

# BOARD OF PUBLIC WORKS

## *Vision*

The Board of Public Works exists to improve the quality of life of the customers we serve.

## *Mission*

We are dedicated to providing our current and future customers with utility and other value added services in a safe, reliable, and economical manner consistent with sustainable growth, community involvement, and environmental stewardship.

**Regular Meeting of the Board of Public Works was held in Lewes City Hall, Council Chambers, 114 East Third Street, Lewes, Delaware on Wednesday, August 22, 2012 at 7:00 p.m.**

### **Board Members Present:**

*C. Wendell Alfred  
D. Preston Lee  
Jack Lesher  
James N. Richmann  
Candace Vessella*

### **Ex-Officio Members Present:**

*James L. Ford, III – Lewes Mayor  
Paul Eckrich – Lewes City Manager  
Fred Beaufait – Lewes City Council  
Bonnie Osler – Lewes City Council  
Darrin Gordon – General Manager  
Heidi Wagner – Asst. General Manager  
Glenn C. Mandalas – Legal Counsel*

### **Others Present:**

*Dave Fink – Severn Trent  
Lori Brown – Severn Trent  
Joe Hoechner – Resident  
Dennis Reardon – Resident*

### **1. Welcome, Call Meeting to Order and Pledge of Allegiance**

At 7:00 p.m., President Alfred welcomed everyone, called meeting to order and led Pledge of Allegiance. A moment of silence was observed for our troops serving our country.

### **2. Roll Call**

President Alfred stated all Board Members, General Manager Darrin Gordon, Assistant General Manager Heidi Wagner, Mayor James Ford, and Legal Counsel Glenn Mandalas are present.

### **3. Revisions and/or Deletions to the Agenda**

Darrin Gordon requests addition of one item at end of agenda for a grant application with an allocation made with Capital Budget. Glenn Mandalas has discussed with General Manager as more of an update than an action item. An opportunity for grant monies is being presented which is not considered a required agenda item. President Alfred agreed to add discussion item.

### **4. CONSENT AGENDA:**

- a) Receive General Manager Monthly Report.
- b) Receive Severn Trent Report: August 1, 2012 / Clean Water Partnership Award.
- c) Receive President Report.
- d) Receive Vice-President Report.
- e) Receive Secretary Report.
  1. Approval of Regular Minutes dated July 25, 2012.
- f) Receive Treasurer Report.
- g) Receive Asst. Treasurer Report.

James Richmann motioned to approve the Consent Agenda, Jack Lesher seconded, and motion carried unanimously.

### **OLD BUSINESS**

### **5. Open forum/general discussion on the ratification of the new streetlight tariff presented and passed July 25, 2012 Board Meeting. (D. Gordon)**

#### **INFORMATION:**

Darrin Gordon said discussion at last month's meeting outlined the details of the new energy-efficient street lights with savings passed on to the City along with a change in the streetlight tariff. Decision made this is appropriate however Glenn Mandalas advised a resolution is needed. Resolution 12-006 read into the record by Preston Lee.

**DISCUSSION:**

President Alfred asked for comments or questions; no comments or questions followed.

**ACTION:**

James Richmann motioned for approval of Resolution 12-006 concerning the tariff for electric streetlights within the service area of BPW, Preston Lee seconded, and motion carried unanimously.

**6. Open forum/general discussion of the 1<sup>st</sup> Quarter financial condition of the Lewes BPW. (D. Gordon, J. Leshner)**

**INFORMATION:**

Darrin Gordon referenced spreadsheets distributed to everyone with encouragement to review the 8½x11 pages showing consumption, etc. for last quarter [April/May/June/July 2012] and covering the warm spell.

**Page 4**, Statement of Revenues and Expenditures for four months ending 7/31/12, **Electric** consumption in April and May was average; June shows highest consumption of last five years and July shows delivery of over 9 million kW of power [a record of July in Lewes].

**Page 5** shows **Water** consumption with some correlation. April sold record gallons of water; May was average; June and July were new records.

**Page 6**, **Sewer** billing is related to water consumption. April number is higher than ever; May down a little; June is average; July number climbs again even though not a record indicative of irrigation meters and water going out in other ways. Point to be made is people are being well served with quality of service through irrigation meters as shown in these charts.

**Page 14**, **Statement of Revenue and Expenditures** points of interest: **Electric** alone looking at % deviation from budget under Operating Revenues for Residential is down 9%, Commercial is down 6%, and Industrial is up by 14%. Two reasons: (1) Wind turbine at U of D has not been fully operating making difference between usual payments of \$13,000 to \$15,000 a month to them after their consumption is removed from extra production is a sum total difference of about \$40,000 from previous year. (2) PPCA escrow of reducing rates by \$500,000 for the year has not been applied appropriately accounting for the Industrial 14% difference versus other functions; correction is made and will be seen going forward. Clarification made there is a PPCA and the escrowed amount agreed upon for reduction; PPCA identifies both numbers. PPCA is accurate and doing what it should and the escrow is part of PPCA indicated on the bill; numbers shown were not applied to bills correctly. Reduction was not received for two months for the \$500,000 escrowed amount. At end of year, applied escrow will come off Residential and stay on Industrial for two more months to correct the process.

**Bottom Line**, Total Operating Revenues are up by 0.5%.

**Purchased Power** is up by 14.9% reflected in extra energy.

**Change in Net Assets** at bottom shows **Electric** budgeted at \$79,000 and currently at (\$101,000) indicating everything is fine; in other words, after four months with reduction by the \$500,000 for the escrow, budget would be about \$180,000 down. I told Board Electric will be losing money but customers will benefit. LBPW has lowest electric rates in State of Delaware. BPW is where it planned to be and doing what it planned to do.

**Water** is showing a lot more consumption with May consumption at an average; revenues are at a 4.7% increase. An issue comes under Salaries and Wages under Operating Expenses currently spending \$87,000 for current year with \$60,000 budgeted [\$60,000 is an error being researched]. Last year's amount was \$129,000 so at \$87,000 doing well maintained costs. Water Change in Net Assets had \$171,000 in budget and at \$174,000 indicating on track.

**Wastewater** Change in Net Assets number of interest shows budget at \$74,000 and now shows \$218,000. Four lines up showing \$41,000 of unexpected income from a grant; line below indicates \$31,500 extraordinary revenues from Bay Avenue where people put their own extensions with linings on their personal properties and this money will be going out. Money was collected and will be paid B. Frank Joy. Therefore, \$72,000 revenues will be taken from the \$218,000 leaving \$150,000 which is about \$70,000 above expectations.

**Totals at Change in Net Assets** are \$300,000 now with an estimated \$329,000. Final comment is BPW is sound and plan is working doing what has been discussed while watching very carefully.

**DISCUSSION:**

James Richmann believes the negative PPCA is confusing. When Board reviews the rates annually, not using a negative PPCA to effect a rate reduction in the future should be considered.

Preston Lee questioned why Water numbers were not higher. James Richmann indicated water utility is dominated by fixed costs. Darrin Gordon will review the revenues and expenses.

**7. Presentation of the progress report for the Water Treatment Plant. (D. Gordon, D. P. Lee)**

Darrin Gordon said WTP to be built at well field will be replacing existing plant on Schley Avenue called the Power Plant. Date bids are due was moved out one week from 8/29/12 to 9/6/12 to work with bidders to allow proper vetting since they were concerned with large jobs. Project will be 210 days from start to substantial completion; with total completion in 240 days. Plan is to award bid on 9/6/12 giving approximately one month to obtain materials and line everything up with goal to begin 10/1/12 with completion sometime in April or May 2013.

Preston Lee indicated there are three potential bidders. URS is to engineer the project.

Thought should be given to the old Power Plant site which is very valuable. President Alfred suggested looking at the study and presentation done on the plant.

Darrin Gordon said part of upgrade requires some variable frequency drives on the wells. A. C. Schultz is doing that work prior to construction of plant.

## NEW BUSINESS

### 8. Open forum/general discussion on the renewal of the Comcast tower lease agreement. (D. Gordon)

#### INFORMATION:

Darrin Gordon said Glenn Mandalas and Paul Eckrich are working with him on the renewal. The Comcast contract is a lease for property on the well field where a tower has Comcast antennas. Tower was built in 1991 and leased to Comcast. Comcast pays a monthly rent to LBPW since 1991. In 2011, the contract to be renewed every five years for approximately \$300/month was renegotiated. Ken Mecham began negotiation and I have finished the negotiation with their attorney as presented in the "Second Addendum to Lease" document. Negotiations ended with Comcast paying \$600/month for first year with a 2.5% escalator annually. Problem is the Addendum is between the City of Lewes and Comcast with Mayor Ford's signature.

Moving forward, Darrin Gordon is requesting two actions from the Board: (1) Endorsement of the terms of the contract as written from the negotiations in order to move forward. (2) Give President Alfred the authority to sign on this contract on behalf of BPW to make this contract appropriate. Mr. Mandalas was asked to make it right; in other words, help to make the City who signed the initial lease agreement to allow the agreement be transferred to the BPW. Paul Eckrich was asked if question arose about lease belonging to BPW.

James Richmann said there has been a charter change since the original lease and the County Courthouse should have the deed with signatures and participants.

Glenn Mandalas said City is still on the deed since no action taken to coordinate deed with charter changes. Original contract in 1991 with signatories are Comcast [then known as General Television of Delaware Inc.] and the City. There is no assignment of lease provisions; usually the City could assign the lease to BPW. There was an addendum by the City in May 2011 since the original agreement had expired; City Council adopted a first addendum stating same terms remain with a month to month lease. Darrin Gordon has been negotiating with Comcast to lease on a month to month basis and I was asked to review the second addendum to the lease as proposed for the renewal lease agreement. My first reaction was to have BPW replace the City on the agreement; when checking the original, realized a third party cannot change an agreement between two other parties. At this point, BPW cannot take action to amend the original lease agreement with the City taking an action itself. Darrin is requesting Board to endorse terms set out in second addendum and then present a document at next month's City Council meeting either terminating current lease to enter into a new lease with President Alfred having authority to sign or documenting an assignment clause stating City would remain a party to the lease but assign all its rights to BPW so BPW would have full control over terms of the lease. There are several approaches to take and need is to decide on what approach is appropriate.

James Richmann stated BPW cannot lease out the City's property even if Charter gives the right to do.

Glenn Mandalas said ultimately the City would have to be involved in decision for the lease of City property however they could assign responsibilities under the lease to the BPW and let the Board handle for monthly revenues, etc. The Comcast Lease Agreement cannot be amended this evening without the City's endorsement plus Mayor Ford has to get authority from City Council.

#### DISCUSSION:

Charter change allows BPW to hold property; City owns all the property and no property has been formally transferred. Advantages questioned of changing ownership as revenue still comes to BPW. Original intent of Charter change was to make it easier to use the balance sheet of BPW for a more favorable rate on potential future bonds and to borrow money directly under the Clean Water Act, etc.; however, Charter does not say anything about property and bonds done in the past just in the future. Pros and cons should be evaluated.

President Alfred said Board needs to make a decision with Mayor Ford, Paul Eckrich, Darrin Gordon, President Alfred, and Glenn Mandalas working together to bring to City Council and/or next BPW meeting.

Glenn Mandalas said land ownership is larger issue than the lease extension so it is appropriate to act on a recommendation on the fee part of the proposal. If recommendation is to go forward, there are two parts: (1) endorsing terms as set out in current "Second Addendum to Lease" involving monthly rates with possibly a 15-year extension and (2) giving President Alfred authority to sign and enter into an agreement with Comcast. It may also be appropriate for the City to continue to sign. Darrin Gordon stated the urgency comes from Comcast as they are paying fees; negotiated fees are fair and appropriate.

Security at well field is a problem because gate is frequently left open when Comcast comes and goes.

#### ACTION:

James Richmann motioned Board authorize the President of LBPW to enter into an advisory agreement with City of Lewes and Comcast consistent with the document entitled "Second Addendum to Lease" in terms of amount and term of the lease agreement and Jack Leshner seconded. [Joe Hoechner pointed out a typo on document in 2<sup>nd</sup> paragraph ~~General~~ for General.] Motion carried unanimously.

#### ADDED AGENDA ITEM

Darrin Gordon informed everyone there is a possible surface water planning grant the State's Clean Water Advisory Council has offered and applications need to be in by August 28, 2012 leaving six days to complete application. An email was presented. Preston Lee and Darrin Gordon have passed the information onto Dave Athey of Duffield Engineering about an opportunity of marrying this grant with the current Stormwater Master Plan work with Duffield worth approximately \$80,000. Grant is a matching grant so applying for a \$120,000 would enable BPW to acquire a better product. This is a base product and we are starting from scratch; grant would enable BPW to do surveying and

explore the water sheds affecting our area. Grant will improve current plan and save money.

Glenn Mandalas said Darrin Gordon is updating his General Manager's Report with this information. These funds are already allocated and here is an opportunity to use these funds with a matching grant for the same purpose and a better product through State resources. Modification of the agenda does not allow for a new vote.

Preston Lee said present approval is for an inventory of Stormwater piping, ditches, catch basins, etc. Additional State funding is for pollution mitigation from run-off with best management practices for controlling run-off which is a logical addition to inventory.

*Lori Brown of Severn Trent told everyone about a meeting at Lewes Howard Seymour Water Reclamation Facility on August 1, 2012 and DNREC participated in a Water Certification Meeting with several attendees. At end of meeting, tours of facility were given and an award for Clean Water Partnership. This award is given for complete compliance of an NPDES permit for facility for five years in a row. Very good feedback from DNREC management was received about partnership between the Board and Severn Trent and for Walt Baumer's contributions. It was a wonderful humbling day and your attendance is appreciated. President Alfred added DNREC does not give these awards out every five years so award was well earned.*

**9. Meetings attended by Board Members or Staff.**

Preston Lee attended the Streets Committee Meeting on July 26, 2012; the DNREC Award Ceremony just discussed; Mayor and City Council Meeting on August 13, 2012; Water Treatment Plant Pre-Bid Meeting on August 15, 2012; Bay Avenue Rehabilitation Progress Meeting on August 16, 2012, and met with Chesapeake Utilities on August 20, 2012.

Jack Leshar attended the City Finance Committee Meeting in early August 2012.

James Richmann also attended the Streets Committee Meeting on July 26, 2012.

Candace Vessella participated in the DNREC Awards Ceremony on August 1, 2012 and the City Council Meeting on August 13, 2012.

**10. Board or Staff Requests for Agenda Item(s).**

James Richmann requested a special workshop meeting to discuss financial system software. President Alfred asked for potential dates later in September 2012; Darrin Gordon will present potential dates to Board.

James Richmann noted everyone received an invitation to attend a Delaware League of Local Governments Meeting where Freedom of Information Act [FOIA] issues will be discussed on Sunday, September 23, 2012 at 3 p.m. until about 7 p.m. Glenn Mandalas said there are some new developments in FOIA through House Bill 231 making administrative changes plus a significant opinion from the AG's Office. FOIA discussions and workshops should wait until League presents its opinion. Glenn Mandalas is writing a memo detailing changes for the Board to understand.

**11. Call to the Public**

No questions or comments.

**12. Call to the Press**

No questions or comments.

**13. Adjournment**

James Richmann motioned to adjourn meeting and Jack Leshar seconded. Regular Meeting adjourned at 7:57 p.m. Executive session followed.

Recorded by: Rosemary Shannon