



Town of Windham

Town Offices
8 School Road
Windham, Maine

Legislation Details

File #:	24-079	Version:	1	Name:	
Type:	Order	Status:		Passed	
File created:	5/1/2024	In control:		Town Council	
On agenda:	7/9/2024	Final action:		7/9/2024	

Title: ORDER AUTHORIZING THE ISSUANCE OF \$10,617,395 OF GENERAL OBLIGATION BONDS AND APPROPRIATING THE PROCEEDS THEREOF

WHEREAS, at the annual town meeting of the Town of Windham, Maine (the "Town") duly called and held on June 18, 2022, the voters of the Town approved the issuance of general obligation bonds and notes in anticipation thereof in the aggregate principal amount not to exceed \$6,700,000, and the Town Council subsequently authorized the issuance of \$2,950,000 of the Town's general obligations bonds and notes pursuant to Council Order #22-236 adopted December 13, 2022; and the Town issued \$2,950,000 of the Town's general obligation bonds to finance: 1.) \$50,000 for the design, renovation, upgrade, construction, reconstruction, improvement, paving, landscaping, rehabilitation, equipping and acquisition of real estate rights for roads, sidewalks and functionally related and subordinate facilities through the Town for the purpose of providing safe passage to (a) River Road/Route 302 intersection sidewalk, (b) South Windham sidewalk from Blue Seal to Depot Street, (c) Route 302 sidewalk from Boody's Corner to the Shaw's supermarket, and (d) North Windham Rear Access Road land acquisition; 2.) \$2,300,000 for the acquisition of real property interests and the design, construction, improvement, landscaping, creating trails and equipping of such properties for providing public access for recreational purposes for the (a) East Windham conservation project land and (b) Phinney Lumber - Open Space (land abutting the conservation project property); and 3.) \$600,000 for the acquisition of trash and recycling carts for solid waste management program for the Town; and

WHEREAS, pursuant to the June 18, 2022 Town Meeting vote, the Town Council authorized the issuance of an additional \$1,050,000 of general obligation bonds and notes of the Town in anticipation thereof by Council Order #23-155 to finance: 1.) \$775,000 for the design and construction of improvements to the intersection and sidewalk at River Road and Route 202; and 2.) \$275,000 for the design and construction of improvements to the southwest sidewalk from Blue Seal to Depot Street, but the Town has not yet issued any such bonds or notes pursuant to this authority; and

WHEREAS, the annual town meeting of the Town duly called and held on June 17, 2023, the voters of the Town approved the issuance of general obligation bonds and notes in anticipation thereof in the aggregate principal amount not to exceed \$2,282,395, and the Town Council subsequently authorized the issuance of \$2,282,395 of the Town's general obligation bonds and notes pursuant to Council Order #23-155 adopted August 15, 2023 to finance: 1.) \$602,480 for the design and construction of improvements to the intersection and sidewalk at River Road and Route 202; 2.) \$414,682 for the design and construction of improvements to the southwest sidewalk from Blue Seal to Depot Street; 3.) \$168,995 for the paving of Collinwood Circle and Running Brook Road; 3.) \$700,000 for the repair of the William Knight Bridge; 4.) \$250,000 for the purchase of additional waste carts for solid waste collection; and 5.) \$146,238 design and construction of the improvements to Montgomery Road, but the Town has not yet issued any such bonds or notes pursuant to this authority; and

WHEREAS, at the annual town meeting of the Town duly called and held on June 15, 2024, the voters of the Town approved the issuance of general obligation bonds and notes in anticipation thereof in the aggregate principal amount not to exceed \$7,285,000 to finance: 1.) up to \$3,785,000 to for (a) self-contained breathing apparatus and equipment, (b) acquisition and improvement of land located at Cherry Lane adjacent to Gambo fields; (c) paving and repair of local roads within the Town; (d) a new fire truck Engine 5; (e) construction and improvements to Smith Cemetery; and (f) the purchase of Tower 3 Ladder 21; and 2.) up to \$3,500,000 for the design, engineering, planning and construction of a sidewalk and other road improvements along Windham Center Road from Windham High School to Windham Middle School, all as more particularly described in the Warrant for the June 15, 2024 Annual Town Meeting; and

WHEREAS, the Town Council now desires to issue the aggregate principal amount of the general

obligation bonds of the Town not to exceed \$10,617,395 for the purpose of financing the costs and expenditures of the following projects, all as more particularly described in the Town Meeting and Town Council authorizations referenced herein and to be collectively referred to hereinafter as the "Projects":

1. \$775,000 for the design and construction of improvements to the intersection and sidewalk at River Road and Route 202;
2. \$275,000 for the design and construction of improvements to the southwest sidewalk from Blue Seal to Depot Street;
3. \$602,480 for the design and construction of improvements to the intersection and sidewalk at River Road and Route 202;
4. \$414,682 for the design and construction of improvements to the southwest sidewalk from Blue Seal to Depot Street;
5. \$168,995 for the paving of Collinwood Circle and Running Brook Road;
6. \$700,000 for the repair of the William Knight Bridge;
7. \$250,000 for the purchase of additional waste carts for solid waste collection;
8. \$146,238 design and construction of the improvements to Montgomery Road;
9. \$3,785,000 to for (a) self-contained breathing apparatus and equipment, (b) acquisition and improvement of land located at Cherry Lane adjacent to Gambo fields; (c) paving and repair of local roads within the Town; (d) a new fire truck Engine 5; (e) construction and improvements to Smith Cemetery; and (f) the purchase of Tower 3 Ladder 21; and
10. \$3,500,000 for the design, engineering, planning and construction of a sidewalk and other road improvements along Windham Center Road from Windham High School to Windham Middle School.

NOW, THEREFORE, be it voted, resolved, and ordered by the Town Council of Windham, Maine: Section 1: Appropriation. The sum of \$10,617,395 is hereby appropriated, from the proceeds of the Bonds and Notes herein authorized, to finance the costs of the Projects as herein defined, and which Bonds and Notes may also finance costs of issuance of the Bonds and Notes and capitalized interest of up to three years on the Bonds and Notes.

Section 2: Authorization of Bonds. For the purposes of financing the aforesaid appropriation and to refund any temporary notes issued pursuant thereto, pursuant to the Town Charter and all amendments thereof and acts additional thereto, the votes duly adopted by the inhabitants of the Town at Town Meetings duly called and held on June 18, 2022, June 17, 2023 and June 15, 2024, Title 30-A of the Maine Revised Statutes and all other authority thereto enabling, the Treasurer is hereby authorized and empowered in the name and on behalf of the Town to issue and sell the Town's general obligation bonds in the aggregate principal amount not to exceed \$10,617,395 (the "Bonds") for the purpose of paying the costs of the Projects. The Treasurer of the Town and the Chair of the Town Council be and are hereby authorized and empowered, subject to and in accordance with the other provisions of this Order, to prepare, issue and sell the Bonds at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law), and all other details, terms and provisions not inconsistent with this Order, including the form and manner of their sale and award as the Treasurer of the Town and the Chair of the Town Council may approve, such approval to be conclusively evidenced by their execution thereof. The Bonds shall be designated "Town of Windham, Maine 2024 General Obligation Bonds." During the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Treasurer of the Town and the Chair of the Town Council be and are hereby authorized to issue and deliver refunding bonds to refund on either a current or advance refunding basis some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Treasurer of the Town and the Chair of the Town Council be and are hereby further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bonds issued hereunder shall be signed by the Treasurer of the Town and the Chair of the Town Council, whose signatures may be by facsimile to the extent permitted by law, attested to by the Town Clerk, under the seal of the Town and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

Section 3: Authorization of Notes. The Treasurer is authorized to borrow money in anticipation of the Bonds by the issuance and sale of notes or renewal notes in anticipation thereof (the "Notes") and to

determine the date, form, interest rate, maturities (not later than 3 years from date of issuance in the case of any Notes) and all other details of each issue of Notes, including the form and manner of their sale and award, subject to the provisions of the law, the Town Charter and this Order.

Section 4: Rates and Other Provisions; Execution. The Bonds and any Notes shall mature at the times and in the amounts, to be dated as of such date, to bear interest at the rate or rates and to be in such form and to contain such terms and provisions (including but not limited to early redemption provisions, if any) as the Treasurer of the Town and the Town Council Chair may hereafter determine or authorize. Each Bond or Note issued hereunder shall be signed by the Treasurer, shall be countersigned by the Chair of the Council, and shall be sealed with the seal of the Town, attested to by its Clerk.

Section 5: Redemption. The Treasurer is hereby authorized to provide that any of the Bonds and Notes hereinbefore authorized be made callable, with or without premium, prior to their maturity.

Section 6: Tax-Exempt Covenants. The Treasurer is hereby authorized to covenant and certify on behalf of the Town, to the extent applicable, that no part of the proceeds of the issue and sale of the Notes or the Bonds authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Notes or Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), and that no part of the proceeds of the issue and sale of such Notes or Bonds (including any notes and bonds in renewal thereof) shall be used, directly or indirectly, in such manner which would cause the Notes or Bonds to be "private activity bonds" within the meaning of Section 141 of the Code. The Treasurer is hereby authorized to covenant and agree, on behalf of the Town, for the benefit of the holders of the Bonds and Notes, that the Town will file any required reports and take any other action that may be necessary to ensure that interest on the Bonds and Notes will remain exempt from federal income taxation, and that the Town will refrain from any action that would cause interest on the Bonds or Notes to be subject to federal income taxation.

Section 7: Qualified Tax-Exempt Obligations. To the extent permitted under the Code, the Treasurer is hereby authorized to designate any of the Bonds or Notes authorized to be issued hereunder as qualified tax-exempt obligations for purposes of Section 265(b) of the Code.

Section 8: Disclosure. The Treasurer is hereby authorized to covenant, certify and agree, on behalf of the Town, for the benefit of the holders of the Notes or Bonds, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met.

Section 9: Town Officials. If any of the officers or officials of the Town who have signed or sealed the Bonds or Notes shall cease to be such officers or officials before the Bonds or Notes so signed and sealed shall have been actually authenticated or delivered by the Town, such Bonds or Notes nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or Notes had not ceased to be such officer or official; and also any such Bonds or Notes may be signed and sealed on behalf of the Town by those persons who, at the actual date of the execution of such Bonds or Notes, shall be the proper officers and officials of the Town, although at the nominal date of such Bonds or Notes any such person shall not have been such officer or official.

Section 10: Deputy Officers. If the Treasurer, Chair of the Council, or Clerk are for any reason unavailable to approve and execute the Bonds or Notes or any of the related financing documents, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had herself performed such act.

Section 11: Municipal Advisor; Underwriter. The Treasurer of the Town be and is hereby authorized to select a financial or municipal advisor, an underwriter, registrar, paying agent and transfer agent for the Bonds and the Treasurer of the Town be and is hereby authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith, including, but not limited to, financial or municipal advisor agreements.

Section 12: Sale of the Bonds. The Bonds may be sold at a public or private sale, with or without public bidding, and issue, at one time or from time to time, as one or more separate issues, and the Treasurer of the Town be and is hereby authorized and empowered to arrange for the sale of the Bonds pursuant to a competitive sale process and/or the underwriting of the Bonds at a private sale through a negotiated agreement, with compensation to be provided by negotiated fee payable out of a premium on the sale of the Bonds, by sale of such Bonds to an underwriter at a price less than the sum of the par value of, and the accrued interest on, such obligations or in such other manner as

approved by the Treasurer of the Town.

Section 13: Notice of Sale; Official Statement. The Treasurer of the Town be and is hereby authorized to prepare, or cause to be prepared, a Notice of Sale, Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds, such Notice of Sale, Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Treasurer of the Town, with the advice of bond counsel for the Town, and that the distribution of the Notice of Sale, Preliminary Official Statement and the Official Statement in the name of and on behalf of the Town in connection with offering the Bonds be and is hereby approved.

Section 14: Contracts and Certificates. The Treasurer of the Town be and is hereby authorized to negotiate, execute and deliver, in the name of and on behalf of the Town, such contracts, agreements, and other documents, including, but not limited to, bond purchase agreements, refunding escrow agreements, tax certificates and non-arbitrage agreements, instruments and other certificates as may be necessary or appropriate as determined and approved by the Treasurer of the Town in connection with the negotiation, execution, sale and delivery of the Bonds.

Section 15: Other Actions. The Treasurer, Chair of the Town Council, Clerk and other appropriate officers of the Town are hereby authorized and empowered to do all such acts and things as may be deemed necessary or desirable and to execute, deliver, file, approve, and record all such financing documents, contracts, deeds, assignments, certificates, memoranda, abstracts, and other documents as may be necessary or advisable, with the advice of counsel for the Town, including but not limited to any certificates, bond insurance agreements, notices of sale and other documents as may be necessary or appropriate in connection with the sale of the Bonds and Notes and any letter of credit agreement or liquidity facility agreement necessary to the issuance of any Bonds or Notes, to carry out the provisions of this Bond Order and the provisions set forth above in connection with the Projects, the execution, sale, and delivery by the Town of the Bonds and Notes and the execution and delivery of any related financing documents.

Section 16: Registration. The Bonds shall be transferable only on registration of the books of the Town kept by the Town or the Transfer Agent, as applicable, and said principal amount of the Bonds of the same maturity (but not of any other maturity) in the denomination of \$5,000 or any multiple thereof (or such other minimum denomination as the Treasurer of the Town shall establish from time to time) upon surrender thereof at the principal office of the Town or the Transfer Agent, as applicable, with a written instrument of transfer satisfactory to the Treasurer of the Town or the Transfer Agent, as applicable, duly executed by the registered owner or the registered owner's attorney duly authorized in writing. Upon each exchange or transfer of a Bond, the Town and the Transfer Agent, as applicable, shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new Bonds upon exchanges or transfers thereof to be paid by the person requesting the same.

Section 17: Book Entry. The Treasurer of the Town be and is hereby authorized to undertake all acts necessary to provide, if deemed necessary or appropriate by the Treasurer of the Town in the Treasurer's discretion, for the issuance and transfer of the Bonds in book-entry form pursuant to the Depository Trust Company Book-Entry Only System as an alternative to the provisions of the foregoing Section 8 regarding physical transfer of Bonds, and the Treasurer of the Town be and is hereby authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in the Treasurer's opinion, appropriate in order to qualify the Bonds for and participate in the Depository Trust Company Book-Entry Only System.

Section 18: Exchange and Transfers. The Treasurer of the Town and Chair of the Town Council from time to time shall execute such bonds as may be required to provide for exchanges or transfers of Bonds as heretofore authorized, all such Bonds to bear the original signature of the Treasurer of the Town and the Chair of the Town Council, and in case any officer of the Town whose signature appears on any Bond shall cease to be such officer before the delivery of said Bond, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof.

Section 19: Costs; Reallocation. The term "cost" or "costs" as used herein and applied to the Projects, or any portion thereof, includes, but is not limited to (1) the purchase price or acquisition cost of all or any portion of the Projects; (2) the cost of planning, developing, preparation of specifications, surveys, engineering, feasibility studies, legal and other professional services associated with the Projects; (3) the cost of environmental studies and assessments; (4) the cost of financing charges and issuance costs, including premiums for insurance, interest prior to and during construction and for a period not to exceed three (3) years from the issue date of the Bonds or Notes, administrative fees

and costs, legal and accounting fees and costs, application fees, and other fees and expenses relating to the financing transaction; and (5) the cost of all other financing authorized hereunder, whether related or unrelated to the foregoing. In the event that any proceeds of the Bonds or Notes remain unspent upon completion of a Projects, or if the Town abandons a Project, the Town reserves the right to reallocate unspent proceeds to the costs of other qualified projects approved, or to be approved, by the Town Council, or to apply unspent proceeds to the payment of debt service on the Bonds or the Notes.

Section 20: Tax Levy. In each of the years during which any of the Bonds or Notes issued hereunder are outstanding, there shall be levied a tax in an amount which, with other revenues, if any, available for that purpose, shall be sufficient to pay the interest on said Bonds or Notes, payable in such year, and the principal of such Bonds or Notes maturing in such year (except in the case of Notes to be refunded in that year by the issuance of Bonds).

Section 21: Investment Earnings; Premium. The investment earnings on the proceeds of the Bonds, if any, and the excess proceeds and premium of the sale of the Bonds, if any, be and are hereby appropriated to be used (a) to pay issuance costs for the Bonds, including, without limitation, underwriters' and financial or municipal advisory fees, legal and accounting fees and costs, application fees and other fees and expenses relating to the issuance of the Bonds, (b) to pay a reasonable amount of interest on the Bonds and (c) in a reasonable amount for any use of Bond proceeds allowable under the Town Charter and U.S. Treasury Regulation Section 1.148-1 and following.

Section 22: Reimbursement. The Town Council hereby declares its official intent within the meaning of Treasury Regulation 1.150-2 to pay, on an interim basis, preliminary costs of the Projects, which costs the Town reasonably expects to reimburse with proceeds of the Bonds or Notes to be issued in the maximum principal amount of \$10,617,395.

This order shall take effect immediately. ADOPTED this 9th day of July 2024 by the Windham Town Council.

Sponsors:

Indexes:

Code sections:

Attachments: 1. 24-079 Bond Order CoverSheet.pdf

Date	Ver.	Action By	Action	Result
7/9/2024	1	Town Council		