

**CITY OF LEWES
BOARD OF PUBLIC WORKS
REGULAR MEETING MINUTES
JANUARY 25, 2017**

The Wednesday, January 25, 2017 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 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.

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 Members Present:

Theodore Becker, Mayor
Darrin Gordon, General Manager
Glenn Mandalas, Legal Counsel

Others Present:

Austin Calaman, Assistant General Manager
City Councilman Rob Morgan
Kristina Keller, BPW
Jackie Doherty, Recording Secretary

3. REVISIONS AND/OR DELETIONS TO THE AGENDA

Agenda item #10 was moved to #5, agenda item #8 was removed.

4. CONSENT AGENDA

- a) **Receive the General Manager Monthly Report**
- b) **Receive Severn Trent Report for November and December 2016**
- c) **Receive President Report**
- d) **Receive Vice-President Report**
- e) **Receive Secretary Report, Approve Regular Minutes October 26, 2016 and November 16, 2016**
- f) **Receive Treasurer Report**
- g) **Receive Assistant Treasurer Report**

Mr. Lee questioned the November General Manager's Report in reference to increase in other revenue, the depreciation schedule increase and the impact fees.

Mr. Gordon stated the depreciation schedule is changed by the auditors and the adjustment is not yet reflected in the budget; impact fees were more than budgeted for Highland Acres; will review amounts for the other revenue increase.

Mr. Kennedy questioned the DNREC issues and the DRBC notice that was resolved contained in the November Severn Trent report.

Mr. Gordon stated there was a reporting issue in reference to the requirements for the Delaware River Basin Commission (DRBC). Jim Burke of Severn Trent stated they were not aware of the report due on testing of the bio-solids at the plant, and when it was realized in March, it was too late to go back and do the testing. There was also an issue about the testing not being done for the last two years. After discussion, they agreed to only charge the fine for one year. Mr. Gordon stated the fine paid was \$250.

Mr. Kennedy requested a few spelling and wording changes to the minutes of October 26, 2016. The changes will be made and sent to everyone for review and approval at the next meeting.

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

5. Open forum/general discussion to receive recommendations of the Electric, Water and Wastewater Cost of Service and Financial Projection report as presented by Dawn Lund, UFS, INFORMATION/DISCUSSION/ACTION (D. Gordon)

Ms. Lund was present stating she will review the Cost of Service Study results for electric, water and wastewater including the Financial Projection. Recommendations and rate designs will be discussed.

Electric

Discussion and review of financial planning by Ms. Lund included the following:

- Review of operating income and projected cash balances shows electric to be healthy without any rate changes
- Meeting operating income with power-cost adjustment in place by keeping changes in power supply costs passed through to customers keeping the utility healthy
- Healthy cash balance to enable capital improvements that are on the light side
- Meeting key targets and financially healthy now and looking forward
- Continue to review yearly with budget process
- Probably will need a small increase in the next two years

Cost of service results discussed included:

- Results of cost of service study by rate class is excellent, meeting revenue requirements by class
- Residential class is currently \$14 per month but could be improved by charging \$16.21
- Consider a revenue-neutral rate adjustment by moving up the customer charge and decreasing the variable kilowatt hour rate

- Revenue-neutral rate adjustment will provide revenue stability for the utility when there are declining sales due to weather, economy, etc.
- Important to have the charges set properly because of distributed energy resources
- Explained the Minimum System Analysis used to determine customer charges including usage, fixed costs, infrastructure depreciation
- Rate design to include the revenue-neutral rate adjustment which would raise the fixed monthly ready-to-serve charge, decrease the variable kilowatt hour rate which would have no impact on customer bills
- Commercial and industrial rate designs will be the same with an increase of the demand charge by 20 cents for industrial class

Joe Hoechner, 305 Seagull Drive, asked if the ability for a consumer to shop for utilities is considered in keeping the costs down. Ms. Lund stated her opinion is the best value in the country is municipal power.

Tim Crowley, 102 Hornbill Court, questioned how the security lighting would impact the rate classes. Ms. Lund stated the revenue is about \$3,000 and would not impact any of the other rate class percentage. It is not material to the study.

Jim Berrigan, 112 Hornbill Court, stated raising the surcharge takes away the incentive to conserve since it guarantees a fixed amount. Ms. Lund stated the increase is cost-of-service based and presently there is no conservation pricing signal available.

Wastewater

Discussion and review by Ms. Lund included:

- Operating income and cash balances are healthy
- Debt-coverage ratio is above what it should be for debt affordability
- Increase rates 6.5 percent this year to meet operating income, but these can be in phases to begin in 2018 with a 2 percent increase every other year
- Cost of service results show charges are what they should be on the fixed component
- Rate design shows the increase of 2 percent to be about \$1 per month
- Need to review every year

Mr. Hoechner questioned if the revenue from importing wastewater was included. Ms. Lund stated she only uses revenue that is consistent as an offset to the revenue requirements. President Alfred stated this will not take effect for another year.

Mr. Crowley asked if the rates will be lowered after the increased revenue from importing the wastewater begins. Ms. Lund stated the revenue will possibly lower the percentage rate increases in the future.

Water

Discussion by Ms. Lund included:

- Projected cash balance is being drawn down by capital improvements
- Needed--but not recommended--to fully meet operating income target this year, the increase would be 19 percent for next year averaging \$4 per month for the customer

- Recommend 6.5 percent rate increase for the next 5 years averaging \$1.68 per month
- Rate design to have customer charge where it should be, then work on the tiers in the next rate designs to bring the first-tier rate structure up
- Water is costing 90 cents for the first 1,000 gallons, Tidewater is charging about \$8

Mr. Hoechner questioned the irrigation meter rates. Ms. Lund stated the irrigation meter charges are very low and she will be reviewing these rates.

President Alfred stated there will be a public hearing for the Board to present the recommendations from Ms. Lund on Wednesday, February 1st at 7:00 P.M. in Lewes City Hall. The Board will also meet on Thursday, February 2nd at 9:00 A.M. in Lewes City Hall to vote on the recommendations.

Mr. Lee asked Ms. Lund to comment on the cash reserve policy.

Ms. Lund stated there is currently a cash reserve in the utilities. The cash reserve policy is important, a huge factor to keep the utility healthy, the formula is great and no changes are needed at this time. The cash reserve projections for the three funds show water will be going critical, wastewater will become critical if let go, electric is at minimum but needs to be above minimum. The capital improvements for electric are light.

President Alfred stated the infrastructure above ground is good after being renewed in the last 10 years. The underground infrastructure is aging and will need to be replaced.

Mr. Gordon stated there have been no rate increases for the last 9 years.

6. Open forum/general discussion and review of Resolution 13-004 the procedure for application for utility services for areas beyond the limits of the City of Lewes, tabled from November meeting. INFORMATION/DISCUSSION/ACTION (R. Kennedy)

Mr. Gordon stated Resolution 13-004 on how to work with people outside the City's limits who request utilities, and Resolution 17-001 with the verbiage removed that requires people to sign a pre-annexation agreement have been provided. This was discussed with the Board and tabled after discussion. It is being brought back at the Board's request.

ACTION: *Mr. Kennedy made a motion to take the matter off the table and open it up for discussion; Mr. Leshar seconded the motion, which passed unanimously.*

Mr. Kennedy stated it was recommended that this matter be discussed with the Public Service Commission (PSC) Staff to seek their thoughts regarding the policy the Board adopted after being granted a CPCN to add a non-utility condition to the provision of utility service. The Staff reviewed the current resolution before the meeting. During discussion, they stated it would not be a problem, nor would they object, if BPW added additional requirements to the provision for utility service. They did say they were speaking only as Staff and the matter could still come before the full Commission on appeal. After the meeting, a memorandum was prepared by Mr. Kennedy and provided to the Board for review.

Mr. Kennedy stated it is his opinion that 13-004 should be revised to remove any requirements that state before utility service can be provided within the CPCN area or service area, that we must first receive a signed annexation agreement. This is bad utility policy, is discriminatory, imposes non-utility conditions for utility service, has not been uniformly applied in the past, limits the BPW Board's ability to serve within its service area, prevents the BPW from efficiently engineering its system, denies BPW revenue from new customers and limits improving operational efficiencies. The Board resolution should be revised to strike any requirement that before we can provide service, we first must receive a signed annexation agreement.

Mr. Owen stated he is in favor of annexation for the City. There are conflicting issues in that the pre-annexation agreement states service cannot be provided outside the City's limits without a signed annexation agreement. The concern is that the State, who provided the service area, requires BPW to provide service to the area unless it is not economically feasible. If a development is requesting services, the annexation agreement must be signed or services will not be provided. BPW is a business and if not run as a business, the rate payers will pay higher rates because it will be less efficient. The State say we have this area exclusively and you need to serve it. How do we have an agreement that says we are not allowed to serve it.

Mr. Lee agreed that BPW is a business, but as part of the City, we need to look out for what is best for the City also. If service is opened to everyone, then they will want to choose water service and subdivision approvals. This works against the City when they can go to the County for higher density and Lewes for low utility rates. This could also open up rezoning around us that we do not want to happen. The annexation agreement should remain.

Mr. Gordon stated the highest priority of authority to serve is that the CPCNs are dissimilar. We can provide water or sewer to areas but electric needs to stay within the City's boundaries. When Harbor Point signed an annexation agreement, they were given a 'will serve letter'. Since then, they have withdrawn the request for annexation, but BPW is still committed to serve them all three utilities.

Mayor Becker stated the pre-annexation agreement was developed to encourage people to come into the City. We need to work together to try to increase the size of the City's limits to try to control the destiny of the lands around us to prevent density in areas where we do not want this to happen. A committee was formed to discuss incentives for annexation and they will be offering recommendations. We are also looking at ways to streamline the annexation process. Mr. Kennedy is a member of the Committee as a citizen.

Mr. Morgan read the section of the Charter, that states the BPW is part of the City, into the record. Mr. Morgan stated that since the Charter came first and governs what the Board should do, it does not mean the CPCN overrides the Charter. Since the Staff has said it sounds okay to them, consider before abrogating the agreement with the City that it takes very seriously.

Mr. Kennedy added that in 2010, the General Assembly modified the BPW Charter to state BPW can extend service within two miles of its incorporated boundaries. Mr. Gordon provided a map to the PSC showing the two-mile extension. The resolution prevents BPW from seeking the customers within the CPCN and the areas within the two-mile extension to provide additional revenue to benefit the Board, our rate payers and the City. Developers were asked if waiving impact fees would change their decision to annex and the answer was 50-50. Additional costs would be passed to the landowner or homeowner.

President Alfred asked Mayor Becker if the Annexation Committee has discussed changing the language in the annexation agreement.

Mr. Kennedy stated he joined one month after the Committee was started, and so far, the discussion has been on other issues.

Mr. Lee suggested waiting on a vote until we receive input from the Annexation Committee.

Mayor Becker stated since Staff at the PSC said they are not disturbed at this point and with the ongoing committee, perhaps it would be better to table for now.

Mr. Leshar stated he thought this was not a legally-drawn agreement. We should move to change the language and work with the City on another angle for annexation. The concern is if the agreement we have now is legal.

Mr. Gordon stated BPW has a legal obligation to provide service within the CPCN to anyone who requests it. There are no written rules that address when someone pulls the annexation agreement.

Mr. Mandalas stated the correspondence from Harbor Point rescinding the agreement needs to be reviewed.

ACTION: *Mr. Kennedy made a motion to revise Board Resolution 13-004 to remove any requirement for a pre-annexation agreement to be signed prior to providing utility service; Mr. Owen seconded the motion.*

Mr. Mandalas stated there is an attachment to revise Resolution 13-004 which is 17-001. The motion should say it is to rescind 13-004 to be replaced with 17-001.

Mr. Gordon asked if it would be legally appropriate to table the vote until everyone has had more time to review 17-001.

Mr. Mandalas said yes.

Mr. Kennedy withdrew his motion. Mr. Owen withdrew his second.

ACTION: *Mr. Kennedy made a motion to table the vote until everyone has reviewed 17-001; Mr. Owen seconded the motion, which passed unanimously.*

**7. Open forum/general discussion to receive the Energy Efficiency Program Proposal from the Delaware Municipal Electric Corporation (DEMEC) to consider participation.
INFORMATION/DISCUSSION/ACTION (D. Gordon)**

Mr. Gordon did an overview of the program explaining it allows an outside source to come in to provide energy-efficient products for the home and commercial businesses. This includes product rebates, flyers, engineering services for industrial customers, measure what is saved for BPW to receive credit from the State for some of our costs, energy audits, study to upgrade municipal buildings. The

program is available to everyone in Lewes. The cost of \$72,000 per year would be paid by BPW through the energy charge and requires a three-year contract. They are supported by the VEIC.

President Alfred stated more information is needed on how the program would benefit the commercial businesses and citizens of Lewes before a decision or vote.

8. REMOVED: Open forum/general discussion to amend the Board of Public Works Charter 2.4 reducing the period of time to file a Certificate of Candidacy for the annual Board of Public Works election from approximately two months to approximately one month. INFORMATION/DISCUSSION/ACTION (D. Gordon)

9. Open forum/general discussion on a date for the 2017/2018 FY Budget workshop. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Gordon stated a budget needs to be approved by the end of March. A budget workshop meeting is scheduled for Monday, February 6th at 10:00 A.M. The preliminary budget will be presented and discussed at the regular February 22nd meeting. The budget will then be presented for a vote at the regular meeting on March 22nd.

10. Open forum /general discussion to receive dispute information from Kevin Murphy, 410 Mulberry Street. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Murphy was present stating the letters and emails he has sent to BPW explain his position from the standpoint of what is in the Code. The Code speaks of installation of the meter and the pit center but does not speak about who pays if the meter and pit center need to be moved. The question also is why this has not been addressed in the last 25 years. He purchased the house in November 2015.

Mr. Gordon read Chapter 191-4, Section B of the Code into the record which says water meters need to be in an easily-accessible location near the front of the property, approved by BPW, at finished grade to allow personnel to easily locate. The pictures show it is located under a large rock with another 8” of gravel and mulch on top of the rock and the meter is another 32” below that line. When it was installed 25 years ago, it was accessible; since then, it is no longer at grade or accessible. BPW property ends at the curb, and from that point into the house, the property owner is responsible to bring it up to grade. This was all discussed with the previous owner.

Mr. Murphy stated he feels the lid to the water meter is very accessible; the small rock was placed there as a marker; it is located near the front of the property; location was approved by BPW (possibly 25 years ago); meter has been read every month without problem; the problem of it being down 32” is not his issue; cap is no more than 4 to 6” below grade with only mulch over it; was not informed by prior owner of the request to move the meter or pit; why wasn’t he told when the construction was going on from February to August to make the move then; cannot get an estimate until the pit is opened up to see how much it needs to be raised; why is the meter being raised when BPW is going to replace it; he will remove the mulch from the top of the meter for the lid to be at grade.

Mr. Kennedy stated Mr. Murphy is willing to excavate away from the lid a sufficient distance to allow an employee to perform needed services. What distance would be needed for service? This would seem to be a solution to be cost-effective for Mr. Murphy and allow the access and service needed by BPW.

Mr. Gordon stated the pit and pit center need to be at grade because the pit center has a device that holds the meter where it needs to be so meters can be changed about every 12 years. The distance needed would be about 4 feet. This distance is also the requirement around fire hydrants and electric boxes. This will not be a problem if we have access to the lid and it is at finished grade.

Mr. Murphy stated he believes there is poor verbiage in the Code with the only items referenced being for installation and approval. There is no reference for who is responsible for the pit center. If it is the intent of BPW for the homeowner to pay for maintenance or repairs of the pit, it should be stated in the Code. Could we coordinate the times for when the pit is raised and the replacement of the meter so the digging could be done once to help costs to BPW and the homeowner.

Mr. Murphy stated he will do the excavation work this weekend.

ACTION: *Mr. Lee made a motion to accept Mr. Murphy's comments to not have to raise the pit center, and he will excavate away from the lid the distance to make it accessible for BPW within the next 30 days; Mr. Owen seconded the motion, which passed unanimously.*

11. MEETINGS ATTENDED BY BOARD MEMBERS OR STAFF

Mr. Lee attended the January Mayor and City Council meeting.

Mr. Leshar attended December and January SCAT meetings.

Mr. Owen attended meetings on Wastewater RFP.

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

None

13. CALL TO THE PUBLIC

Jim Burke of Severn Trent asked about the contract selection. Mr. Gordon stated interviews with the candidates will be on Monday to include discussion of what is needed for the transition. Severn Trent was also invited to attend.

14. CALL TO THE PRESS

Nick Roth of the Cape Gazette was present.

15. EXECUTIVE SESSIONS

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

16. ADJOURNMENT

The meeting adjourned at 6:30 P.M. for executive session.

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

