

**CITY OF LEWES  
BOARD OF PUBLIC WORKS  
Regular Meeting Minutes  
January 23, 2019**

**The Wednesday, January 23, 2019 regular meeting of the Lewes Board of Public Works was held at 4:00 P.M. in Lewes City Hall, 114 East Third Street, Lewes, Delaware.**

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

President Lee called the meeting to order at 4:00 P.M. and led the Pledge of Allegiance. A moment of silence was observed.

**2. ROLL CALL**

Board Members Present:

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

Ex-Officio Members Present:

Theodore Becker, Mayor  
Darrin Gordon, General Manager  
Michael Hoffman, Legal Counsel

Others Present:

Austin Calaman, Assistant General Manager  
Kristina Keller, BPW  
City Manager Ann Marie Townshend  
Jackie Doherty, Recording Secretary

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

President Lee stated Agenda Items #9 and #18 would be deleted.

**4. CONSENT AGENDA**

- a) **Receive the White Marsh Environmental Systems, Inc. Report**
- b) **Receive Vice President Report**
- c) **Receive Secretary Report approval of Minutes dated December 13, 2018 and Special Meeting December 27, 2018**
- d) **Receive Treasurer Report—discussion on new Auditor selection and review of reserve policy**
- e) **Receive Assistant Treasurer Report**

Mr. Leshner requested the Treasurer Report (d) be removed to discuss the new auditor selection and review of the reserve policy. Mr. Kennedy requested the Secretary Report (c) be removed for the corrections to the December 13, 2018 meeting minutes.

**ACTION:** *Mr. Kennedy made a motion to approve the consent agenda; Mr. Owen seconded the motion, which passed unanimously.*

Mr. Leshner stated he met with Mr. Gordon to review the four CPA firms invited to participate in submitting a quote for the annual audit. Three have responded, and when we hear from the fourth, they will be considered and presented to the Board for a recommendation.

Mr. Leshner continued stating he and Mr. Gordon report each year regarding review of the reserve policy in conjunction with the investment policy to be compared with reports submitted by the cash management UBS. Mr. Leshner will send the Board members all information that shows there is more money in the reserve than is required by the cash reserve policy.

Mr. Leshner requested Agenda Item #10 be discussed now and there were no objections.

**10. Open forum/general discussion of the current investment policy guidelines and recommendation to change parameters and timeframe to meet guidelines. INFORMATION/DISCUSSION/ACTION (D. Gordon, J. Leshner, Timothy Reath—UBS Consultant).**

Timothy Reath stated he meets with the finance committee quarterly to review the BPW investments and policies. The fourth-quarter meeting review showed the need for a change by reducing the equity bands from a maximum of 20% to 15% and increase fixed-income bands from 70% to 80%.

Mr. Gordon provided investment information:

- ✓ Cash amount—4% of portfolio
- ✓ Equities amount—17% of portfolio
- ✓ Fixed Income—79% of portfolio

Discussion included:

- Question whether to sell equities or use cash to buy more bonds; decision to change bands only;
- The December numbers show the bad days in the stock market with the loss at the end of December in the market value of the equities; these equities are still producing dividends;
- This is a safe and conservative investment portfolio managed by UBS; request to change bands is not based on the market, but is based on the place in the cycle; explanation of the fixed-income component;
- Concerns about changing the long-term strategy plan established five years ago; changes in policy needed for flexibility in today's market; stocks not being sold at a lower price to remove from the bands; if ever out of balance, number of days needed to make the adjustment.

**ACTION:** *Mr. Owen made a motion to approve adoption of the policy change, as recommended by Mr. Reath, based on the fact that the policy can be changed again if needed; Mr. Leshner seconded the motion.*

Mr. Hoffman asked for the specifics of the policy changes since the policy is not available today for review.

Mr. Reath stated the proposed changes include increasing the bands on the bonds from 70% to 80% and adding the flexibility of decreasing equities to 15% from 20%.

Mr. Gordon requested the addition of a timeframe of 90 days to make an adjustment. Also, to remove the line that refers to 'Alternative Investments' since there are no 'Alternative Investments'.

Mr. Owen withdrew his motion; Mr. Leshner withdrew his second.

**ACTION:** *Mr. Owen made a motion to approve adoption of the revised resolution to include the changes requested by Mr. Reath. The revised policy will then be reviewed at the next Board meeting for any additional changes needed; Mr. Leshner seconded the motion, which passed unanimously.*

## **5. Receive President's Report**

President Lee stated he was concerned that BPW was not mentioned in the newspaper article as having helped with the installation of the Christmas snowflake decorations in the City. A correction will be noted in the newspaper.

## **6. Receive the General Manager's Monthly Report**

Mr. Gordon reported there was a Tabletop Exercise with the Lewes Mitigation Team to review response if Lewes were to be hit by a category 3 hurricane. Present were representatives from DEMA, the State, County, and City, DRBA, emergency responders. Discussion included the importance of the families of BPW employees to be safe in order for the employees to be able to work.

## **PRESENTATIONS**

### **7. Presentation of current Solar development at the BPW wellfield. Scott Lynch, DEMEC (D. Gordon)**

Scott Lynch, Vice President of Asset Development for DEMEC, gave a presentation reviewing goals; asset development; summary of the requested solar proposals and initial recommendation for the wellfield project; two proposals for power purchase agreements (PPA); two proposals for engineer, procure, and construct agreements (EPC); vendor proposal comparison; vendor proposal price exclusions; DEMEC analysis and recommendations.

Discussion and questions included:

- Fixed tilt prices vs. tracking system prices; price difference of 4 cents to 8 cents for the two PPAs; decreased production costs vs. increased maintenance costs; life cycle of equipment is 30 years; PPA includes the decommission of site, operation maintenance, pay back debt service;
- Power purchase agreements are cost effective with larger kilowatt in scale; mistake in the numbers for CMI caused the difference in costs with Soliar; Shaw prediction is off on the production expectation by 35%;

- Difference between the companies in panel quality; additional costs that are not included by the contractor; bonded warranty; added operational costs; effective rates;
- Advantage to BPW for DEMEC to do the project is the additional management experience; additional goal for BPW to purchase a portion of the system; federal tax credits;
- Option for DEMEC to purchase additional solar capacity for BPW as a member of DEMEC; prices could be lowered by sharing a 5megawatt solar farm.

Mr. Gordon stated Mr. Lynch will return with additional information. The presenters will also be providing more numbers. This was for presentation only and no decision will be made today.

## **OLD BUSINESS**

### **8. Open forum/general discussion of a request by the American Legion to hang banners from BPW power poles. INFORMATION/DISCUSSION/ACTION (D. Gordon/Murt Foes, American Legion)**

Kelly Bergen and Doug Spelman were present stating the request is to hang the banners with the help of BPW from mid-May (beginning when the Moving Vietnam Wall will be displayed at the Cape May/Lewes Ferry from May 16<sup>th</sup> to 20<sup>th</sup>) until July 4<sup>th</sup>. The banners measure 2' x 3' on brackets inspected and approved by Mr. Gordon. Mayor and City Council approved the project at their meeting on January 14, 2019.

President Lee stated BPW has a policy of not contributing to any agencies (including non-profit) except the Lewes Fire Department.

Mr. Gordon stated the estimated BPW cost to install and remove the 30 banners is \$3,000, which includes workers and bucket truck. There is no issue with BPW maintenance work continuing while the banners are up.

Mr. Spelman stated the American Legion had not anticipated the \$3,000 cost and has not started any fundraising. Except for the money raised for the BPW costs, this will not be a fundraising project.

Mr. Kennedy stated he is not in favor of support for the request unless the American Legion will reimburse BPW for the direct costs to install and remove the banners. The policy of BPW is not to contribute to non-profit or private organizations, and this would establish a bad precedent. In the future other private organizations will request support, and this is not in the rate payors interest. BPW is to provide utility service at the lowest cost consistent with the obligation to serve everyone throughout the service area and not to benefit financially private groups or organizations.

Mr. Owen stated he agrees with Mr. Kennedy that this would set a precedent. BPW is only asking for reimbursement of the direct costs without profit.

Mr. Panetta stated he is not opposed to BPW contributing their services in-kind.

Mr. Leshar stated he is in favor of the request if the American Legion works with Mr. Gordon to reimburse the costs.

**ACTION:** *Mr. Owen made a motion to approve the request under the basis that the American Legion will cover the BPW costs to be billed after completion to be sure of the exact amount. The number of banners cannot exceed 30; Mr. Leshar seconded the motion, which passed unanimously.*

**9. DELETED—Open forum/general discussion of a proposal for assistance from Diamond State Land Trust to partner in assisting in affordable housing in Lewes.  
INFORMATION/DISCUSSION/ACTION (D. Gordon/Helen McAdory, Associate Director, DSLT)**

**11. Open forum/general discussion on a resolution to recover credit card fees for monthly payments greater than \$5,000. INFORMATION/DISCUSSION/ACTION (Michael Hoffman)**

Mr. Hoffman stated last month the Board approved a resolution regarding the surcharge fee and requested revisions to the policy including: 1. Changing it to a convenience fee; 2. Close a potential loophole that would allow payments to be made in multiple amounts to total \$5,000.

**ACTION:** *Mr. Kennedy made a motion for Resolution #19-001 to be read by title only into the record; Mr. Owen seconded the motion, which passed unanimously.*

Mr. Hoffman read Resolution #19-001 by title only for consideration by the Board.

**ACTION:** *Mr. Owen made a motion to approve Resolution #19-001; Mr. Kennedy seconded the motion, which passed unanimously.*

**12. Open forum/general discussion of a resolution regarding undergrounding all utilities in new and substantially remodeled residences and structures.  
INFORMATION/DISCUSSION/ACTION (Michael Hoffman)**

Mr. Hoffman stated last month the Board requested he present a draft resolution addressing a requirement to place utilities lines underground. The draft is presented for discussion and comments but will not be ready for a vote today.

Mr. Gordon read Sections 1, 2, 3, 4 of the resolution into the record.

Discussion included:

- Transmission vs. distribution vs. service; Section 1 states that all new lines need to be installed underground; Section 2 states relocating lines for renovation must be placed underground, lines being maintained can stay; Section 3 states the Board may grant relief from policy if it is proven that it is unreasonable for the lines to be placed underground;
- Another section is needed to address service drops; service drops would require replacement when upgrading or replacing electric service to a house; would replacing the drop line trigger the need for underground;
- Use of the word ‘substantial’ renovation and replacement needs to be defined; ‘substantial’ is used as a flood term; does ‘substantial’ apply to the dollar amount of the renovations being 50% of the value of the house;

- Standard in building code is 50% of the structure being renovated; refine wording for distribution and services;
- Underground distribution would be paid by the developer; service threshold amount \$25,000.

Tim Ritzert, Lewes, questioned if a homeowner who has service drops relocated to install a new roof deck or a window and the electric code is tripped would then be required to have utility lines placed underground. Also, communication wires are omitted from the policy.

Mayor Becker stated the communication lines are under the building code and not the purview of BPW.

Sumner Crosby, 10 Missouri Avenue, stated he is in favor of all utilities being placed underground. At one time, he was trying to have his entire block changed to underground.

Mr. Hoffman will provide the new resolution including revisions discussed tonight at the next meeting in February.

### **13. Open forum/general discussion of the Sussex County Wastewater Agreement. INFORMATION/DISCUSSION/ACTION (D. Gordon)**

Mr. Gordon reported the current agreement includes 100,000 gallons of effluent in Winter with an increase to 400,000 gallons over the next five years. Mr. Hoffman has been working with the County's Solicitor to add the timeframe for the \$125,000 impact fees. The recommendation is to sign the agreement to be sent with the invoice for \$125,000. The agreement includes the option to cancel if there is an issue with capacity.

Mr. Gordon reviewed the capacity numbers for the wastewater plant still being at 60% with the added 400,000 during the Winter. The 12-year-old filters will need replacement in the next year at a cost of about \$2,000,000 which is now included in the capital budget. The installation of the new filters will increase capacity.

Mayor Becker requested the information regarding the wastewater treatment plant capacity be provided to the residents to address their concerns. There is also a concern about the County agreement stating there may be a 25% upgrade requested in two years. This is included in Pages 4 and 5 of the agreement.

Mr. Hoffman stated the agreement includes that BPW has the sole and absolute discretion to grant the increase.

Mr. Crosby stated he is concerned about the issue of capacity regarding new developments being annexed into the City. Does BPW meet the requirements of the Center for Inland Bays (CIB).

Mr. Gordon reviewed the BPW Nutrient Trade Agreement with CIB.

**ACTION:** *Mr. Owen made a motion to accept the agreement as written; Mr. Kennedy seconded the motion, which passed unanimously.*

## NEW BUSINESS

### **14. Open forum/general discussion of need for a system-wide electric study. INFORMATION/DISCUSSION/ACTION (D. Gordon/T. Panetta)**

Mr. Panetta reported on the scope of work combined with DEMEC and Mr. Gordon for a list of potential bidders. Requests from the vendors will include their qualifications and recommendations. The study of the system is to include a five-year plan and a ten-year plan based on new developments, buildable land, electric vehicles. Cape Henlopen School District is considering electric school busses. The last study was in 1995.

Mr. Kennedy stated how important the study will be regarding the future of electric vehicles and solar power.

**ACTION:** *Mr. Panetta made a motion to approve the continued work on the system-wide electric study; Mr. Leshar seconded the motion, which passed unanimously.*

### **15. Open forum/general discussion to accept a BPW policy for application of installation of communication antennas on BPW power and light poles. INFORMATION/DISCUSSION/ACTION (D. Gordon)**

Mr. Calaman provided a policy agreement for review by Mr. Hoffman, City Solicitor Glenn Mandalas, and the Board to be discussed at the February meeting.

Mr. Hoffman stated this is a zoning question for the City with a recommendation to obtain feedback on their ordinance.

Ms. Townshend stated she will be providing BPW with the ordinance information and recommendation on moving forward by next week.

### **16. Open forum/general discussion of a battery installation at the Schley Avenue power plant property. INFORMATION/DISCUSSION/ACTION (D. Gordon)**

Mr. Gordon reported Alevo's technology is now being managed by C.E.S. A new contract is being considered with C.E.S. to make use of the current site and their new technology using a non-flammable liquid instead of lithium. No money was lost through Alevo after their payment of \$46,000 for rent on the property.

Mr. Panetta stated the liquid technology will not be available until the middle of 2020.

Mayor Becker stated concerns about the possibility of the liquid being toxic and located near a residential area needs to be considered.

**17. Open forum/general discussion about a meeting with Chesapeake Gas representatives and how the BPW can help expediate natural gas services to the Lewes citizens. INFORMATION/DISCUSSION/ACTION (D. Preston Lee, P.E.)**

President Lee provided a meeting summary for review. A long-range development plan was requested with the possibility of BPW participating to help complete installation of their services.

Mayor Becker stated he has asked Chesapeake for monthly updates and suggested that he, along with Mr. Lee, Ms. Townshend, and Mr. Gordon schedule a conference call. Further discussion is needed regarding installation on Front Street.

**18. DELETED—Open forum/general discussion of the Strategic Planning completed by Spotts, Stevens, and McCoy. INFORMATION/DISCUSSION/ACTION (Robert Kennedy)**

**19. Open forum/general discussion on a tax ditch policy. INFORMATION/DISCUSSION/ACTION (D. Gordon)**

Mr. Gordon stated he met with DNREC regarding the City owning property inside the tax ditch.

Discussion included:

- BPW would be elected to be the tax ditch manager; issue of conflict of interest;
- DNREC provides grants for maintenance and management; BPW funds would need to be kept separate;
- Is this included in the BPW charter; issues associated with BPW being a member of the tax ditch; would BPW employees be working since this is considered a separate operation; will this interfere with work needed for BPW;
- Advantage in stormwater management with BPW to oversee the tax ditch; tax ditch fee is included in County tax; liability insurance needed and the costs.

Mr. Gordon will provide the Board with more information and the answers to tonight's questions.

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

Mr. Panetta reported he attended the Lewes Planning Commission meetings; Mitigation Team meeting; Strategic Planning Workshop.

Mr. Owen reported he attended the Lewes Planning Commission meetings; Strategic Planning Workshop.

Mr. Kennedy reported he attended the Strategic Planning Workshop; phone conferences with Spotts, Stevens and McCoy.

Mr. Leshar reported he attended the SCAT meeting; Strategic Planning Workshop.



President Lee reported he attended a meeting with Mayor Becker, Ms. Townshend and Mr. Gordon; Hurricane Tabletop Exercise meeting; Chesapeake Gas meeting; met with Mr. Gordon and Mr. Panetta regarding the system-wide electric study; two meetings with the Front Street business owners.

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

Today's Agenda Item #9 regarding Diamond State Land Trust.

**22. CALL TO THE PUBLIC**

Mr. Spelman stated Canary Creek has street lights provided by the City. The light bulbs are being replaced and would prefer using LED bulbs. Also, he was told by his neighbor that the base for the water meter is coming up through the pavers and is a tripping hazard.

Mr. Gordon said BPW will install the bulbs and reimburse Mr. Spelman for the cost to purchase. A plumber would be able to adjust the water meter since it is located over the property line.

**23. CALL TO THE PRESS**

Nick Roth of the Cape Gazette was present.

**24. EXECUTIVE SESSION**

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

**25. RETURN TO OPEN SESSION**

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

**27. ADJOURNMENT**

The meeting adjourned at 7:00 P.M.

Respectfully submitted,

Jackie Doherty, Recording Secretary  
Lewes Board of Public Works