

# BOARD OF PUBLIC WORKS

## Regular Meeting Minutes

November 16, 2016

4:00 p.m.

City Hall Council Chambers

114 E Third Street

### 1. WELCOME, CALL MEETING TO ORDER AND PLEDGE OF ALLEGIANCE

At 4:00 PM Vice President Lee welcomed everyone, called the meeting to order and led Pledge of Allegiance. A moment of silence was observed for our troops serving our country.

### 2. ROLL CALL

Vice President stated that President Alfred is out of town all other Board members are present. Also present are Darrin Gordon, General Manager, Glenn Mandalas, Legal Counsel and City of Lewes Mayor Ted Becker is not here at this time but should be here shortly.

### 3. REVISIONS AND/OR DELETIONS TO THE AGENDA

Darrin Gordon, General Manager said we have the discussion on Iowa Ave and now have the bids in and would like to add it to the Agenda. Vice President said that item #7, #8 and item #11 will be moved into Executive session but we will discuss them in open session as far as we can.

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### 4. CONSENT AGENDA

- a) Receive the General Manager Monthly Report
- b) Receive Severn Trent Report for October, 2016
- c) Receive President Report
- d) Receive Vice-President Report
- e) Receive Secretary Report, Approve Regular Minutes October, 26, 2016
- f) Receive Treasurer Report
- g) Receive Asst. Treasurer Report

**INFORMATION/DISCUSSION:** Darrin Gordon said Mr. Kennedy made some revision to the minutes. Mr. Lee said some of us just received those minutes and I would like to hold off on approval of those minutes and add to Agenda next month

**ACTION:** A motion was made by A. Thomas Owen with a second by Jack Leshner. (Robert Kennedy asked on the General Manager report. What is the round up plus program? Darrin Gordon explained that customers have the ability to round there bill up to the nearest dollar and those funds are put into an account that the needy can use to pay their bills.. All in favor; motion carried.

### 5. Open forum/general discussion to make the annual donation to the Lewes Fire Department INFORMATION/ DISCUSSION/ACTION (D. Gordon)

**INFORMATION:** Vice President Lee said we have a few members of the fire department here to explain a little background on why we should make a donation.

Ed Schaeffer, President of the Lewes Fire Department our department has seen tremendous amount of growth and the donation are not keeping up with the growth and service we have to provide. Last year we had almost 3700 ambulance runs and 650 fire alarms. We the fire department being 95% volunteers. It takes a lot out of our members, we need finances to upgrade our equipment. Gear. Gear can only be used for 5 years and to replace that it is \$2500.00 per man. Everything is getting very expensive on us. We are asking everyone and anyone that can help us, so we do not have to go to the county and get taxes raised. Charlie Arnold VP added that one of the thing we had to figure out to replace this year and next is our SVA, the tanks used to go inside a house. That cost is around \$500,000. You just can buy thing one time and be done you need to keep up with the National standards. Darrin Gordon said the history with this is that we have been supporting the Fire Department since 1901 and our Resolution states that we only contribute to the Fire Department and would like to contribute the \$25,000 at the January 14, 2017 Annual dinner.

**DISCUSSION:** Robert Kennedy welcomed President Schaeffer and thanked him for taking the time to appear before our Board to discuss the needs of the Lewes Fire Department. He stated we are all fortunate to have a strong, professional & dedicated volunteer fire department that has served the citizens of Lewes so well for so many years. Robert Kennedy said I have a couple of clarifying questions on some of your comments as well as the Annual Fire Department Fund Drive Letter that was included in our meeting material.

Robert Kennedy asked what is the size of the service area and population that the LFD serves? President Schaeffer believes it is approx. 18.3 square miles. VP Arnold said there is not a current census out there and building is happening so fast, we do not know how many we serve.

Robert Kennedy asked what % of the fire and ambulance calls are in the city and outside of the city? Who determines the fire departments service area? LFD President Schaeffer said the Fire Commissioner chooses the size of the district and they are appointed by the governor.

Robert Kennedy asked did the LFD seek to provide service beyond the City of Lewes or was the Department required to expand its service area? President Schaeffer said we have given up territory to Rehoboth. Robert Kennedy asked did the Fire commissioner ask you

to go out beyond they city. LFD President Schaeffer said sir that was way before my time.  
Robert Kennedy asked what is the LFD annual budget? LFD President Schaeffer said the annual budget is 1.7 million.  
Robert Kennedy asked does the LFD operate at a net operating profit or loss – and by how much? LFD President Schaeffer will be just about level. Including donations and billing of ambulance runs, however this year we need to purchase a new ambulance at \$280,000. We had to order a new engine and going to bare bones still spending \$450,000. We have 4 more trucks that are getting out of date and it costs too much to maintain them.  
Robert Kennedy asked does the LFD have financial reserves and how much? LFD President Schaeffer said we do have an emergency fund. VP Arnold said that the Fire department charges for ambulance calls but does not get paid for all runs. The LFD only receives about ½ and if Medicaid is billed it is even less. Robert Kennedy mention that he is a member of the ambulance club. LFD VP mention that everyone in your household is covered, then LFP President Schaeffer said you yourself know what that fee is and it is not a lot.  
Robert Kennedy asked what are the LFD sources of revenues and the dollar amounts received from each? (General Assembly, Insurance Commissioners Fire Premium Fund, Sussex County, City and public). We have fundraisers, we have small donations from the state, small donations from the county, your donation, the city's donation and whatever ambulance billing.  
Robert Kennedy asked doesn't the bond bill address some of your financial concerns are capital needs for equipment? LFD President said no and VP Arnold asked which bond bill are you talking about? Mr. Kennedy replied the General Assembly bond bill that each year they pass and have funding for fire companies, police departments and equipment. LFD President Schaeffer said we get little bit of dollars from the state for rescue money for equipment. Mr. Kennedy asked how about from the insurance commission for the Premium fund. LFD President Schaeffer replied yes that is the port biggest portion on where we get our money from. Mr. Kennedy said it is my understanding that under the state statues every insurance premium that is written in the state of Delaware a certain percentage is placed into this fund placed at the insurance Commissioner's office and controls and then a portion is given back to fire companies and police agencies and ambulance companies on some kind of formula. I understand it could be quite a bit of money that you can count on each year based on the insurance premiums. LFD President Schaeffer said the biggest thing about that is what is collected in our district also goes to all other 21 district as well. It's not divided out by district it goes into a pot at the state level and then the counties deal it out divided by 21 and then the ambulance companies get a portion. Robert Kennedy replied but the county also as a separate donation. LFD President Schaefer said it is done the same way as the state but by building permits not taxes. Robert Kennedy said as your service area increase with the new subdivisions your territory increases you would think the formula used by the county would result in you getting an increase. LFD VP Arnold said that is the fallacy in the formula at the moment that has been an ongoing discussion not only the county but the fire service Association. Right now, most of the growth is on this side of the county but the way the formula is written and distributed it is distributed equally to everybody. Robert Kennedy said I think the library is having that same problem, that the funding doesn't match the growth in the area. LFD VP Arnold said we are working on the with the Fire Fighters Association trying to find other ways of funding and help the districts that are having the growth receive more of the funds to take care of the demand right then. The argument is that the growth is going on the east side of the county and eventually it will get to the west side of the county. Robert Kennedy asked one final thing you mention the number of ambulance calls and number of fire calls; can you tell me the percentage between in city and out of city? Both LFD President Schaeffer and VP Arnold could not tell the percentages  
Robert Kennedy thanks President Schaeffer for his testimony and many years of service with the LFD and to the citizens of Lewes Vice President Lee thank you for your great service.

**ACTION: Tom Owen made a motion to give the Lewes Fire Department the same amount as last year of \$25,000. Jack Leshner 2<sup>nd</sup> to contribution.**

**Robert Kennedy said he does not support the motion and read aloud a statement:**

**I cannot support this motion not because I have anything against the Lewes Fire Department – to the contrary. We are all fortunate that we have an active, professional and dedicated fire department serving our community.**

**My opposition is based on the following:**

**The BPW provides essential utility services under Monopoly conditions.**

**As such, utility customers are “captive customers” and have no alternative provider of utility service to turn to if they are dissatisfied with the price or quality of service.**

**Therefore, I believe that the BPW rates should be set at the lowest rate possible consistent with the BPW’s obligation to provide service now and in the future.**

**Charitable organizations are not essential to the provisions of utility service and, when donations are paid with BPW funds, have the effect of making ratepayers involuntary supporters of those charities.**

**Contributions to charitable organizations made via utility rates deny the ratepayer the tax benefit of such contributions, artificially increase the cost of utility service and make the BPW rates seem less competitive.**

**While not prohibited, the BPW Charter does not address charitable contributions whereas financial support for the fire department is specifically addressed and allowed for the City’s Charter.**

**It is my understanding that the BPW currently does support the Lewes Fire Department in a variety of ways both direct and indirect.**

**For these reasons, and at a time when we are reviewing our rates for sufficiency, I believe that the BPW should not expend rate payer revenues on charitable donations.**

**DISCUSSION:** Meeting was back into discussion and motion was pending. VP Lee said that is why we have this resolution and I am convinced that they do provide us a service and they do protect our buildings and we do have a lot of them. I think we are paying for that service than a true contribution. Tom Owen added that I agree that paying for services in lieu of taxes. We are getting serious services provided by the fire department and I would hate to see them close those doors and run out of town. If we would have a fire they are right here. Mayor Becker said the donation that the BPW makes to the Fire Department has been level for many years. The City had increased the donation to the Fire Department 8 years ago to \$30,000. You are no longer consistent we the city not that you have to be. They continue to benefit from your donation. They are very active members of this community and we all receive some kind of benefit from there service. If we would be looking at the City taking over the fire company, we be looking at doubling our tax rate.

Jack mentioned that we did not make a donation they would need to pick it up somewhere else and us as taxpayers would pay rather than as a utility. Bonnie Osler, City Council said you had actually made points that I wanted to make. In terms as they City's donation I see it as fees for service. They are a nonprofit organization and does not make them a charity contribution when it comes to taking tax payers funds and subsidizing and as Tom said they are providing us with a tremendous service that is very import to the health, saving and welfare of our citizens by having a fire house centrally located in the City of Lewes we not only save lives and property but I would guess we get discounts on our Citizens insurance. I just happen to have your financials here for October 2016 and you are talking about a contribution of \$25,000. Your revenue is nearly ¼ of a million dollars. So, your revenue's over time to say it is far-fetched to say our rate payers would be effected by a \$25,000 contribution. If something blows up in this town owned by the Board of Public Works it is a lot more serious than one ambulance run or one house fire it is potentially catastrophic. With a \$25,000 investment by the board of public works in the preservation of it own infrasture is a small amount to pay.

**MOTION:** Jack Leshner yes, A. Thomas Owen yes, D. Preston Lee yes, Robert Kennedy no. Motion passed to contribute \$25,000 to the Lewes Fire Department.

**6. Open forum/general discussion to receive the Municipal Electric Utilities Renewable Portfolio Compliance Report from the Delaware Municipal Electric Corporation (DEMEC). INFORMATION/ DISCUSSION/ACTION (D. Gordon)**

**INFORMATION:** Mr. Gordon said we have a report on the Municipal Electric Utilities Renewable Portfolio Compliance report for the 2015-2016 program year on behalf of all nine of our Municipal Electric Utilities submitted from DEMEC that we do on an annual basis. DEMEC provides us power then we sell it to our customers but what we have is a portfolio of all kinds of different generators, not only do we have to say we natural gas generation we have to say we have renewable generation. The Delaware Renewable Portfolio standard background said that in 2010 we agreed with Governor Jack Markell that we voluntary join the Delaware RPS under S.S.1. There are three points I would like to share with you are to increase the RPS target to 25% by 2025 with at least 3.5% from solar resources. It would allow municipal electric companies to develop and implement a comparable program to the State Renewable Energy Portfolio Standard for its ratepayers beginning in the 2013 compliance year and provide a method to freeze the RPS compliance obligations for utilities if cost exceed "circuit breakers" of the 3% of the total cost of purchased power. Having said that to date we are in compliance with that agreement we have we the governor and are meeting our requirements. The non-solar part of the portfolio is that we went into agreement with Laurel Hill wind farm in north-central Pennsylvania and we are purchasing power from them at a lower rate. We also have the University of Delaware's wind turbine that is counted for us. Tom Owen mentioned that when at the APPA national conference that Lewes was 10<sup>th</sup> in the country per capita use of solar. Darrin Gordon said we now have 43 customers that have solar installation.

**ACTION:** Jack Leshner made a motion to accept this report from DEMEC, Tom Owen second, All in favor. Motion carried.

**7. Open forum/general discussion of the Lewes BPW bad debt write off. INFORMATION/ DISCUSSION/ACTION (D. Gordon)**

**INFORMATION:** Darrin Gordon said I was asked to bring to this meeting a discussion of bad debt write off. I have handed out two Documents. That we have \$48,000 bad debt on our books right now. The issue we have is with tenants and with those numbers only is around \$12,000. This coming year debt to write off for this year is \$1,680. Collections are down and we need to give kudos to Suzanne on collecting these debts. I would like to take this discussion into Executive Session to discuss further. I would like to look at our policy for the deposit minimum of \$125.00 and will be coming back to you in the future. Even with the bad debt of \$12,000 we are below the National Average at less than 1%.

**ACTION:** Vice President Lee said we will take this into Executive discussion for further discussion.

**8. Open forum/general discussion and review of Resolution 13-004 the procedure for application for utility services for areas beyond the limits of the City of Lewes. INFORMATION/ DISCUSSION/ACTION R. Kennedy)**

**INFORMATION:** Vice President Lee gave Mr. Kennedy the table and he said we are moving this discussion into Executive Session. Councilperson Rob Morgan asked what is the basis to go into Executive session for this discussion? Vice President Lee asked Glenn Mandalas, Legal counsel to answer Rob Morgan' questions. He asked to move on to the next topic and will review the FOIA policy. Vice President Lee said we were given a confidential memo to discuss. Glenn Mandalas said you can move that part of the discussion into Executive session. If it is a more general topic on the Resolution, it cannot be discussed in executive session. Robert Kennedy made a motion last meeting for Council to review the topic and then withdrew his motion. Vice President Lee asked Robert Kennedy to discuss what his issues are. Robert Kennedy reviewed all of the Board Resolutions and during the course of that review several came to my mind that the Board should reconsider and this was one of them and I brought it to the Boards attention because I felt that the Resolution currently written is in conflict with the duty and obligations inherent in a certificate of convenience and necessity granted to the Board by the State of Delaware to provide utility. The Resolution as I read it clearly imposes additional non-utility requirements on applicants in the CPCN area and discriminates against them in favor of current or potential customers within the City of Lewes. Both appear to me to be in conflict with the duty and obligation to provide service in a fair and non-discriminatory manner. I recounted several specific areas in the resolution that I thought was in conflict with the obligations that the Board has under the certificate of public necessity. (1) The requirement for a signed pre-annexation agreement prior to the landowner/property owner prior to receiving utility service with the certificate of public necessity granted area/ territory. (WHEREAS clause #6) I felt that this is a Non-Utility condition conflicts and should not be in the application for utility service. and (2) A finding that is in the best interest of the City's rate payers to coordinate the utility service and the expansion (WHEREAS clause #7) and I felt coordinating the city and the board are not necessarily related to utilities to be serviced. non-utility condition referred to in Exhibit A, I felt need to be excluded as well to conform the operational requirements in Exhibit A within the Board Resolution. That was the basis my wanting the Board to reconsider Board Resolution 13-004 and if agreed remove these items from the resolution and separate the two activities.

Vice President Lee said we have all gotten Glenn's letter and asked if anyone has discussion prior to moving into executive session do

we have enough information? Tom Owen said I have read this resolution and more than once. And there are yes and no. but Glenn interrupted Tom and said we cannot discuss what is in the confidential memo. Glenn Mandalas said I should mention one thing that director Kennedy question here weather your discussion about the pre-annexation agreement and possible removing that on servicing outside the City from the resolution and came into question my representing both the City and the Board on the matter. The City obviously has an interest in having the pre-annexation agreement signed to ensure that the properties serviced weather or not by the Lewes BPW or not are within the Municipality for tax revenue purposes. By removing that portion from your resolution for rate payers outside the city and within arguably in conflict. I don't feel that I can be part of both agencies for the change in the resolution to remove the pre-annexation.

Rob Morgan asked what is being changed on the current Resolution 13-004. Darrin Gordon gave him a copy of the suggested amendments to that resolution and a copy of the current resolution.

**9. Open forum/general discussion of the Alevo Battery Project. INFORMATION/ DISCUSSION (D. Gordon)**

**INFORMATION:** Darrin Gordon said the Alevo battery project is moving forward. They are paying rent and plan on moving in my year end.

**10. Open forum/general discussion and review of the meter reading and high speed internet offering project. INFORMATION/ DISCUSSION (A. Calaman)**

**INFORMATION:** Austin Calaman presented the meter reading update that he is expecting a phone call from George Bjelovuk who represents AMP (American Municipal Power) AMI. DEMEC recommended them to us. Spoke with Tantalus on the AMR project and their rough estimate was "a couple of hundred thousand" but we are still waiting for a final proposal cost. Currently we have Itron MC lite receiver for testing, this is a car mounted device that reads meters as you drive by. It can handle all routes at once instead of individually and the cost is roughly \$13,000. The high speed internet offerings that I have found are from Conxx and they have given us a proposal on three base stations to put on the State tower, Water tower and UD tower. They have no TV solution but Delmarva VOIP would project manage fiber installation and offer telecommunications. The speeds and coverage area is spotty due to a low number of subscribers. I spoke with Broad Valley and they are finalizing a design which would be a hybrid solution combing both wireless and fiber to the home with several methods available. Vice President Lee responded that Easton has Coax and it is good but a lot of money. Austin Calaman said I am trying to get low rates to make it cost effective for our customers. Robert Kennedy asked about security. Austin replied that it is a secure connection to each home. Robert Kennedy said that he still has a critical concern with security.

**11. Open forum/general discussion and review of the Savannah Place Project. INFORMATION/ DISCUSSION (D. Gordon)**

**INFORMATION:** Darrin Gordon said we have had a meeting with the Savannah Place owners a month and half ago to discuss sewer to the homes at an estimated cost of \$51,000 per home. It has been post posed for 60 days to try to get Donovan Smith Mobile Home Park to ty in and help reduce the cost.

**11.5 Added discussion on the Iowa Ave stormwater project.**

**INFORMATION:** Darrin Gordon said that the bid opening for Iowa Ave stormwater project were opened October 25, 2016. We received 5 bids and the recommendation from GMB is to go with Gateway Construction in the amount of \$120,169.00.

**ACTION:** A. Thomas Owen made a motion to give Darrin Gordon the authority to sign the contract. Jack Leshar seconded. All in favor. Motion carried.

**12. MEETINGS ATTENDED BY BOARD MEMBERS OR STAFF.**

A. Thomas Owen attended the Safety Luncheon and the Lewes Planning Commission Meeting.

D. Preston Lee attended the City and Mayor Council Meeting and the Safety Luncheon.

**13. BOARD OR STAFF REQUESTS FOR AGENDA ITEM(S).**

NONE

**14. CALL TO THE PUBLIC:** Kristina Keller, Lewes BPW, Nick Roth, Cape Gazette, Paul Eckrich, City Manager, Austin Calaman, Asst. General Manager, Rob Morgan, City Council, Bonnie Osler, City Council, Ed Schaeffer, Lewes Fire Department President, Charlie Arnold, Lewes Fire Department Vice President.

**15 CALL TO THE PRESS:**

None

**16 ADJOURNMENT** A motion was made by Jank Leshar to adjourn the meeting and move into executive session. Robert Kennedy second. All in favor..