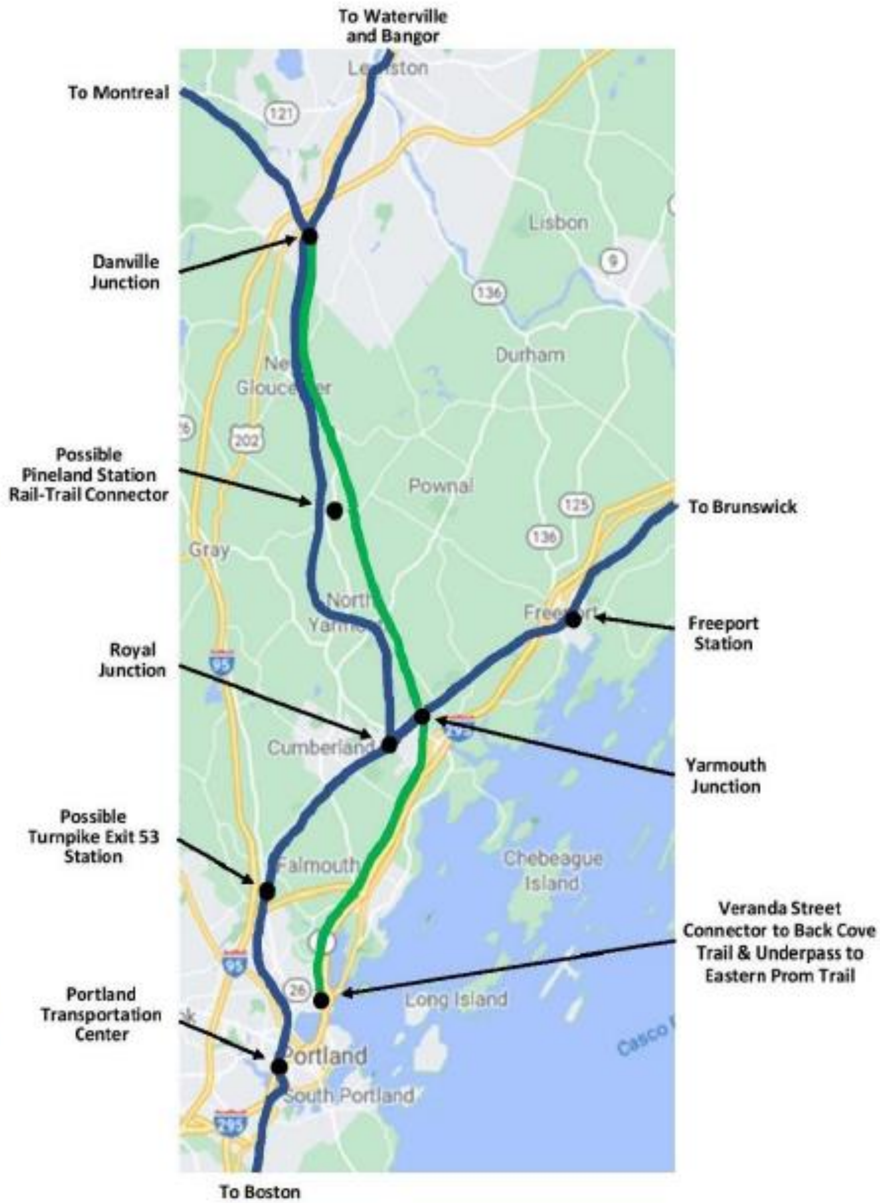
Excerpt from Maine Trails Coalition Testimony on LD 991
Dick Woodbury
Maine Trails Coalition
May 18, 2021

There are many good reasons for prioritizing the active blue corridor for trains:

- It is a corridor that is already actively used by trains.
- It connects to the Portland Transportation Center
- It connects with all train and bus services to Boston.
- It provides opportunities for new train stops at Turnpike Exit 53 and Pineland, as well as Lewiston, Auburn, and destinations north.

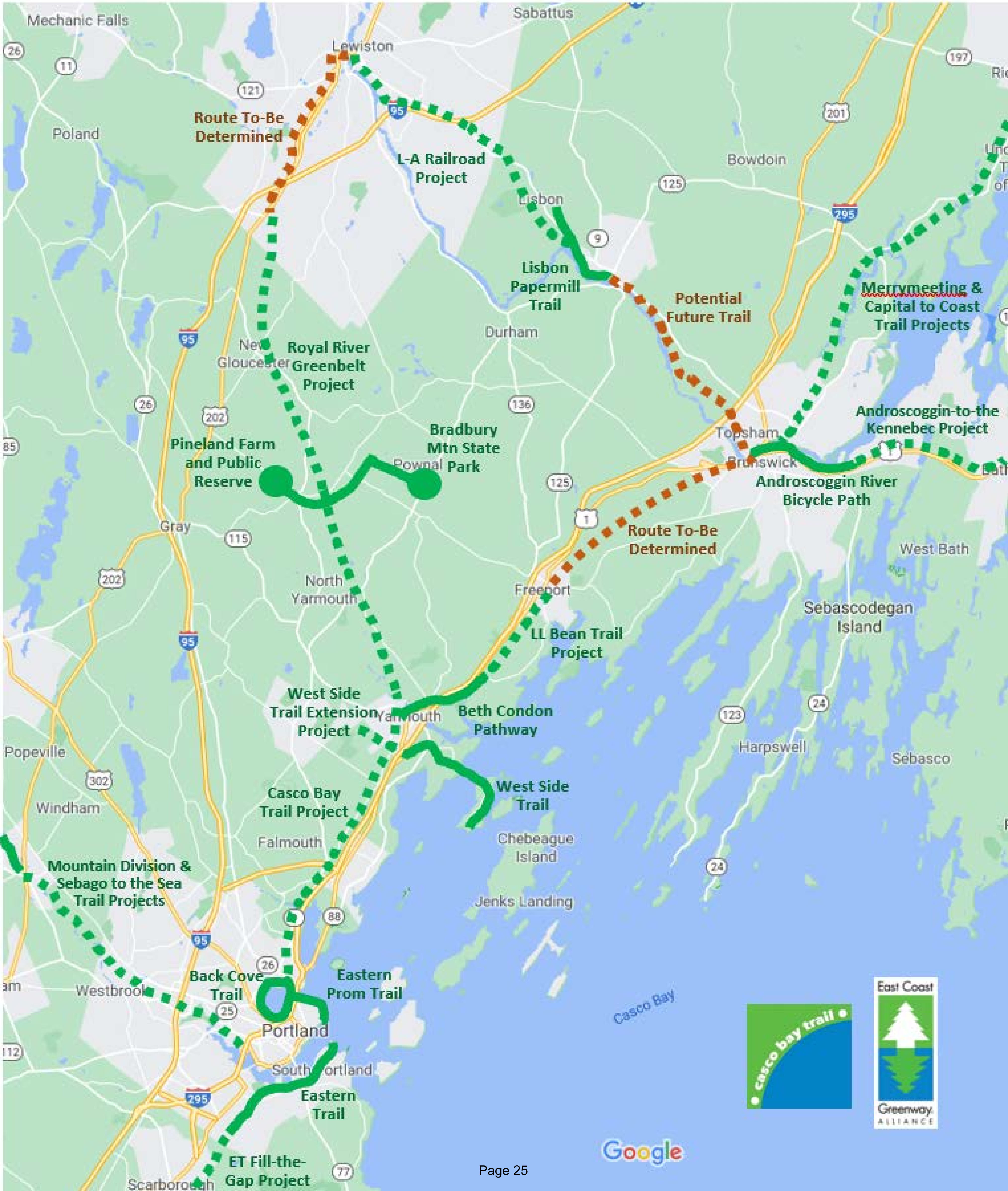
There are equally good reasons for prioritizing the green corridor as a trail.

- It is a corridor that is not being used by trains and has no remaining bridge into downtown Portland. Unless a new bridge is constructed, it dead ends at Veranda Street.
- It is a corridor that connects to many other multi-use trail systems (see below).



- It would be a signature segment of the East Coast Greenway.
- It would be among the most actively used trails anywhere.
- It would advance multiple and diverse public interests, including public health, emission-free transportation and commuting, community enrichment, economic development and tourism, and outdoor recreation.
- Trail use has grown explosively during the pandemic, and the demand for new trail infrastructure is high.

CASCO BAY TRAIL SYSTEM



Portland Maine Yes. Google's good here.

Troy Moon <thm@portlandmaine.gov>

Fwd: Resolve X-20/21 - Casco Bay Trail Resolution

1 message

Dena Libner <dlibner@portlandmaine.gov> Tue, Jul 20, 2021 at 12:47 PM
To: Troy Moon <thm@portlandmaine.gov>

Can you add to backup?

Sent from my iPhone. Please excuse typos!

Begin forwarded message:

> **From:** Jennifer Tingle <jennifer.tingle3@gmail.com>
> **Date:** July 20, 2021 at 12:45:45 PM EDT
> **To:** publiccomment@portlandmaine.gov
> **Cc:** BSR@portlandmaine.gov, azarro@portlandmaine.gov, Spencer Thibodeau <sthibodeau@portlandmaine.gov>
> **Subject: Resolve X-20/21 - Casco Bay Trail Resolution**
>
> I am in favor of Resolve X-20/21 - Casco Bay Trail Resolution. I have lived on Arcadia Street near the unused tracks for twenty years. A bike and walking trail would make it easy and fun to ride my bike to Falmouth or even Brunswick without having to deal with the increasingly unpleasant and dangerous traffic on the roads. I have been hoping for a rail/trail for a long time. Please support Resolve X-20/21 - Casco Bay Trail Resolution at the meeting of the Portland City Council Transportation Subcommittee on Wednesday.
>
> Jennifer Tingle
> 15 Arcadia Street
> 207-939-8842

Portland Maine Yes. Google's good here.

Troy Moon <thm@portlandmaine.gov>

Fwd: Resolve X-20/21 - Casco Bay Trail Resolution

Dena Libner <dlibner@portlandmaine.gov> Tue, Jul 20, 2021 at 3:54 PM
To: Troy Moon <thm@portlandmaine.gov>

Dena Libner
Chief of Staff
Executive Department
389 Congress Street
Portland, ME 04101
E: dlibner@portlandmaine.gov
P: 207.756.8288

---------- Forwarded message ---------
From: **Will** <willcunningham64@gmail.com>
Date: Tue, Jul 20, 2021 at 3:11 PM
Subject: Resolve X-20/21 - Casco Bay Trail Resolution
To: <publiccomment@portlandmaine.gov>
Cc: <BSR@portlandmaine.gov>, <azarro@portlandmaine.gov>, <sthibodeau@portlandmaine.gov>

Hello Councilors,
I am writing to say that I support Resolve X-20/21 - Casco Bay Trail Resolution. The abandoned rail line crosses right behind my street, a minute's walk away, and it is saddening to see rail infrastructure left unused in favor of other means. If it won't be running trains again, then paving it to grant cyclists like myself a safe and pleasant way to follow i-295 up to Yarmouth would be a great boon. Therefore, I hope that you consider endorsing the creation of the bike path

Sincerely,
William E. Cunningham
15 Arcadia St, Portland, ME 04103