

**CITY OF LEWES
BOARD OF PUBLIC WORKS
Regular Meeting Minutes
September 23, 2020**

The Wednesday, September 23, 2020 regular meeting of the Lewes Board of Public Works was held at 4:00 P.M. via Zoom.

1. WELCOME, CALL MEETING TO ORDER

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
Earl Webb

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
Paul Peris, White Marsh
Charlie O'Donnell, GMB
Josh Elliott, GMB
City Manager Ann Marie Townshend
City Councilwoman Bonnie Osler
City Councilman Tim Ritzert
BPW Attorney Dan McAllister
Jackie Doherty, Recording Secretary

3. REVISIONS AND/OR DELETIONS TO THE AGENDA

None

4. CONSENT AGENDA

- a. Receive Vice President Report**
- b. Receive Secretary Report**
- c. Receive Treasurer Report**
- d. Receive Assistant Treasurer Report**

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

5. Receive the White Marsh Environmental Systems, Inc. Reports

Mr. Peris stated the reports include additional information on charts tracking essential ratings requested by Mr. Kennedy. The list of replacement parts requested by Mr. Gordon will be ready on October 15th.

Mr. Panetta questioned the reported failures at Lift Stations #8, #74, #4, #9, which is higher than usual.

Mr. Peris reviewed the reasons for the failures at the lift stations:

- #4 and #8 debris went into the flapper on the inlet side of the pump which caused breaking of the prime and the pumps could not re-prime.
- #74 had a problem with clogging and a failed pump; second pump was installed while the first was repaired; electrical problem with one of the lights to the station that was repaired by BPW.
- Performing an inspection program onsite every other week; biggest issues are the “flushable” wipes and oil and grease; grinder pumps create small debris that will go into the membranes.
- Suggestion to include in the bills an educational mailer asking residents to not flush these items or put oil down the sinks; provide information to businesses on grease traps and inspections.
- Screenings have been working well to prevent small fibrous pieces in the membranes.

Mr. Panetta requested more details regarding equipment that caused the units to fail for the information to be stated in the record. There was also the question of why Trane #2 is operating differently as stated in the reports of August 12th.and August 16th. There is concern regarding the graph showing an average of 9.6 for turbidity over a two-week period.

Mr. Peris stated there were areas identified that needed improvement to remove issues in the turbidity analyzer. Suez has been consulted regarding air in the system from the air header. Suez advised having bubble traps, which will be installed next week; the valves will also be replaced. It is anticipated that the bubble traps and new valves will solve the problem of air in the system. The high turbidity numbers are due to the air leak but are still below alarm levels.

Mr. Panetta questioned why the phosphorus levels on the graph show an increase from March.

Mr. Peris stated the phosphorus levels changed due to the warm weather and will note this on the next report.

6. Receive the President’s Report

President Lee reported there was a decision at the September 16th Board meeting to hire Inframark to take over operations of the plant. A settlement agreement was reached with White Marsh. Inframark will be coming onsite on October 15th and will be working with White Marsh for two weeks to make the change and begin on November 1st. Inframark was formerly Severn Trent who operated the plant in the past. Mr. Webb will provide the press release to Nick Roth of the Cape Gazette.

7. Receive the General Manager's Report

Mr. Gordon reported since beginning the NIFC software management program, the changes have been positive with customer billing complaints and concerns down. Their financial report has been provided to the Board for review.

Mr. Webb stated he would like meet with Mr. Gordon to review the actuarial tables related to pensions.

OLD BUSINESS

8. Open forum/general discussion to receive the 2019-2020 annual Audit Report. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Gordon stated Kimberly Stank of Zelenkofske Axelrod was present last month to present the audit. The final report has been provided to the Board which Ms. Stank stated was an unconditional opinion audit. Mr. Gordon recommended acceptance of the annual audit by the Board.

Mr. Webb spoke about reviewing the report from the American Society of Civil Engineers on the life expectancy of BPW assets.

ACTION: *Mr. Kennedy made a motion to accept the 2019-2020 Annual Audit Report as presented; Mr. Owen seconded the motion, which passed unanimously.*

9. Open forum/general discussion of the Tower Hill Development agreement. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Josh Mastrangelo, developer for the project, was present to answer questions.

Mr. Gordon stated an agreement has been reached for BPW to serve the Tower Hill development water and sewer with electric being provided by Delaware Cooperative. The development will have 292 single-family lots and a clubhouse to be developed from farmland. The developer has agreed to pay the cost for the increased capacity of the water/sewer infrastructure onsite, which BPW will operate. BPW will also contribute towards the extra capacity costs. This will allow BPW to provide water and sewer service in the future to Tradewinds Estates, located across New Road from Tower Hill. Homebuyers will also pay impact fees to BPW.

Mr. Gordon continued stating the water and sewer lines will be placed under Canary Creek to New Road. The developer has also agreed to the installation of two electric conduits for service in the future to Lewes Waterfront Preserve. A new water well will also be located on the Tower Hill development and include water treatment. This agreement is fair to all present and future residents. Tower Hill has also signed a pre-annexation agreement with the City. The Tower Hill property is not contiguous with the City.

Mr. Hoffman spoke about the development agreement, in addition to the cost-sharing purpose, required by BPW for all new subdivision projects. He has reviewed the agreement, and everything is in order at this time.

Mr. Panetta questioned why a 12” pipe is being installed when an 8” line would work.

Mr. Gordon stated the 12” line will benefit BPW as part of the water treatment/distribution system.

ACTION: *Mr. Panetta made a motion to accept the Tower Hill agreement as presented; Mr. Kennedy seconded the motion, which passed unanimously.*

10. Open forum/general discussion of Stormwater Rates for City Parks and Apartments/Condos. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Gordon stated revenues from the stormwater rates are used for the benefit of the community by everyone being able to drive through the streets of Lewes because of stormwater management.

President Lee spoke about the problems when the catch basin at Overfalls was flooded as an example of the need for stormwater management.

Mr. Panetta reported on the request from Mayor Becker regarding City-owned land zoned as open space. Open space is defined as a zoning district to be used for recreation, green and open buffers, etc. The Code does not state open space can only be applied to City or government owned land. The Planning Commission does require land zoned as open space be deeded to the City, but this is not a requirement in the Zoning Code.

Mr. Panetta provided the zoning map table listing all land zoned as open space within the City and the majority is parks. There is land located on the canal at Pilottown Road owned by the City, zoned open space, and rented to adjacent landowners. No building is permitted on this land. There are also portions of the land at University of Delaware and marshes and lands owned by the State or the federal government. There are other City-owned properties with buildings and extensive impervious coverage.

Mr. Panetta stated the recommendation would be to consider waiving stormwater fees for a specific list of properties to include parks and not addressing all open space.

Mr. Gordon spoke about the costs to BPW to maintain the French drains at Blockhouse Pond, Beach #1 parking lot and the shower area at Beach #2 outweighing the fees.

Mayor Becker stated the City land with structures was never part of the request but was only the parks, which were highlighted on the list provided to BPW. The parks, especially Canalfront Park, are part of the stormwater management system and do not contribute to making the system work harder but help with infiltration.

Mr. Webb stated his concern is developers will be asking for the same waiver consideration.

Mr. Panetta agreed stating there are also issues with developers creating stormwater ponds and open space in cluster developments. It will need to be made clear the waiver was only for government-owned parks. There is also concern if current fees will cover the cost requirement associated with MS4 in the coastal communities.

Mr. Kennedy stated removing stormwater from City streets is a safety issue benefitting everyone travelling through the City by eliminating standing water, which is also a health issue. Stormwater management in Lewes is a service of BPW, who can only charge customers for its services. Meters are used to identify customers charged with the stormwater fee. BPW does not recover all stormwater management costs at \$5.00 per customer, and there is concern about the possible future need to update the system. Exempting open space or municipal properties from the fees because of less runoff is arbitrary and discriminatory. There are other properties contributing no runoff due to elevation or grade who continue to be charged. This is not a compelling case for exempting these properties from paying the stormwater management charge and is not in favor of exempting the City from paying the appropriate tariff rate as stated in the BPW charter.

Mayor Becker stated the French drain at Beach #1 is in front of residential property on Savannah Road and not in the parking lot. The parks contribute to stormwater management in the City, and without the parks, there would be much more stormwater. BPW's waiver of the \$135 monthly fee would be an accommodation to recognize the value of the parks to the stormwater management system.

City Manager Ann Marie Townshend stated some of the City services provided through the tax base are part of the stormwater services including street sweeping, maintaining gutters, and leaf collection. These services help to improve the quality of runoff. The City and BPW will need to work together regarding MS4.

ACTION: *Mr. Panetta made a motion to approve a waiver of the stormwater management fees for the eight (8) parks recognizing these are stormwater sinks. This is justified on the basis of BPW and the City working together to protect water runoff from the City limits.*

The motion was not seconded.

ACTION: *Mr. Webb made a motion to approve a recommendation to credit the City \$135 per month in perpetuity and not be tied to any specific shared costs.*

The motion was not seconded.

ACTION: *Mr. Webb made a motion to approve the request be included in the Settlement Agreement between the City and BPW.*

The motion was not seconded.

Mayor Becker stated he agrees with Mr. Panetta's motion, but the \$135 credit should be tied to something specific.

11. Open forum/general discussion of the proposed Household Hazardous Waste Collection Day in connection with the National Drug Take Back Day on October 24th from 10:00 A.M. to 2:00 P.M. at the Schley Avenue Power Plant. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Gordon stated the collection day will be held in connection with the police department for the drug take back day. No latex paint is allowed. Social distancing will be followed.

**12. Open forum/general discussion of the impact of the Capital Project Plan and Cedar Avenue water/sewer project on BPW financial health. INFORMATION/DISCUSSION/ACTION
(D. Gordon)**

Mr. Gordon reviewed plans for the sewer/water line replacement on Pilottown Road, to include paving by DelDOT, for the purpose of improving the water quality. Next will be the Cedar Avenue project and side streets off Cedar to also improve the water quality addressing residents' complaints of rust in their water. There was previous discussion at the Board meeting in August regarding the project work being completed in three phases with Cedar work only, followed by the side streets, completing both at the same time, and including the section at the Children's Beach House and Bay Avenue that was not part of the project ten years ago.

Mr. O'Donnell reviewed the following:

- Cedar Avenue \$2.95M
- Phase I--Michigan to Maine with connections to Cedar, Bay, Newport and the Bay section not addressed during the project ten years ago \$3.05M; overlay streets adds \$365,000; the cost for the 39 manholes to be relined is included in the \$3.05M.
- Phase II—Michigan to Massachusetts and sides \$4.5M.
- Phase III—Midland to Market to include Massachusetts, Midland, and Market, Bay to Anglers \$1.7M.
- Streets on canal side also have iron pipes to be removed; cost of manhole relining is about \$500,000 of the total \$10.5M and is needed to help address infiltration.
- Each phase can be completed in the seasonal timeframe of October 1st to June 1st.
- Cedar is the main line to the side streets, but most homes in the area are served off the side streets, which helps reduce the costs. May be possible to begin work on the oldest pipes and work toward the newer.

Mr. Gordon also reviewed State funds borrowed will require an additional 20% for prevailing wages. Decide if project will be five, six or seven years; will a rate increase be needed.

Mr. Owen stated a workshop is needed for a complete review.

Mr. Kennedy recommended a financial projection report by Utility Financial Services (UFS) regarding the impact on the 5-year Capital Improvement Budget and possible reserve decline to help prevent an early rate increase. Some projects may need to be deferred. The financial projection report is needed for the workshop meeting.

Mayor Becker stated a public workshop is needed to make the residents aware of the project and to accept comments.

The workshop meeting is scheduled for Thursday, October 15th at 4:00 P.M. via Zoom.

NEW BUSINESS

13. Open forum/general discussion of a rate review. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Gordon stated it has been three years since the last rate study by UFS when they declared BPW to be financially sound.

Dawn Lund has given quotes for the financial projection studies to include: Water--\$8,900; Electric—\$9,900; Wastewater--\$8,900. Cost for rate study to include: Water, Electric, Wastewater, and Sewer is \$55,700.

Mr. Kennedy stated the cost-of-service study is not needed at this time. It is the impact of the current rates that is needed because of the requirement to use financial reserve for the planned capital projects.

Mr. Panetta recommended having the full rate study for electric stating it is needed after three years and to review studies to show fixed costs; readiness-to-serve charge; changes in electric market regarding electric vehicles; increase in residential solar; wind turbines; projections for new developments; allocating infrastructure costs.

ACTION: *Mr. Panetta made a motion to approve the full rate study for electric and the financial projection studies for water and sewer; Mr. Owen seconded the motion.*

Mr. Panetta voted yes to the motion.

Mr. Webb voted no to the motion stating the cost for the electric full rate study is too high and is not needed at this time.

Mr. Owen decided to withdraw his second to Mr. Panetta's motion.

ACTION: *Mr. Kennedy made a motion to approve Utility Financial Solutions to do the financial projections for electric, water, and wastewater; Mr. Owen seconded the motion.*

Mr. Panetta questioned deferring the cost-of-service study for another year when \$10,000 will need to be spent because the financial projections are included with the cost of service.

Mr. Webb stated the information on the financial projections will help with the decision to defer for possibly two years instead of one year.

President Lee, Mr. Webb, Mr. Kennedy, and Mr. Owen voted yes to the motion to approve. Mr. Panetta voted no to the motion to approve. With four (4) yes votes and one (1) no vote, the motion to approve passed.

14. Open forum/general discussion regarding a dashboard for financial reporting. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Webb stated the plan is to turn data into information. An example is the Cedar Avenue Project and how a chart would list each customer complaint and location. If the Board is in favor of the concept, Mr. Webb and Mr. Gordon will work on charts listing information on the lift stations, etc.

All Board members are in favor of Mr. Webb's continued work with Mr. Gordon.

15. Open forum/general discussion regarding the agreement of sale for the Jones Farm property (Parcel 335-12.00-2.00). INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Hoffman provided a copy of the negotiated agreement for the purchase and sale of real estate concerning the Jones Farm to the Board. This is a three-party purchase agreement to include Sussex County, City of Lewes, and BPW. The terms have been negotiated, agreement signed, and is now before each entity for review, consideration and approval. Mayor and City Council approved the agreement as presented.

ACTION: *Mr. Owen made a motion to approve the Jones Farm property agreement as presented; Mr. Panetta seconded the motion, which passed unanimously.*

Mr. Hoffman spoke about the steps being taken for due diligence including: seller has provided documents they were required to disclose; title search completed; the survey and wetlands delineation update have been ordered; follow-up discussion with the three parties continues.

16. Open forum/general discussion of an agreement with DelDOT regarding Pilottown Road abandoned utilities. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Gordon stated Pilottown Road is a DelDOT road and when BPW applied for permits to install the new waterline, it was discovered that there is a 4" watermain from 1930, other 6" and 10" pipes, sewer and pressure lines. There are requirements regarding the distance between water and sewer lines that will need to be addressed when installing the new lines. There is also a concern that these pipes may need to be removed in the future, and State law says the cost is the responsibility of DelDOT. They disagree and have asked for the agreement to state BPW will be responsible for removing the pipes if needed in the future. DelDOT will not issue the permits for the Pilottown Road project unless the agreement is signed.

Mr. Gordon believes the risk is low and asked for the agreement to be approved in order to have the Pilottown Road project work begin.

Mr. Hoffman said the agreement states BPW will be responsible for the costs of pipe removal only and not the costs or expenses associated with any DelDOT project. The agreement has been reviewed by DelDOT and was approved as presented.

ACTION: *Mr. Owen made a motion to approve the DelDOT agreement regarding Pilottown Road abandoned utilities; Mr. Kennedy seconded the motion, which passed unanimously.*

Mr. O'Donnell stated the Pilottown Road work should begin within 30 days allowing time for the permit to be received and pipes ordered by Teal to be delivered.

17. Open forum/general discussion regarding a proposed policy of extending services in existing individual homes in the BPW service area. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Gordon stated BPW currently serves three groups of customers: 1) Developers; 2) Existing subdivisions with HOAs; 3) Individual homes not located in a development and not within a group or HOA. What is being presented today are the proposed requirements to provide utilities to the following individual homes that will be immediately impacted by installation of utility systems.

Locations include approximately 12 homes on New Road located in and out of the City and some homes on Savannah Road.

Proposed policy procedures include: 1) 20-year loan at 2% interest; 2) Costs shared including engineering, parts and labor, connection fees, and an ejector pump if needed, which would then become the property of the homeowner and be included in the cost of the loan; this will only be available to homeowners inside the City limits and homeowners outside the City limits would need to be annexed to receive this opportunity; 3) Homeowners who are part of a larger project would pay a pro rata share of the project.

After discussion, it was agreed that this is a good incentive for annexation of individual homeowners. Also, Mr. Hoffman will present a draft resolution to the Board at the October meeting for consideration and to move forward with the proposed policy.

18. Open forum/general discussion of a Resolution regarding a 15% fee for BPW administrative expenses concerning development projects. INFORMATION/DISCUSSION/ACTION (D. Gordon)

Mr. Gordon stated the decision by the Board in 2009 regarding the BPW 15% administration fee policy was never memorialized in a resolution. Mr. Hoffman presented a resolution for approval by the Board.

ACTION: *Mr. Panetta made a motion for Resolution 20-001 to be read into the record by title only; Mr. Owen seconded the motion, which passed unanimously.*

Mr. Hoffman read Resolution 20-001 into the record by title only for consideration by the Board.

ACTION: *Mr. Panetta made a motion to accept Resolution 20-001 as presented; Mr. Owen seconded the motion, which passed unanimously.*

19. CALL TO THE PUBLIC

Mr. Jerry Peter, New Road in Lewes, read a statement into the record reviewing the past events regarding his requests for sewer service from BPW; DNREC's decision to uphold his well permit; letter he received from Mr. Gordon stating BPW is considering not providing sewer service without water service; allow his sewer connection now before he and BPW are governed by the revised charter because further delay is causing him harm and will not benefit BPW. Mr. Peter submitted his letter to the Board requesting it be added to the October agenda.

20. CALL TO THE PRESS

Nick Roth of the Cape Gazette was present.

21. ADJOURN TO EXECUTIVE SESSION

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

22. Return to open session.

23. Discussion and action on items from Executive Session, if applicable.

24. ADJOURNMENT

The meeting adjourned at 6:30 P.M.

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