

**CITY OF LEWES
BOARD OF PUBLIC WORKS
Regular Meeting Minutes
December 13, 2018**

The Wednesday, December 13, 2018 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
City Councilman Rob Morgan
Jackie Doherty, Recording Secretary

3. REVISIONS AND/OR DELETIONS TO THE AGENDA

President Lee requested Agenda Item #18 be heard first. Doug Spelman was present but stated he was not here today to discuss the American Legion program. Agenda Item #18 was 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 September 26, 2018 and October 24, 2018**
- d) Receive Treasurer Report**
- e) Receive Assistant Treasurer Report**

Mr. Kennedy requested the Secretary Report (c) be removed for discussion.

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

Mr. Kennedy spoke of the Dark-Sky Movement to minimize light pollution and the impact on humans, migratory birds and animals. A resident has asked for dark sky-light bulbs to be installed, which the resident will purchase, for test purposes. These bulbs have prisms to direct the light down and the request is to have these installed at Cape Shores by BPW. The Homeowners Association will then decide if dark-sky compliant light fixtures would be installed throughout Cape Shores.

5. Receive the President Report

6. Receive the General Manager Monthly Report

Mr. Gordon reviewed the following:

- Line 9 C & D showing a purchase power increase which is due to a timing issue of an extra month being included;
- Line 15 showing the \$289,000 benefits contribution payment transfer from Great West to Nationwide;
- Line 10 under water/payroll increased from \$210,000 last year to \$244,000 this year for overtime payments due to being short by two employees in the water/sewer/stormwater department; budget is \$280,000.

PRESENTATIONS

7. Presentation of the beautification of Lift Station #4. (D. Preston Lee, P.E.)

Robert Perry was present stating he has spoken to President Lee, Designer Brenda Jones, and Warren Golde of Lewes in Bloom about a proposal to improve the parcel of land. Information is needed from BPW regarding any limitations relating to function, access, pipes, structures to decide on landscaping plans. Plans now include painting and shutters for the building, fences, replace plywood over grate, and landscaping, all at a minimal cost.

President Lee stated discussion will continue.

OLD BUSINESS

8. Open forum/general discussion on accepting the reduction of right-of-way in Angler's Nest. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Gordon reviewed the discussion from the last meeting; the request has been approved by the City; Mr. Hoffman and Attorney Mr. Schab have reviewed the agreement; the reduction of the easements will allow the owners to build; recommendation is to approve authority for Mr. Gordon to sign the agreement.

ACTION: *Mr. Owen made a motion to authorize Mr. Gordon to sign the agreement; Mr. Kennedy seconded the motion, which passed unanimously.*

NEW BUSINESS

9. Open forum/general discussion of a resolution regarding a policy for the criteria of 5G pole attachments to BPW poles and right-of-way. INFORMATION/DISCUSSION/ACTION (D. Gordon/Michael Hoffman)

Mr. Gordon reported the State has allowed the communications companies to install the 5G antennas on poles in the State's right-of-way. Mr. Hoffman has been asked to work with the City on an ordinance to protect BPW and to allow control over the process.

Mayor Becker stated the antennas (painted to match) have been installed on lampposts in other cities and customers in the areas reported an improvement in their cell phone reception.

Mr. Panetta stated there are concerns about the ground equipment, 360-degree lighting in the City, and places like Cape Shores have no telephone poles in their development. San Antonio has restrictions on the number of antennas on a pole or only allow installation on every five poles.

Mr. Hoffman stated the Board may adopt standards as it relates to how the antennas attach to BPW facilities, but it is a zoning question requiring direction from the City.

Mr. Panetta will report to the Board concerning additional information regarding an ordinance.

10. Open forum/general discussion of a resolution to require all future construction and renovations to make all electric services underground. INFORMATION/DISCUSSION/ACTION (D. Preston Lee, P.E.)

President Lee reported recently a homeowner with renovation construction decided to have a pole installed instead of underground utilities because of the \$2,500 cost difference.

Mr. Kennedy stated a law was passed in 1970 that all new developments with five lots or more require all utilities be underground unless there is an economic or engineering issue.

Mr. Gordon stated definitions will be needed in the resolution regarding the types of renovations and hardships. There are probably 8 to 10 new poles installed each year.

Mr. Owen agreed the resolution is needed to have fewer poles installed.

Mr. Kennedy stated the aerial drops off existing wires to serve homes also needs to be considered.

Mr. Panetta stated he is in favor of underground for all new services unless there is a hardship.

Tim Ritzert, Lewes, suggested the Board consider a four-year-term to recover the costs (there would be no charge to the customer) for conversion of overhead to underground services. This will incentivize homeowners to consider conversion, and those doing renovations or upgrade would increase their

consumption and BPW revenue. This would also reduce the number of overhead wires and aerial drops. Mr. Ritzert stated in his experience, the underground service is owned by the utility and it is their responsibility to install up to the meter base.

President Lee stated this is not an option the Board would consider.

Staff will be working with Mr. Hoffman on the resolution.

11. Open forum/general discussion of a resolution that the Lewes BPW will recoup from any customer that pays its monthly bill of greater than \$3,000 with a credit card will also pay the credit card fees. INFORMATION/DISCUSSION/ACTION (D. Preston Lee, P.E.)

Mr. Gordon stated the University of Delaware recently began paying their bill with a credit card totaling \$61,000 with a 2.7% processing fee of \$1,648 being paid by BPW. While it is an advantage to BPW when customers pay by credit card, there is concern about the additional credit card fees. The recommendation is for a resolution to state customers making larger payments with a credit card will also pay the credit card fees.

Mr. Hoffman advised that there should be a set percentage rate for all customers. In 2013 there was a settlement that allows merchants to impose a surcharge including public bodies. The customer must receive notice and the surcharge cannot exceed 4 percent. New Castle County's rate is 2.5%; Sussex County 2.44%; Rehoboth Beach 2.5%; Middletown 2.95%.

Mr. Hoffman stated the decision cannot be based on a single user; resolution does not address cumulative impact; resolution does address when a customer is paying multiple bills in a single credit card transaction, the fee is based on the total of the transaction.

President Lee requested Mr. Hoffman return with cumulative impact included in the resolution.

Mr. Kennedy questioned if 'convenience fee' could replace 'surcharge' in the resolution.

Mr. Hoffman stated he will return to the Board with cumulative impact included in the resolution and will also check about the use of 'convenience fee' to replace 'surcharge'.

Mr. Gordon requested Resolution #18-007 be approved today and address cumulative impact later.

ACTION: *Mr. Kennedy made a motion for Resolution #18-007 to be read by title only into the record for presentation, consideration, and action by the Board; Mr. Owen seconded the motion, which passed unanimously.*

Mr. Hoffman read Resolution #18-007 by title only into the record.

ACTION: *Mr. Kennedy made a motion to amend Resolution #18-007 by revising Line 40 to state the amount of 2.95 percent; Mr. Owen seconded the motion, which passed unanimously.*

ACTION: *Mr. Kennedy made a motion to approve Resolution #18-007 as amended; Mr. Owen seconded the motion, which passed unanimously.*

Mr. Hoffman stated the resolution will be signed and posted with notice.

Mr. Gordon stated the notice will be included in customer bills and be available on the website.

12. Open forum/general discussion of the Strategic Planning project being done by Spotts, Stevens and McCoy. INFORMATION/DISCUSSION/ACTION (Robert Kennedy)

Mr. Kennedy reported there was a workshop meeting on December 12th from 9:00 A.M. to 3:30 P.M. and included review of the survey results sent to customers. The next workshop meeting is scheduled for January 18, 2019 at 9:00 A.M.

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

Mr. Gordon stated there is a resolution allowing BPW to give one donation each year. A donation of \$25,000 has been given to the Lewes Fire Department for the last 10 years. The recommendation is for the same donation this year.

Mayor Becker stated the City increased their donation six years ago to \$30,000 and asked the Board to consider an increase in the BPW donation this year. This is a donation made for the good of the community.

Mr. Kennedy stated he does not support the motion. We are all blessed to have a professional and volunteer fire company that has served us so well for so long. My opposition is based on my belief that we should not force ratepayers to become involuntary contributors to a non-utility, not-for-profit organization. The Charter of the City, unlike that of BPW, imposes a duty on the City with the responsibility for providing not only for the organization, but the financial support of the Fire Department. Since it is the responsibility of the City to provide funding for the Fire Department, a separate appeal to BPW is out of order and undermines the authority and responsibility of City Council under its Charter to determine the level of financial support it deems to be appropriate. BPW should refrain from making a donation to the Fire Department when Council has already determined the appropriate level of financial support as required under its Charter.

Mr. Owen stated he is not opposed to an increase but not to \$30,000. Financial information is needed from the Fire Department and does agree with Mr. Kennedy about the donation being paid by the ratepayers. Property values could be used to create a formula for funding to support the important service they provide.

Mr. Leshar stated he would also like to have more financial information from the Fire Department to bring to the Board for review. He has asked for the information but received no response.

Mayor Becker stated he would check about Mr. Leshar's request.

Mr. Panetta stated the Fire Department also includes EMTs who respond to dangerous emergencies involving BPW employees. The donation should be \$30,000 to support the important services they provide.

President Lee stated he agrees with Mr. Panetta regarding the important services they provide. The donation should be \$25,000.

Mr. Owen suggested making the \$25,000 donation now with a possible increase after the financial information is reviewed.

ACTION: *Mr. Leshner made a motion to approve the donation of \$25,000 to the Lewes Fire Department; Mr. Owen seconded the motion. President Lee, Mr. Leshner, Mr. Owen, and Mr. Panetta voted yes to the motion; Mr. Kennedy voted no. With four (4) yes votes and one (1) no vote, the motion passed.*

**14. Open forum/general discussion to forgive the impact fees being paid by the customers being served in the Savannah Place Sewer Installation Project.
INFORMATION/DISCUSSION/ACTION (D. Gordon)**

Mr. Gordon reported he met with three members of Savannah Place Homeowners Association last month who stated because of BPW delays, there should be additional forgiveness of the impact fees. The annexation agreement states that sewer would not be installed until five years after the water system was completed. It has now been eight years and ground will be broken for the project in mid-December. Each home will pay \$28,000 at \$95.00 per month. When Mr. Gordon stated to them that no changes were possible, they asked for review by the Board. Mr. Gordon stated his recommendation to the Board is for no forgiveness of the impact fees.

Mr. Hoffman advised against any forgiveness based on the legal perspective regarding impact fees.

Mr. Panetta asked if consideration of a discount for inflation over the additional three years would be possible.

Mr. Gordon stated there were two other resolutions to allow pro rata share and that the homeowner could sell the home if the buyer agreed to take the loan.

Mr. Owen stated the homeowner was also allowed to make payments on the loan and did not have to pay the full amount at one time.

Mr. Kennedy questioned if BPW honored the terms of the agreement.

Mr. Hoffman stated he does not have the agreement to review at this time, but regarding the time period, the answer is yes.

Mr. Leshner stated it needs to be on the record that the Board supports the decision of Mr. Gordon regarding not granting any forgiveness of the impact fees for the homeowners of Savannah Place.

**15. Open forum/general discussion about the progress and outreach to the community concerning the Front Street, Savannah Road Project.
INFORMATION/DISCUSSION/ACTION (D. Gordon)**

Mr. Gordon provided a construction plan chart of the Front Street/Savannah Road Project for review.

Due to DelDOT restrictions, work cannot begin on Savannah Road until the Front Street work is completed. Front Street work at the Inn is scheduled to begin in early January and will take about one month; work will also begin on the 1812 parking lot; Savannah Road work to begin in early February for about one month; Front Street repair will take about two to three months.

Mr. Gordon stated a meeting is scheduled for Tuesday, December 18th at 8:30 A.M. to discuss the plans with the business owners; working with Betsey Reamer of the Chamber of Commerce; BPW will be paying for the advertising required by the businesses to inform the public that they are open during the construction and where additional parking is located.

Mayor Becker stated this will be a hardship for many businesses and the delivery trucks. We will need to start the advertising campaign before the construction begins.

Mr. Gordon thanked Mayor Becker for his consideration of all the businesses impacted by this project.

16. Open forum/general discussion about scheduling a BPW Workshop post Strategic Planning completion. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Gordon reported the final meeting with Spotts, Stevens and McCoy is scheduled for January 17th. Another workshop meeting is needed for review and is scheduled for February 14th at 9:00 A.M.

Mayor Becker asked if the meeting could be changed from January 17th to January 18th. Mr. Kennedy will check about this tomorrow.

17. Open forum/general discussion about electric system redundancy and current system capacity. INFORMATION/DISCUSSION/ACTION (T. Panetta, D. Gordon)

Mr. Panetta reported he discussed this with Mr. Gordon yesterday and will be providing a scope of work.

18. DELETED: Open forum/general discussion on a program for the American Legion to hang banners on the light poles. (D. Gordon)

19. MEETINGS ATTENDED BY BOARD MEMBERS OR STAFF

Mr. Owen reported he attended the SCAT meeting; RASCL environmental meeting; Lewes Planning Commission meeting; Hazardous Waste Collection Day; BPW Strategic Planning meeting.

Mr. Kennedy reported he attended the Hazardous Waste Collection Day; BPW Strategic Planning meeting; phone conferences with Spotts, Stevens and McCoy for strategic planning updates.

Mr. Leshar reported he attended the RASCL meeting; SCAT meeting; BPW Strategic Planning meeting; Hazardous Waste Collection Day.

Mr. Panetta reported he attended the Mitigation Task Force meeting; Workforce Housing meeting; Lewes Planning Commission meeting; Front Street Project meeting; APPA Conference; meeting with Mr. Gordon and Mr. Calaman; BPW Strategic Planning meeting.

President Lee reported he attended the Hazardous Waste Collection Day; RASCL meeting; SCAT meeting; Mayor and City Council Meeting; BPW Strategic Planning meeting.

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

None

21. CALL TO THE PUBLIC

Tim Ritzert asked if the Board members would provide their BPW email addresses for the public to communicate. There was discussion at the September 26, 2018 BPW meeting regarding the meetings to take place with the Groome property developers and Mr. Gordon.

Mr. Gordon stated he has provided the developer with BPW requirements and options for the sewer plans. They have met with the City's engineers. We are now waiting for their response and decision. The developer announced in the paper that BPW would be providing their water and sewer, but this information was not authorized by BPW. They are in the BPW sewer service area, but details have not been finalized. They are not located in the water and electric service area.

Mr. Ritzert stated the developer also announced this at the County Planning and Zoning meeting last week. Also, is there information available about annexation.

Mayor Becker stated the property cannot be annexed because it is not contiguous.

Mr. Gordon stated the developers were informed that a signed pre-annexation agreement is required to receive utilities.

22. CALL TO THE PRESS

Nick Roth of the Cape Gazette was present.

23. EXECUTIVE SESSIONS

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

24. RETURN TO OPEN SESSION

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

26. ADJOURNMENT

The meeting adjourned at 5:45 P.M.

Respectfully submitted,
Jackie Doherty, Recording Secretary

Lewes Board of Public Works