

**CITY OF LEWES  
BOARD OF PUBLIC WORKS  
Regular Meeting Minutes  
August 28, 2019**

**The Wednesday, August 28, 2019 regular meeting of the Lewes Board of Public Works was held at 4:00 P.M. in Lewes City Hall, 114 E. 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 Dennis Reardon  
City Councilman Rob Morgan  
Preston Schell and Zach Crouch representing Dutchman's Harvest  
Helen McAdory, Diamond State Community Land Trust  
Jackie Doherty, Recording Secretary

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

None

**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 July 31, 2019**
- d) **Receive Treasurer Report**
- e) **Receive Assistant Treasurer Report**

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

## **5. Receive the President’s Report**

President Lee stated he had nothing additional to report.

## **6. Receive the General Manager’s Report**

Mr. Gordon stated he had nothing additional to report.

Mr. Panetta questioned the timeline for replacement of the filter membranes.

Mr. Gordon stated a meeting is scheduled for Monday with the representative, and he will have a report at the September Board meeting. The software is outdated and plans for the next steps will be reviewed when the software is repaired and updated.

## **PRESENTATIONS**

### **7. Presentation on Rates, Reserve Fund, Capital Projects and “Ready to Serve Charges”**

Mr. Gordon gave a PowerPoint Presentation to review the comparisons for water, sewer, and electric to the rates for Rehoboth Beach as previously discussed during the meeting in July 2019.

Mr. Gordon reviewed the following:

- BPW average customer to save 6.7%; Cape Gazette article information showed a difference in the methodology of the rates used to show the comparisons; fixed costs vs. commodity charge; solar energy and electric vehicles;
- BPW water charges are reduced by 20%; Rehoboth article comparison was based on 20,000 gallons of water usage per year; Rehoboth uses a 1” meter and BPW is 5/8” meter;
- Comparable rates for electric with BPW, DE Electric Cooperative, and Delmarva Power and Light; BPW 5% payment in lieu of tax to the City;
- Reserve Fund to be used for improvement projects without the need for loans or grants, timely payment of bills, financial health of the utility, stable rates for customers, cash exists to fund unanticipated costs; protection from computer hacking that would prevent payments from customers by having 25% of cash reserve for three months to keep the utility running;
- Utility Financial Solutions rate studies; Risk Management Reserve for emergency response; capital improvements and prevailing wages; self-insurance; conservative investment portfolio;
- Five-year capital improvements including the wastewater treatment plant, replace and repair sewer pipes; electric study; customer management system being replaced;
- Ready-to-serve charge with information available on the BPW website for review.

Tim Ritzert, Harborview Road, asked the following questions: Which customers are not included in the comparison table for the rates in Rehoboth Beach; is there interest paid on deposits; is deposit returned after customer establishes ‘credit worthiness’; does Rehoboth have a ‘Ready-to-serve fee’; does Lewes have the largest year-round population compared to Rehoboth, and if correct, why is the ‘Ready-to-

serve charge' so high when compared to Rehoboth; the Pilottown Road project to repair and replace the water lines, has there been discussion about placing the utilities underground.

Mr. Gordon stated most customers have the 5/8" meter size and is not sure which homes have the other size meters; interest is accrued after the Federal rate goes above 4%, simple interest, based on CPI; the deposit is returned when customer establishes 'customer worthiness' after one year for residential and commercial is held permanently; Rehoboth's fees are \$3.50 per month for water, and \$10.40 for wastewater; BPW charges are \$16.00 for water and \$15.00 for wastewater; there is an issue of cost regarding placing the overhead utilities underground along Pilottown Road during the water project.

Mayor Becker stated the current Lewes population is about 2,700 with less than 50% permanent.

## **OLD BUSINESS**

### **8. TABLED ITEM: Consideration of waiver of pre-annexation agreement and the requirement to connect to BPW utilities for property tax parcel 335-8.00-9.00, New Road and Captains Circle. Tabled at the June meeting.**

Property owner, Mr. Peter, was present stating he is in the process of designing a house to build.

Mr. Peter continued stating he has spoken to Matthew Hardiman, Deputy Director of the Public Service Commission, asking if any utility can refuse power service to a qualified customer. His answer was no and referred to Docket #34, Order 3641 from 1993 which defines the service territory for BPW. The document states BPW has the authority and obligation to provide retail power with no caveats to customers who are able to pay and safely use the power.

Mr. Peter stated the issue now is he is not able to build his house without power and is asking for consideration of a waiver or access to temporary power. He is being harmed by BPW not following the delegated authority of the Public Service Commission. Mr. Peter provided Mr. Hoffman with a copy of Docket #34, Order 3641.

Mr. Hoffman stated this is the first time Docket #34 is being presented to the Board and he will need to review the information. The record is clear regarding the Board's position on the pre-annexation agreement and the terms of the status of the litigation. Mr. Hoffman will review the material to report to the Board for their response.

### **9. Open forum/general discussion to receive the preliminary Annual Audit Report. INFORMATION/DISCUSSION/ACTION (Jack Leshner, Kimberly Stank of Zelenkofske and Axelrod, D. Gordon)**

Mr. Gordon provided a copy of the final report received today. Ms. Stank has agreed to give a presentation at the September meeting to allow time for review.

## NEW BUSINESS

### **10. Open forum/general discussion of the proposed Dutchman's Harvest workforce housing and BPW assistance in improving affordability. INFORMATION/DISCUSSION/ACTION (Z. Crouch, DBF Engineering)**

Preston Schell stated he is here today to request a waiver or dramatic reduction in BPW fees for the Dutchman's Harvest workforce housing project. There are 42 units being sold to Diamond State Community Land Trust at direct cost, developer's fee was also removed, to be made affordable for those making 60% to 80% of the average median income in Sussex County; other units will be sold at cost plus 15%. The BPW charge of \$9,549 per unit is the highest off-site improvement cost he has ever been charged. There is also the question if they are being charged for infrastructure improvements and upgrades that are being installed now, in the near future, or designed before the property was rezoned from R-2 to R-5.

Mr. Schell presented a chart showing the increase in BPW water and sewer payments due to the increase in density that will provide reimbursement for the \$1.34M, with an additional \$4M over the next 20 years, that BPW is asking to be paid up-front. The reduction in fees will allow prices to remain affordable for members of the local workforce and keep the price Diamond State Community Land Trust would need to charge for the sale of the more-affordable 42 units. Would the Board consider the fees be paid over an extended period of time as a separate charge, possibly over 40 years, if the fees cannot be waived.

President Lee stated all information will be reviewed by the Board for a decision.

### **11. Open forum/general discussion to approve the Bad Debt write off for the 2018-19 fiscal year.**

Mr. Gordon presented information showing the total from November 2017 to May 2018 was \$3,634.

**ACTION:** *Mr. Owen made a motion to approve the Bad Debt write off for the 2018-2019 fiscal year; Mr. Kennedy seconded the motion, which passed unanimously.*

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

Mr. Panetta reported he attended the meeting with Mr. Gordon and the battery supplier; Mayor and City Council; Mitigation Task Force; Lewes Planning Commission meetings.

Mr. Owen reported he attended the Lewes Planning Commission meetings.

President Lee reported he met with Mayor Becker, Mr. Gordon and Lewes City Manager Ann Marie Townshend to coordinate work with GMB; met with Mayor Becker, Ms. Townshend, and Chesapeake Gas Company; Mayor and City Council meeting.

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

Mr. Panetta requested a follow-up presentation on the self-insurance program discussed at the August 2018 meeting.

Mr. Owen stated he was not able to reach the representative by email.

Mayor Becker said he will check with Ms. Desanto to be sure she received the email and have her contact Mr. Owen.

The November/December meeting was scheduled for Tuesday, December 3<sup>rd</sup> at 4:00 P.M. The meeting on September 25<sup>th</sup> will begin at 2:00 P.M.

**14. CALL TO THE PUBLIC**

None

**15. CALL TO THE PRESS**

Nick Roth of the Cape Gazette was present

**16. EXECUTIVE SESSION**

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

**17. RETURN TO OPEN SESSION**

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

**19. ADJOURNMENT**

The meeting adjourned at 5:15 P.M.

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