

**CITY OF LEWES
BOARD OF PUBLIC WORKS
Regular Meeting Minutes
March 28, 2018**

The Wednesday, March 28, 2018 regular meeting of the Lewes Board of Public Works was held at 4:00 P.M. in the Lewes BPW upstairs meeting room, 107 Franklin Avenue, Lewes, Delaware.

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

President Alfred called the meeting to order at 4:00 P.M. and led the Pledge of Allegiance. A moment of silence was observed for our troops serving our country.

President Alfred announced that Mr. Gordon is attending a hurricane seminar in Florida; Deputy Mayor Fred Beaufait will be present today for Mayor Becker.

2. ROLL CALL

Board Members Present:

C. Wendell Alfred
D. Preston Lee, P.E.
Jack Leshner
A. Thomas Owen
Robert J. Kennedy, III

Ex-Officio Member Present

Michael Hoffman, Legal Counsel

Others Present:

Deputy Mayor Fred Beaufait for Mayor Becker
Austin Calaman, Assistant General Manager
Kristina Keller, BPW
City Councilman Rob Morgan
City Councilman Dennis Reardon
Jackie Doherty, Recording Secretary

3. REVISIONS AND/OR DELETIONS TO THE AGENDA

Mr. Calaman stated the BPW offices will be open on April 21st from 9:00 A.M. to 12:00 Noon for voter registration for the upcoming election.

4. CONSENT AGENDA

- a) Receive the General Manager Monthly Report**
- b) Receive the White Marsh Environmental Systems, Inc. Report**
- c) Receive President Report**
- d) Receive Vice President Report**

- e) **Receive Secretary Report approval of Regular Minutes dated January 24, 2018 and the Strategic Planning Workshop Minutes dated January 23, 2018**
- f) **Receive Treasurer Report**
- g) **Receive Assistant Treasurer Report**

ACTION: *Mr. Lesher made a motion to accept the consent agenda as presented; Mr. Owen seconded the motion, which passed unanimously.*

5. Open forum/general discussion on the presentation of the American Public Power Association (APPA) Reliable Public Power Provider (RP 3) award to the Board of Public Works (D. Gordon and Bob Barnes)

Mr. Calaman stated he, Ms. Keller, Mr. Gordon, and Mr. Barnes submitted the information needed to the APPA Board in September, and we received confirmation about six weeks ago and the plaque a few days ago. The award, which is until 2021, was presented to Mr. Barnes by the Staff for outstanding safety, reliability, training, and system improvement.

6. Open forum/general discussion on the adoption of the 2018-2019 Operations and Maintenance Budget. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Calaman stated everyone reviewed the budget and met with Mr. Gordon to discuss any comments or concerns and asked for approval of the budget as presented.

President Alfred stated the budget was presented at the January meeting. If anyone from the public has any questions or concerns, they can schedule a meeting with Mr. Gordon for review.

ACTION: *Mr. Owen made a motion to accept the 2018-2019 Operations and Maintenance Budget as presented; Mr. Lesher seconded the motion, which passed unanimously.*

7. Open forum/general discussion and presentation of the proposed 2018-19 to 2022-23 Capital Improvements Budget. INFORMATION/DISCUSSION/ACTION (D. Gordon)

President Alfred stated this budget has also been reviewed by the Board with comments or concerns discussed with Mr. Gordon. The public is also invited to schedule a meeting with Mr. Gordon for review of their questions and concerns. There will not be a vote on the budget today.

Mr. Kennedy stated the budget is also available for review on the BPW website.

Mr. Calaman requested the Board vote today on the request for purchase of the vehicles presented in the budget. The deadline is April 11, 2018 to order the vehicles for purchase under the State discount contract. The requested fleet vehicles include three (3) Ram 1500 4x4 to replace a 2005 Ford F-250, 2006 Ford F-250, and 2007 Chevy 1500. All three vehicles being replaced have been having mechanical problems and have reached their 10-year depreciation. Also included in the budget, but not in the request for an approval vote today, are requests for a Ram 3500 to tow stormwater equipment, a stormwater trailer, and an electric truck.

Mr. Lee stated he requested information from Mr. Gordon on the cash reserve policy.

Mr. Calaman provided the information listing the minimum cash reserve to include years 2018 thru 2022 stating the totals are well-within and well-above the minimum cash reserve policy.

Mr. Lee stated based on cash reserve policy factors that are nationally accepted, these totals are within the guidelines.

ACTION: *Mr. Leshar made a motion to approve authorization to purchase the three (3) requested vehicles through the State discount contract to meet the April 11, 2018 deadline; Mr. Kennedy seconded the motion, which passed unanimously.*

**8. Open forum/general discussion of the amendment of the Sussex County Agreement for Wastewater Service to allow the County to receive effluent from the Lewes BPW.
INFORMATION/DISCUSSION/ACTION (D. Gordon)**

Mr. Calaman stated BPW had a previous agreement with Sussex County to receive their effluent via Gills Neck Road construction at Wolfe Point and Wolfe Run. The amendment is stating that BPW can give and receive effluent, which will include communities at Old Orchard Road to tie-in with the County.

Mr. Hoffman stated he reviewed the terms of the original agreement but has not conferred with Staff. The County has signed the agreement and has sent it to BPW to be signed; it was on their agenda for March 20th. The Board does have the opportunity to ask questions of the County and present any concerns. Mr. Hoffman stated his main concern in reviewing the agreement is the protection of BPW.

Mr. Leshar stated he wanted to review some changes and questions for clarification with Mr. Hoffman after today's meeting but did not realize the County has signed the agreement. The changes being requested will not change the context of the agreement.

Mr. Lee stated he also has some questions about the wording.

Mr. Hoffman explained the agreement contains strike-throughs and underlines that represent the changes to the draft presented to the Board by the County. There was an issue with time and this being a multi-jurisdiction document that did not allow the agreement to be a new re-write. What is important is the interests of the Board are protected and the intent is there.

Mr. Owen stated he did review the agreement with Mr. Gordon. The intent and purpose are for BPW to now give effluent to the County as well as receive it. If Mr. Hoffman agrees to how it is legally written, Mr. Owen does not have a problem with it.

Mr. Hoffman read Article 4-C of the agreement into the record. Mr. Hoffman said the original agreement stated that the Board was the owner and the County was the contract-user. The purpose of the agreement was to allow the reciprocal arrangement for just this portion. Even though the definitions for contract-user and owner are not perfect, the definition of collection systems, biological treatment, transmission system and the obligations to reflect that limited portion where the Board has the reciprocal arrangement were clarified.

Mr. Kennedy stated Oyster Cove is part of the CPCN area for sewer, and the agreement allows it to be served without BPW having to expend capital to serve the area until it develops.

ACTION: *Mr. Leshner made a motion to accept the amendment as presented by Mr. Calaman and by Mr. Hoffman; Mr. Kennedy seconded the motion, which passed unanimously.*

**9. Open forum/general discussion for Resolution 18-001, Main line extension policy.
INFORMATION/DISCUSSION/ACTION (D. Gordon)**

Mr. Hoffman stated this is an ongoing discussion from previous meetings for the resolution to allow BPW to extend infrastructure within certain impact areas. The cost of the infrastructure could be pro-rated among the identified dwelling units within that impact area. It also addresses a policy for a property owner that does not want to connect at that time, they could connect later with a latecomer fee for the connection. The resolution is not ready for a vote and requires ongoing review and discussion by the Board.

Discussion included:

- Specify latecomer fees as a policy question for the Board; how soon the connection would be needed before there is a latecomer fee; consider the costs to the BPW when deciding the amount for the fees
- Map of impact areas to be included in the next draft
- Current policy states if there is a neighborhood that wants to connect, BPW will extend the infrastructure but will require an agreement with the Homeowners Association; the Board directed Staff to write a resolution that would allow the infrastructure to be extended with connection charges on a pro-rated basis within the impact area
- The goal of the resolution is to be more equitable and to extend the infrastructure in a more equitable manner

Mr. Hoffman requested any questions or comments be sent to him to provide a draft to the Board for review at the April meeting.

Mr. Kennedy stated he thought after previous discussion, the Staff would provide a method for the latecomer fees to reimburse BPW to cover the carrying costs of the capital spent to serve the area. There was no decision on the time to wait to qualify for the latecomer fees. Because the property owners wait three or five years to connect, they need to pay the original costs and the costs to BPW for the investment made on their behalf.

Mr. Hoffman stated the current draft states the latecomer fee shall be a percentage of the EDUs proportional share of extension costs for every year following completion of the system. This latecomer fee is charged in addition to the carrying costs of infrastructure to be paid on a pro-rated basis.

Mr. Beaufait questioned what the late charges would be if the issue is annexation and no fault of the development if not connected at the time the infrastructure is extended. Will the property owner be penalized if there are other reasons why they are not connected? The carrying costs for BPW should be considered the cost of doing business.

Mr. Hoffman stated if services are extended to an undeveloped area, according to the current developer's agreement policy, the developer would be the responsible for the costs. The resolution provides that in an impact area if the BPW expends costs to expand the infrastructure, instead of putting the costs on a few when others may benefit, the idea is to benefit citizens by allowing the costs to be spread to all. The purpose of the latecomer fees is not to penalize but to make clear that the benefit is available to all, the BPW needs to recover their carrying costs for anyone connecting late.

Mr. Beaufait asked the Board to consider the issue of annexation and the late fees charged when it is not the decision of the property owner but something else is imposed that has caused them not to be able to connect until five years later. When the imposition is removed, and they are able to connect, they are being penalized for something they had no control over.

Mr. Hoffman stated this is a policy issue to be considered by the Board. If the Board would agree to Mr. Beaufait's suggestion, the impact areas would become smaller meaning the citizens in that impact area would pay more for the connection.

**10. Open forum/general discussion of approval to perform a rate study.
INFORMATION/DISCUSSION/ACTION (Robert Kennedy)**

Mr. Kennedy stated he presented a memo to the Board for review to have the information to decide if this would be an area to explore in moving forward.

Mr. Kennedy discussed the following:

- First requested in 2010; should be easily prepared at a fairly-low cost; further evolution of the rate design already in place for customer and volume charges
- Evidence to support what is current or recommendation to enhance the wastewater rate schedule; track what other municipalities use instead of an arbitrary percentage of domestic water to calculate the wastewater rate
- Consult with Dawn Lund for a focused report, revenue-neutral to consider the next step in rate design to be fair, equitable, and less-costly to customers and the Board
- Current charges for wastewater services is based on 80% of domestic water volume; concerns of customers who have no water usage during the Winter; establish the residential demand for Winter and Summer months; revenues received for domestic water not going into the sewer plant for treatment
- Customers pay for irrigation at the regular, public, domestic water rate; customers would avoid higher volume charge for irrigation; proper or improved rate for wastewater billing with more information needed

Mr. Lee stated this was discussed with Ms. Lund, and in his experience, there is nothing better than what is being done now. There is also the issue of how many residents are not here for the Winter, Lewes is not a year-round community.

President Alfred stated the Board will direct Mr. Gordon to speak to Ms. Lund for additional information to decide if money should be spent for a rate study.

11. Open forum/general discussion to perform water quality tests beyond the Safe Drinking Water requirements. INFORMATION/DISCUSSION/ACTION (Robert Kennedy)

President Alfred stated he has spoken to Mr. Gordon and Mr. Kennedy and feels this is a very good idea. While we are not sure what the tests will involve, it is good to go beyond the State's standards. There is a list available of all tests that could be performed.

Mr. Kennedy stated he provided a memo to the Board regarding water testing in Delaware. According to the test results, BPW does not violate any federal or state safe drinking water standards. The concern is that the Board be aware of any changes in the aquifer to have sufficient time to respond to avoid a crisis. If there is an issue with the testing of the five wells, production can be shifted to other wells located farther away.

Mr. Lee stated it needs to be determined what chemicals will be included in the testing. There was a study recently that showed microscopic plastics from clothing being found in drinking water.

Mr. Owen stated there is concern about the new Townsend/Lingo development being located over the City's wells. Testing is needed to check the baseline for the wells with continued testing to see if the construction is impacting the wells. Any positive results from the engineers should be added to the list of tests to be performed.

Mr. Calaman stated BPW tests the water monthly in the Winter and biweekly in the Summer.

ACTION: *Mr. Kennedy made a motion to direct Staff to move forward to ascertain what is needed to start the water-testing program; Mr. Lee seconded the motion, which passed unanimously.*

12. Open forum/general discussion to send a notice to Alevo to remove equipment from BPW property within the next 30 days. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Calaman stated a default letter has been sent to Alevo regarding the late rent payments. There are now four of their transformers in the yard and a letter is being sent stating these need to be removed in the next 30 days.

Mr. Hoffman stated Alevo was sent a notice and their period within which to clear the default expires today. The Board now needs to discuss options to move forward. Per the lease agreement, the Board may send a notice to remove the property, and once the notice is sent upon termination of the agreement, Alevo (ESS Lewes Project, LLC) must remove the equipment within 120 days, not 30 days.

Mr. Hoffman stated further discussion will continue in executive session.

13. Open forum/general discussion to have a 4-hour planned electrical outage for Delmarva Power to perform work and switching at the Midway substation. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Calaman stated this has been delayed until the Fall of 2018.

**14. Open forum/general discussion to report on current project review.
INFORMATION/DISCUSSION/ACTION (D. Gordon)**

Mr. Calaman reported manhole #11 is being installed today at Market Street to tie-in at the Inn at Canal Square; at 10:00 P.M. tonight there will be work at Gills Neck to replace a broken valve, backfill with sandstone to be paved Thursday and Friday; the valve will be isolated and residents have been informed on the website to run the cold water if there is low water pressure.

Mr. Calaman stated there have been questions regarding the elevation of the pipe in the Highland Acres tax ditch. The County and Conservation District have been contacted and said the pipe is good and are running the hydraulic model. GMB is there but not doing the engineering because this is a County project.

Mr. Beaufait stated the concern is there is standing water in the ditch because it is not low enough. Also, fill has been placed over part of the root system of the row of evergreen trees along Canary Drive that could possibly kill the trees.

Mr. Reardon stated the pipe runs from Oceanview back to the tax ditch and is higher than it was before; there was something found with three entrances under Oceanview that was a foot higher than the pipe coming in, and instead of lowering that pipe, they raised the pipe up by one foot; it has been stated that nothing will be done now from Oceanview to the tax ditch behind the homes; a condition for Mariners Retreat development was for the tax ditch to be fixed and this is an important issue; a public discussion is needed with DNREC present because this was the agreement after review with DNREC, and now the engineers are saying the work will not be done as agreed; this will impact the tax ditch at Blue Heron Drive going into Mariners Retreat; it has also been said the plan now is to raise the lower elevation of the tax ditch higher, which will cause water to come over the top during a storm; BPW needs to be involved.

Mr. Hoffman stated the developer did enter into a developer's agreement with BPW. This agreement identifies the tax ditch repair improvements, all subject to inspections and approvals, if any on-site improvements, including BPW improvements and tax ditch repair improvements are abandoned or performed in violation of the agreement, the developer shall act promptly to cause the work to be completed.

Mr. Reardon stated the developer placed money in escrow to be able to start the development. Now DNREC is changing the plan without the developer's agreement or the City and BPW being approached. Mr. Gordon agreed to act as the overseer/coordinator of the project because DNREC did not want to obtain letters from two residents on Oceanview.

Mr. Hoffman stated according to the agreement, the tax ditch repairs and improvements would be completed as a BPW project with the developer being responsible for all related expenses and costs. An explanation is needed from the engineers and Mr. Hoffman will work with BPW management to confirm BPW's enforcement, rights, and obligations are protected.

Mr. Beaufait questioned who would be responsible for the tax ditch once the project is completed, approved, and accepted.

President Alfred stated the Board will work with Mr. Hoffman and Staff to review the developer's agreement to be sure it is BPW's responsibility to take over the tax ditch. Also, could Mr. Reardon provide the tax ditch information he was sent to Mr. Lee.

Mr. Calaman stated he has a meeting scheduled for tomorrow at 9:30 A.M. with DNREC to review Mariners Retreat.

15. Open forum/general discussion of the April 28 Household Hazardous Waste and Electronic Equipment collection and Drug Take Back Day. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Calaman stated the collection day is being held in coordination with drug take back day by the Lewes Police Department on April 28th from 10:00 A.M. to 2:00 P.M. at the Schley Avenue location. The website lists what items are accepted and not accepted.

16. Open forum/general discussion to perform the semiannual system flushing on April 3rd and 4th. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Calaman stated the hydrant flushing will be on April 3rd and April 4th beginning at 6:00 A.M. on the town side working toward the beach side. According to Code Red, there are 1,164 residents who have signed up so far, but no start date has been set.

President Alfred stated residents have been notified by the website and postcards mailed.

17. MEETINGS ATTENDED BY BOARD MEMBERS OF STAFF

Mr. Kennedy stated he attended the DEMEC meeting.

Mr. Leshar stated he attended Staff meetings; met with Tim Reed to discuss investments.

Mr. Owen stated he attended the Lewes Fire Department's annual meeting and the Lewes Planning Commission meeting.

Mr. Lee stated he attended the Gills Neck/Front Street project progress meetings; working with the Delaware Solid Waste Authority to coordinate the collection day; met with Tim Reed to discuss investments.

18. BOARD OR STAFF REQUESTS FOR AGENDA ITEM(S)

Mr. Kennedy would like to discuss the policy on reporting outages and downed wires.

President Alfred stated a resident contacted Mr. Kennedy to report a Verizon/Comcast line was down on Pilottown Road. BPW has a procedure but does not have a policy. It is best for residents to call to report any lines down and BPW will respond to all calls. There will be a formal policy added to the policy manual in the future. Mr. Gordon will speak to City Manager Ann Marie Townshend about the police reporting street lights out or downed stop signs that are seen while they are on patrol.

Mr. Lee stated resident have commented on the issue of Verizon and Comcast leaving wires wrapped around the poles.

19. CALL TO THE PUBLIC

Mr. Morgan stated he recently sent an email to Mr. Gordon asking if the water is being tested for PVCs. Mr. Gordon answered no and that it was not needed. As a resident and customer, he appreciates Mr. Kennedy’s request for water testing since there are so many things that could possibly be in the water.

President Alfred stated he agrees the testing is needed to be sure the water from the wells is safe because of all the construction in the area.

20. CALL TO THE PRESS

Nick Roth of the Cape Gazette was present.

21. EXECUTIVE SESSION

ACTION: *Mr. Kennedy made a motion to adjourn to executive session; Mr. Owen seconded the motion, which passed unanimously.*

22. RETURN TO OPEN SESSION

23. OPEN FORUM/GENERAL DISCUSSION AND/OR ACTION ON ANY ITEM FROM THE EXECUTIVE SESSION

24. ADJOURNMENT

The meeting adjourned at 5:30 P.M.

Respectfully submitted,
Jackie Doherty, Recording Secretary
Lewes Board of Public Works