

**CITY OF LEWES
BOARD OF PUBLIC WORKS
Regular Meeting Minutes
June 24, 2020**

The Wednesday, June 24, 2020 regular meeting of the Lewes Board of Public Works was held at 4:00 P.M. via Zoom.

1. CALL TO ORDER AND ANNOUNCEMENTS

President Lee called the meeting to order at 4:00 P.M.

2.. ROLL CALL

Board Members Present:

D. Preston Lee, P.E.
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
Deputy Mayor Fred Beaufait
City Councilman Dennis Reardon
City Councilman Rob Morgan
City Manager Ann Marie Townshend
Paul Peris, White Marsh
Bruce Patrick, White Marsh
Jackie Doherty, Recording Secretary

3. REVISIONS AND/OR DELETIONS TO THE AGENDA

President Lee requested Agenda Item #8 be deleted. Mr. Kennedy requested the White Marsh Report be removed from the consent agenda for discussion and to have Mr. Gordon report on the recent construction of a notice board at Lift Station #4.

4. CONSENT AGENDA

- a) **Receive the White Marsh Environmental Systems, Inc. Reports**
- b) **Receive Vice President Report**
- c) **Receive Secretary Report, approval of minutes covering May 27, 2020 meeting**
- d) **Receive Treasurer Report**
- e) **Receive Assistant Treasurer Report**

ACTION: *Mr. Kennedy made a motion to accept the consent agenda with requested items removed; Mr. Owen seconded the motion, which passed unanimously.*

Mr. Gordon stated the revised White Marsh Report was posted to the website today. Mr. Peris and Mr. Patrick are here today for discussion.

President Lee requested the White Marsh Report be submitted in enough time before the meeting each month for review by Mr. Gordon and to be sent to the Board a week before the meeting date.

Mr. Kennedy reviewed the following questions and concerns from the White Marsh Report with Mr. Peris, Mr. Patrick, and Mr. Gordon:

- Permanent, average, and maximum allowable limits for BOD; new control panel was installed but is not running due to technical problems according to Suez, work continues with Staff to resolve the problem.
- GMB Report on their May 19th plant visit was received, issues stated in the report were minimal and White Marsh has responded to all.
- Additional information is needed regarding documentation of the charts listed in the report.

Root Cause Report:

- Item #4 review of GMB quarterly walk-through report has been completed; Item #7 engineering analysis of the entire plant recommended by GMB to include report should be completed in one month.
- Item #8 White Marsh to establish an improvement program to be accepted by BPW, answers to root cause questions were included in the revised March report and the April report.
- Item #10 Mr. Gordon stated monthly meetings and walk-throughs continue to meet the requirements for strengthening oversight of operators' performance by BPW Staff.
- Item #12 Mr. Gordon will check and report back on the BPW Staff responsibilities.
- Item #14 Mr. Peris reported the factory training by Suez on filter operation was postponed due to COVID-19, training cannot be done by Zoom and plans are for the training to begin in October.
- Item #15 White Marsh has reviewed the safety manuals regarding compliance with CDC guidelines including COVID-19, and a copy of the safety program is available at the plant for review.
- Item #17 Mr. Gordon stated the White Marsh list of safety procedures and practices was completed by April as part of the safety inspection. Mr. Peris stated there were delays in the horizontal safety line system project installation and plans are for completion in the next two weeks, June 30th, by McDonald's Safety. The problem was a delay in receiving the materials from Suez.

Mr. Gordon stated he was told by Mayor Becker that the notice board at Lift Station #4 is an Eagle Scout Project.

Mayor Becker stated this Eagle Scout Project had been discussed in the past, and he should have spoken to the Board about coordinating the installation with BPW. Events in the City will be posted, and the City will be responsible for its maintenance.

5. Receive the President's Report

President Lee stated he would be reporting during Agenda Item #7 discussion.

6. Receive the General Manager's Report

Mr. Gordon reviewed the changes in the Financial Report showing the numbers on Line 20-Column T going from negative to positive with the use of a different formula. All numbers are now accurate. The report shows amounts of the gifts to Beebe Hospital and the Lewes Fire Department and the change in market value.

Mr. Gordon reported Governor Carney has stated his concern for residents who cannot pay their utility bills due to the impact of COVID-19, and beginning July 1st all utility bills will be given a four-month payment plan for past-due accounts. BPW has not charged any late fees or discontinued any services and will be setting-up a four-month payment plan. It is important for customers to remain current on future bills when restrictions are lifted, and people return to work.

OLD BUSINESS

7. Open forum/general discussion to review status of the negotiations with the City of Lewes Mayor and City Council. INFORMATION/DISCUSSION/ACTION (D. Preston Lee, P.E. President)

President Lee stated he attended a meeting on June 18th with Senator Lopez, Representative Smyk, Mayor Becker, City Councilman Reardon, and Mr. Panetta. Senator Lopez and Representative Smyk reported there would be no introduction for a Charter change in the General Assembly this year. Any Charter change for next year would need to be a joint change between the City and BPW and will not include eliminating the BPW elected Board.

President Lee continued stating during the meeting, BPW offered a Charter change to include giving the City approval or disapproval of expansion of utilities outside municipal boundaries to help resolve the ongoing disagreements. If the Charter were to explicitly state that if BPW was to sue or be sued, BPW would be responsible for all related expenses. The City's response was that they still want to have control over BPW. It was agreed to begin negotiations.

President Lee then requested for all information pertaining to the dispute be removed from the City website, and BPW would do the same. The City Solicitor sent BPW a letter stating this would be completed on July 3rd. The City then sent a letter reviewing all issues they have had with BPW, but the information was inaccurate.

President Lee stated the letter said the reason BPW was reluctant to enforce the pre-annexation agreement was to expand their customer base and revenue by serving landowners outside the City, which is a complete fabrication and the basis for the argument. Mr. Kennedy, previous Executive Director of the Delaware Public Service Commission, stated that enforcement of the pre-annexation agreement may be unenforceable and possibly illegal. This is the reason why BPW decided not to continue to pursue the agreement. Glenn Mandalas, who was BPW's attorney at that time, agreed with Mr. Kennedy's statement. When Mr. Hoffman became the new BPW attorney, he also agreed.

President Lee continued stating the City then hired a high-end, politically connected Wilmington attorney to write a report containing a statement that said the City would have control over BPW. The cost for this report was \$50,000, BPW had no prior knowledge of this report, and was never mentioned in any communication from the City. BPW was then asked to sign a nondisclosure agreement to keep the information from the public. Mr. Hoffman was asked by the Board to review the letter and prepare a report at a cost of \$15,000. The preparation of this secret report by the City was the point when large spending began hurting the citizens of Lewes and BPW ratepayers. The City continued to pressure BPW to enforce this unenforceable, and possibly illegal, situation.

President Lee said another inaccuracy in the City's letter was that BPW secretly took the City to court. Mayor Becker was asked by President Lee to present the City's pre-annexation argument and BPW would present their pre-annexation argument to a judge for a decision. Mayor Becker agreed, but it is not possible to present to a judge without presentation of a controversy. Mr. Hoffman also informed Counsel for the City, Mr. McGonigle.

President Lee concluded by stating the reason BPW hired a lobbyist at \$2,000 per month was because the City was working with the Legislature and General Assembly for the Charter change. The Board also felt they needed help since they had no experience in these matters. BPW will continue to enforce the pre-annexation agreement and not approve anything outside the City. The revised resolution will be presented to the General Assembly for Charter change when back in session. BPW and the City are in the same situation, both are controlled by the voters.

Mayor Becker responded by stating the meeting scheduled for tomorrow with Senator Lopez and Representative Smyk was changed by BPW and rescheduled for after the elections in July. The City adopted an ordinance and resolution last Summer requiring a pre-annexation agreement before an extension of services to prevent the BPW from being sued. It is important for everyone to meet again with Senator Lopez and Representative Smyk for further discussion because this is not the proper forum today. President Lee and Mr. Panetta were told, and acknowledged, at the meeting on June 18th that the letter was being sent and was already posted on the City website.

8. DELETED: Open forum/general discussion of Resolution regarding the pre-annexation requirement for utility service. INFORMATION/DISCUSSION/ACTION (M. Hoffman, D. Gordon)

NEW BUSINESS

9. Open forum/general discussion of the 2020-2021 to 2024-2025 Capital Budget. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Gordon reported the budget increased by \$318,467.

Mr. Gordon provided the budget for review with discussion including:

- Street locations and timelines for lead line replacement; AMI installation with a cost analysis first.
- Water production including well development
- Sewer lines
- Wastewater Treatment Plant; drying beds expansion
- Stormwater
- MS4 Project and coordination with the City
- Electric with cost analysis by Sargent and Lundy

Mr. Gordon requested that everyone review the budget for discussion of approval at the July meeting.

**10. Open forum/general discussion to review current BPW projects.
INFORMATION/DISCUSSION/ACTION (D. Gordon)**

Mr. Gordon reviewed the following:

- Admiral's Chase for water service only
- Lewes Waterfront Preserve/Brittingham Property
- Cape Henlopen State Park sewer service on hold
- Cedar Avenue water and sewer renewal
- Donovan Smith Mobile Home Park moving forward quickly to keep the financing
- Fisher's Cove on hold
- Tower Hill to have a well site on the property
- Harbor Point for water and sewer
- Mariner's Retreat one-year warranty to begin next month
- Pilottown Road to begin in Fall; discussions with DelDOT regarding their statement that BPW is responsible for all pipes
- Savannah Road including Dutchman's Harvest and assisted living facility projects
- White's Pond/City Showfield
- Showfield Phase IV and V
- Wastewater Treatment Plant: effluent pipe relining is complete; funds are needed for bank stabilization at the canal including repairs and restoration needed after removal of the swing bridge; filter replacement is complete; bids for drying beds
- NISC conversion
- Sargent and Lundy to review battery and solar field

Mr. Gordon stated two new employees have been hired, one as an office clerk and one for water and the Wastewater Treatment Plant.

11. CALL TO THE PUBLIC

None

12. CALL TO THE PRESS

Nick Roth of the Cape Gazette was present.

13. ADJOURN TO EXECUTIVE SESSION

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

14. RETURN TO OPEN SESSION

15. DISCUSSION AND ACTION ON ITEMS FROM EXECUTIVE SESSION, IF APPLICABLE

16. ADJOURNMENT

The meeting adjourned at 5:30 P.M.

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