

**CITY OF LEWES
BOARD OF PUBLIC WORKS
Regular Meeting Minutes
April 26, 2017**

The Wednesday, April 26, 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
Glenn Mandalas, Legal Counsel

Ex-Officio Member Not Present:

Darrin Gordon, General Manager

Others Present:

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

3. REVISIONS AND/OR DELETIONS TO THE AGENDA

ACTION: *Mr. Lee made a motion to remove Item #12 from the agenda; Mr. Kennedy seconded the motion for the purpose of discussion.*

Mr. Lee stated this is an important decision for BPW and deserves our due diligence with a search for counsel needed first. Mr. Hoffman is located in Wilmington and his main focus is land-use and real estate development. BPW works closely with the City's counsel and there are more advantages than disadvantages to having the same counsel for coordination purposes. We should meet with Mayor and City Council to discuss this important issue. To bypass this would be a mistake. There is no need to

rush to a decision or to vote on this today. This needs further discussion to be moved back and worked through in a logical form with a decision and vote made at the appropriate time.

Mr. Kennedy stated he feels time is of the essence and this should not be tabled at this time. By the time of our next meeting, 90 days will have expired on a matter for which Mr. Mandalas has recused himself. This leaves us with no legal advice when the matter comes before the Board. It is important to move forward now to retain independent counsel for an independent Board.

Mr. Leshner stated we should keep this on the agenda today because this has been discussed for some time and needs continued discussion now.

Mr. Owen stated this should be kept on the agenda today. The Board knows Mr. Hoffman, and he is currently doing municipal work for the City with the Board of Adjustment. He has also done municipal work for Dewey Beach. There was concern about issues when Mr. Mandalas could not represent BPW because he was also representing the City. There will be issues with the City in the future when BPW will need its own independent counsel for legal opinions.

Mr. Lee stated Mr. Hoffman could be retained on the issue of annexation, this should not be justification to rush this decision.

ACTION: *President Alfred, Mr. Kennedy, Mr. Leshner and Mr. Owen voted no to the motion to remove Item #12 from the agenda; Mr. Lee voted yes. With four (4) no votes and one (1) yes vote, the motion is denied.*

4. CONSENT AGENDA

- a) Receive the General Manager Monthly Report**
- b) Receive Final Severn Trent Report for February 2017**
- c) Receive President Report**
- d) Receive Vice-President Report**
- e) Receive Secretary Report, approval of Minutes dated March 22, 2017 and Workshop Minutes dated March 22, 2017**
- f) Receive Treasurer Report**
- g) Receive Assistant Treasurer Report**

Mr. Lee requested discussion of the charging station as mentioned in the General Manager's Report. There is \$6,000 in the budget for installation of the charging stations and Paul Evalds has now offered to pay for four charging stations. There would be two Tesla and two generic stations. Mr. Evalds will receive a \$500.00 rebate for each station, which he has agreed to give to BPW to cover electric costs. Some of the locations considered were two stations at Otis Smith Park near the market parking lot and at the Schley Avenue and Franklin Avenue parking lot.

Mr. Lee continued stating the plan is for the rebate funds to last for about one year of electricity to allow the charging to be free for that time. Parking meters could also be installed at the locations. The BPW will be the owner and Mr. Calaman will check about insurance coverage. The Tesla has a program that shows the car owner where charging stations are located.

Mayor Becker stated these locations will need to be approved by City Council and the Chamber of Commerce should be notified. Signage will also be needed.

Mr. Kennedy stated he has no objection conceptually since this adds to the value of providing service to BPW customers. Mr. Kennedy stated he spoke to the manager of the Daily Market near Otis Smith Park. The manager stated he was not in favor of the station at that location if it impacted his customer parking. The library trailhead would be a good location to consider since there is lighting, restroom facilities and the library.

Mayor Becker stated there will need to be consideration about the library parking which is 100% utilized.

Mr. Calaman reported on the following updates:

- The water tower sandblasting and prime coat have been finished. The final coat will be applied when there are a few clear days. There should not be a problem with noise.
- Unofficially, July is the date for Alevo to begin the battery project.
- Lift Station #4 Project for Gills Neck, Front Street and Savannah Road will start at the end of September.
- This weekend is collection for electronics recycles, hazardous household waste recycles and drug takeback.

Mayor Becker stated there may be a problem with the start date for the Lift Station #4 Project because Coast Day and Maritime Weekend are the first week of October bringing large crowds to Lewes.

Mr. Leshner stated the dates for the General Manager's schedule need to be corrected to 2017-2018.

Mr. Kennedy questioned if it is possible for a link to provide the public with the meeting information provided to the Board to be available on the website (not to include confidential documents). If this is possible, what date will it begin and could the Board please direct this be done.

Mr. Calaman stated this should be available for the next meeting. Ms. Keller stated she would have had this ready for today but had been out sick for a few days.

5. Open forum/general discussion to present the 2106 American Public Power Association First Place Safety Award. INFORMATION/DISCUSSION/ACTION (A. Calaman, Robert Barnes)

Mr. Calaman stated BPW has received the American Public Power Association's safety award for excellence for the electric department to be presented to Supervisor Robert Barnes. The department has been incident-free for more than five years.

6. Open forum/general discussion for the year to date 2016-17 revenues and expenditures report. INFORMATION/DISCUSSION (A. Calaman, J. Leshner)

Mr. Calaman stated Mr. Gordon requested review of a few points from the Statement of Revenues and Expenditures.

- Letter A-Line 7—Other Revenue-Electric: State reimbursed \$210,000 for pole relocation on Kings Highway, Gills Neck and Cape Henlopen High School
- Letter B-Electric Repairs and Maintenance: metering substation project and testing, contract with Potomac Testing for system-wide power outage
- Letter C-Water Meter PVC Covers Listed as Other Supplies: new meter pit lids booked in the wrong place and moved from repairs and maintenance
- Letter D-Wastewater Production and Treatment: was down \$110,000 for 2016-2017 and was part of the switch from Severn Trent to White Marsh. Severn Trent may not have purchased as much material as needed since they thought they were going to leave
- Letter E-Administration: off budget because the Retiree Defined Benefits was a budgeting error corrected by Mr. Gordon
- Letter F-Sewer impact from Sussex County for approximately \$375,000 (and now for Gills Neck flow diversion)
- Line 28-Q and S--Change in Market Value to Review: Q was \$623,981.00 lower, S was \$270,000 to show how well investments are doing
- Line 17-Letter S—Bad Debt: \$224 and will be increasing

Mr. Leshar explained why some of the numbers seem to be out-of-range stating BPW is not in the business of investing and the change to Line 28 shows the decrease and increase in value from last year and this year. This has nothing to do with operations, we are not overcharging and are not-for-profit. What this means is whatever is a plus is put into a reserve fund to pay on bond debts, accounts for impact fees. Also, Column S-Line 18 represents depreciation expense for equipment replacement and improvement.

**7. Open forum/general discussion for bad debt write-off for the 2016-17 fiscal year.
INFORMATION/DISCUSSION/ACTION (A. Calaman, J. Leshar)**

Mr. Calaman stated Mr. Gordon recommended the request to write-off the amount of \$68,053.38 in bad debt. This is higher than budgeted, but no bad debt was written-off in 2016 and we can continue to try and collect this money.

Mr. Leshar stated the total of the write-off is for 31 customers. Also, collection will continue and for audit report purposes, we do not want to overstate the valuation of assets.

ACTION: *Mr. Leshar made a motion to accept the 2016-2017 bad-debt write-off in the amount of \$68,053.38; Mr. Owen seconded the motion.*

Mr. Kennedy stated that he met with the Mayor at the Mayor's request on the matter of certain past due accounts. Mr. Kennedy was of the opinion that these accounts were undisputed but was informed that the City did dispute them and offered additional information in support of that position. In light of the additional information Mr. Kennedy stated he will vote yes to the motion.

ACTION: *The motion to accept Mr. Gordon's request for the 2016-2017 bad-debt write-off passed unanimously.*

8. Open forum/general discussion for participation in the DEMEC Energy Efficiency

Program, Efficiency Smart INFORMATION/DISCUSSION/ACTION (A. Calaman)

Mr. Calaman stated Scott Lynch from Efficiency Smart was here for our meeting in February to present a proposal for an energy-efficiency program for BPW and the City of Lewes. The cost is \$72,000 to \$75,000 per year for three years.

Mr. Calaman stated he and Mr. Gordon support the program for the following reasons:

- Turn-key operation
- Customizable platform with BPW marketing the product as Lewes BPW
- Efficiency Smart will help customers with consults in homes to update lightbulbs and appliances etc. at no charge
- State will see that BPW is contributing to their Green Energy Portfolio
- Will avoid unwanted attention surrounding Lewes when the State sees that surrounding cities are participating as are Seaford and Middletown
- Rebates for heat pumps, refrigerators, ovens, and lightbulbs

Mr. Owen stated he has read the information carefully, and at this time would recommend a workshop for review to decide on the benefits and if we want to spend this amount of money for the program before a vote is taken.

Mr. Kennedy stated the cost for the program participation would not be the net cost due to offset by the reduction of kilowatt hours being purchased. This is a positive program especially with the rebates that would be available to include heat pumps and the savings for the customer and BPW by lowering energy usage and the purchasing of power. This puts BPW high on the list of participating in state-sanctioned and encouraged programs adding to the Green Energy Portfolio. The program would be beneficial and is worthy of serious consideration.

Mr. Calaman stated the offset would bring the cost to about \$60,000 per year including the savings from the battery with Alevo.

Mr. Lee asked if BPW could join the program at a later date in order to check their performance with other municipalities. Also, the cost is very high and questions the recovery. BPW has had other energy programs in the past and can provide energy-saving information in our mailers.

Mr. Calaman stated it may be better to wait until May because Efficiency Smart is doing three presentations to other councils with the plan to begin in June. Efficiency Smart will do all the marketing with BPW brand and assign programs specifically for Lewes.

President Alfred questioned Mr. Mandalas about the liability for BPW if we join the program and it is marketed under the BPW brand. Will BPW be responsible if something happened in the home of a resident. While there are benefits to the program, there is concern about spending customer money without more knowledge of the program. A workshop is needed.

Mr. Mandalas stated there is a risk associated when partnering with an entity providing the service.

President Alfred stated this will be tabled until a workshop is scheduled.

9. Open forum/general discussion of the administrative cost to and from Sussex County to 5%. INFORMATION/DISCUSSION/ACTION (A. Calaman)

Mr. Calaman stated BPW currently charges 15% administrative fee to developers and entities. This includes Sussex County who now charges a 10% fee to us. There are currently two projects with Sussex County and they have requested our fee be set at a flat 5% on all County projects. This 5% fee would be ‘both-ways’ and will only include the County.

ACTION: *Mr. Lee made a motion to approve the request for the administrative fee for Sussex County projects to be set at a flat 5%; Mr. Owen seconded the motion, which passed unanimously.*

Mr. Leshar asked for clarification of the motion that this will include only projects with Sussex County.

10. Open forum/general discussion for commitment to participate with Sussex County in a regional biosolids handling facility and contract. INFORMATION/DISCUSSION/ACTION (A. Calaman)

Mr. Calaman stated CDI was doing the treatment of the biosolids for BPW, until they were stopped by the State. The new company hired is taking the biosolids to Pennsylvania landfills. These landfills will probably be closed in the future also. The plan is for an agreement with Sussex County for their new facility to treat biosolids to be distributed to farmers (probably to begin in about two years) with the agreement to be with BPW, the County and Seaford. The final draft of the contract was reviewed by Mr. Mandalas and provided for review.

ACTION: *Mr. Lee made a motion to accept the biosolids-handling agreement between Sussex County and BPW as described; Mr. Kennedy seconded the motion, which passed unanimously.*

11. Open forum/general discussion of progress of the possible fiber to the home offering to the citizens of Lewes. INFORMATION/DISCUSSION/ACTION (A. Calaman)

Mr. Calaman stated he and Mr. Leshar attended the Pilottown Village Homeowners Association annual meeting to present background and our vision of the project to bring fiber to homes in Lewes. We did receive a lot of feedback from the homeowners. Services include television, telephone and internet. Next, we want our questions answered for better information before speaking to other communities in Lewes and are requesting a workshop be scheduled with Broad Valley.

Mr. Leshar stated the workshop will also include an invitation to homeowners.

Mr. Kennedy stated a workshop with Broad Valley is needed for the Board to ask questions on the technical issues, what is the uptake etc. without having public comments at that time. This meeting followed by one for public comments would help Broad Valley get back to us with a proposal for a decision about going forward. We need to have information on what we will provide, costs and what is offered within the services to be prepared to answer questions from homeowners.

Mr. Lee stated he also wants to know the uptake before deciding to go forward. The last APPA meeting included a presentation, but they have no other workshops scheduled. APPA should have a list of other

utilities that we could contact about uptake.

Mr. Calaman stated his plan was to speak to Broad Valley one last time to answer our outstanding questions, go to speak to the other communities in Lewes for their feedback, provide a showing of the product with a display possibly at the library.

Mr. Owen stated there are still questions concerning Direct TV.

President Alfred stated there are other questions about who is responsible for the telephone and television service for repairs, what are the start-up costs and revenue received.

Mayor Becker stated there is also the question of the number of households needed for the company to agree to come in to be financially viable.

After discussion, the decision was for everyone to submit their questions to Mr. Calaman to be forwarded to Broad Valley with the public workshop meeting to be scheduled after answers are received. This will provide the information needed for the Board to answer questions from the homeowners at the public meeting.

12. Open forum/general discussion for securing legal representation with Tarabiscos Grosso, LLP—Michael J. Hoffman, Esq. INFORMATION/DISCUSSION/ACTION (A. Calaman)

Mr. Calaman stated because we have had a few instances when Mr. Mandalas needed to recuse himself on topics concerning the City, it is the recommendation of Mr. Gordon that BPW seek their own legal representation by Michael Hoffman.

Mr. Mandalas stated he has a good working relationship with Mr. Hoffman and will work well together as separate legal representation. There have been a number of issues between the Board and the City over the last several months. This is difficult because he cannot represent the Board or the City in these issues. As Mr. Lee mentioned, the Tarabiscos law firm is associated with real estate development as is my firm. Mr. Hoffman knows the City from the time he worked for Mr. Mandalas' firm.

ACTION: *Mr. Owen made a motion for BPW to hire Attorney Michael Hoffman to represent the Board as our attorney; Mr. Leshar seconded the motion.*

Mr. Mandalas stated he provided Mr. Gordon and President Alfred with a 'Waiver of Conflict of Interest' so by going forward as counsel for the City, he would not be conflicted-out of anything adverse to BPW since he did represent BPW in the past.

Mr. Lee stated, with nothing against Mr. Hoffman, I do not think we are doing our due diligence because there may be others who would be better for us. There is also the issue of his travel charge of \$550.00. His firm's website only speaks of land development, and it seems he is going in a different direction and not involved with municipal work. There is no need to rush and the Board should wait for a vote until we have spoken to others.

ACTION: *President Alfred, Mr. Owen, Mr. Leshar and Mr. Kennedy voted yes for the motion to hire Mr. Hoffman as counsel for BPW; Mr. Lee voted no to the motion. With four (4) yes votes and one (1) no vote, the motion passed.*

13. MEETINGS ATTENDED BY BOARD MEMBERS OR STAFF

Mr. Kennedy met with Mayor Becker on March 28th for discussion of the bad-debt accounts for BPW; April 22nd DEMEC Cost-of-Service Financial Planning Workshop; April 25th Pre-annexation meeting as a resident.

Mr. Leshar attended the SCAT meeting; Lewes Finance Committee April 26th meeting; Pilottown Village Homeowners Association meeting to discuss Broad Valley.

Mr. Owen attended the Pilottown Village Homeowners Association meeting to discuss Broad Valley; SCAT meeting.

Mr. Lee attended the April Mayor and City Council meeting; Lewes Capital Improvements meeting; met with Paul Evalds to discuss the charging stations.

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

A workshop meeting was scheduled for Wednesday, May 24th at 2:00 P.M. to discuss the Efficiency Energy program with the regular meeting to follow at 4:00 P.M.

15. CALL TO THE PUBLIC

None

16. CALL TO THE PRESS

Nick Roth of the Cape Gazette was present.

17. EXECUTIVE SESSIONS

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

18. ADJOURNMENT

The meeting adjourned at 5:30 P.M.

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

