

Lewes BPW  
Regular Board Meeting minutes  
December 7, 2022

**The Wednesday, December 7, 2022, Regular Board Meeting was held at 3:00pm at the City Hall Council Chambers.**

**1. Welcome and call to order**

President Panetta called the meeting to order at 3:00pm.

**2. Roll call**

**Board Members**

*Thomas Panetta  
Earl Webb  
D. Preston Lee, P.E.  
Richard Nichols*

**Ex-Officio Members**

*Austin Calaman, BPW General Manager  
Robin Davis, BPW Asst. General Manager  
Michael Hoffman, Legal Counsel  
Andrew Williams, Mayor*

**Others**

*Charlie O'Donnell, GMB  
Josh Elliott, GMB  
Michael Wolgemuth, Inframark  
Bob Heffernan  
John Horner  
Bill Hague, DRWA  
Gary McLarin, Hydro Corp  
Kimberly Bellere, BPW  
Sharon Sexton, BPW  
Mike Posey, BPW  
Kristina Keller, BPW  
Madeline Nichols  
Aaron Mushrush, Cape Gazette  
Mike Posey, BPW  
Ann Marie Townshend, City Manager  
Josh Gritton, BPW*

**3. Executive session**

**ACTION:** *Mr. Lee motioned to adjourn to executive session. Mr. Nichols seconded the motion, which passed unanimously. Mr. Owen absent.*

President Panetta adjourned to executive session at 3:00pm.

**4. Return to open session**

**ACTION:** *Mr. Nichols motioned to return to open session. Mr. Webb seconded the motion, which passed unanimously. Mr. Owen absent.*

The meeting returned to open session at 4:00pm and President Panetta led the pledge of allegiance.

**5. Discussion and action items from Executive session.**

None.

## 6. Consent Agenda

- a. Receive Vice-President Report
- b. Receive Secretary Report – approval of minutes for August 31, 2022, and October 5, 2022, the Mitigation Committee meetings on. Approval of minutes for September 28, 2022, regular Board Meeting.
- c. Receive Treasurer Report
- d. Receive Asst. Treasurer Report

Mr. Lee requested to pull the secretary's report from the consent agenda. President Panetta would like to pull the September 28, 2022, regular minutes from the consent agenda for a correction.

**ACTION:** *Mr. Nichols motioned to approve the consent agenda with the secretary report and the September 28, 2022, regular minutes removed. Mr. Lee seconded the motion, which passed unanimously. Mr. Owen absent.*

Mr. Lee reviewed mitigation committee progress:

- The mitigation committee is recommending using the design year 2050. This is the same design year that GHD is using for the WWTP report.
- The mitigation committee is recommending using the FEMA 2015 100-year flood elevation plus the projected sea level rise of 1.38 feet. The projected subsidence of 2.6 feet, and freeboard of 3 feet. This is the high side of the state's projections.
- The mitigation committee is recommending using 120mph design wind load. Climatologist from GMB presented and agreed that this was a reasonable design.
- The mitigation committee has identified BPW assets that are susceptible to climate change and a map and a spreadsheet have been created. The spreadsheet shows the asset, location, 2015 FEMA flood plain designation, coordinates, elevations of the assets, and a schedule of implementation. Any new asset would be designed to the recommended design criteria.
- The mitigation committee is recommending the any assets in the FEMA flood zone AE7 or less would be upgraded by 2030. Assets AE8 and above would be recommended to be upgraded by 2035.
- Mayor Williams recommended adding a column to the spreadsheet for the value and the age of the asset.
- The mitigation committee has reviewed the existing emergency response plan of the wastewater treatment plant (WWTP) and the emergency response plan for the city. It was discussed to have a sea level rise emergency plan, but it was felt that it was not needed with the other plans in place.
- The mitigation committee is compiling a list of programs or policies to encourage for "green" technology recommendations.
- The mitigation committee does not discuss items in the city's purview. Mr. Lee is meeting with Mayor Williams and the city manager to discuss and coordinate with migration topics.

Mr. Lee questioned if the Board members had any further suggestions or issues for the mitigation committee to discuss. The mitigation committee work may be close to ending, at least for now. The committee is concentrating on strictly BPW assets. Mr. Webb questioned if the committee looked at

scenarios, such as the water tower blowing down, and what the back up plans are. Mr. Lee stated that the mitigation committee can throw out ideas, but to implement the ideas, there will need to be engineering help. Mr. O'Donnell stated that when the elevated tank was taken out of service for miscellaneous repairs a few years ago, the water system was operated through the water treatment plant for over a month. A new water tower is being designed now and there will be back up in the future. President Panetta stated that the mitigation committee was tasked with recommending the next steps, not doing the actual engineering. Mr. Webb is concerned how to operationalize the efforts of the committee. President Panetta acknowledged that the mitigation committee is a powerful team and is knowledgeable.

President Panetta would like to make a correction to the minutes from September 28, 2022, under item nine. The wording should clarify that DNREC agreed to split the cost of the study. Ms. Sexton will make the change.

**ACTION:** *Mr. Nichols motioned to approve the secretary's report and minutes with the forementioned correction. Mr. Lee seconded the motion, which passed unanimously. Mr. Owen absent.*

## **7. Receive the Inframark Report.**

Mr. Wolgemuth reported:

- Filters-The recovery clean for all four trains is complete. The temperature pressure membranes (TMPs) did drop.
- Pump Stations (PS)- PS16 was operating with one pump and Mr. Calaman authorized the purchase of a second pump and the pump has been installed and is online. Received a spare pump for PS13 and is in stock.

Mr. Lee questioned if the Board decided at the last meeting on the generator. Mr. Calaman stated that there are two phases of improvements: the headworks and putting a generator in place. The headworks is 95% ready to go out to bid. Mr. Calaman contacted Alban about doing upgrades at the pump stations. Alban stated that the current unit cost is just under what the cost of a new unit would be if the configuration is changed for the Delta Y. If the configuration is changed then the generator changes. The Board has approved the generator.

President Panetta questioned the projects table and the manhole sump pump. Mr. Wolgemuth stated that Inframark engaged two contractors and never received quotes. The master electrician may be able to do the work or at least know someone who can.

President Panetta referred to the oxidation ditches with the second crack, listed in yellow. Mr. Wolgemuth is not involved in obtaining proposals. Mr. Elliott, GMB, is tracking the cracks. Mr. Wolgemuth stated that there are no signs of movement or seepage. President Panetta stated that over a month ago, the ditch went from totally sealed to damp. Mr. Lee stated that the ditch should be checked daily. Mr. Wolgemuth stated that the ditch is being checked daily.

Mr. Calaman stated that PS16 had bypass capabilities installed by Sprig.

Mr. Webb questioned if there were any turnover concerns with operators in the plant. Mr. Wolgemuth stated that there is no concern.

Mayor Williams questioned the signature on the discharge elimination system monitoring report. Mr. Wolgemuth stated that the report was submitted electronically to DNREC. Mr. Calaman stated that DNREC reports to the EPA, but this is a DNREC issue.

### **8. Receive the President's Report.**

President Panetta stated that the BPW had a successful hazardous waste take back day. There was a lower quantity of chemicals, and the police department had a great reduction in drug take back.

President Panetta reported that there were multiple meetings with GHD, and the Donovan Smith Mobile Home Park (DSMHP) Project Workshop was held. The BPW website has a designated area for DSMHP project updates and reports.

President Panetta and staff met with the Delaware Co-Op to discuss areas of cooperations. After the meeting, the Delaware Co-Op CEO has left but is still consulting.

The GHD Report was presented to county council. There will be a public workshop scheduled January 23, 2023 @6:00pm at the Rollins Center. A public notice will be sent after the new year and the Cape Gazette will run an article.

### **9. Receive the General Manager's Report.**

Mr. Calaman reported:

- The DSMHP public meeting was held. A splash page was made for the project on the BPW website.
- Continue to move forward with planning grant work in conjunction with GHD. A few samples were taken this week. This will help prioritize projects.
- Mr. Calaman and Mr. Davis had held meetings regarding the lead and copper rule. By October 2024, the BPW will need have the inventory of lead and copper collected. Met with vendors that will take the information and compile an inventory sheet and priorities based off known data. There will be a presentation at the January or February Board meeting.
- Electric department finished the temporary wire pulling on New Road for Lewes Waterfront Preserve.
- The WWTP workshop was originally scheduled for January 14<sup>th</sup>, but location was unavailable and rescheduled for January 23<sup>rd</sup>.

Ms. Bellere reported on financials:

- Updated cash report includes October and shows that the BPW gained a little, possible change in market value.
- Month of October financials:
  - Line 2, Commercial- Is down \$5200 from last October. This is from efficient upgrade at DRBA.
  - Industrial- The electric increased, but water is still down by 12%. Continued to reach out to SPI. No response. Mr. Calaman stated that SPI does shut down in October for about a week. Mr. Lee stated that the BPW use to meet with SPI periodically. Mr. Calaman stated that there have been a lot of changes at SPI and will try to continue the meetings.

- Line 4, Municipal- budget adjustment for the street light meter that was changed.
- Line 5- The filters are not being cleaned as much as last year.
- Repairs and Maintenance for sewer- chemicals and sludge hauling.
- Professional and Contractual services- Engineering services were about \$7,000 more than previous months, stemming from water mapping invoices.
- Line 14, Other Supplies and Expenses: Sewer is now splitting surcharges from actual products. Fuel surcharge for Clean DE about \$4,700.
- Line 24, Impact Fees- Started increasing but not as fast as budgeted. Budget adjustment needed.
- Line 27, Change in Market Value- \$64,000 gain.

The year-to-date financials are similar to October financials.

- Line 4 and 5 of the year-to-date are the same as the month.
- Line 6, Revenue Other- Special electric work done at Grave's Uniform, and poles for Nickle Electric.
- Line 12, Repairs and Maintenance- Transformer maintenance, chemicals, and sludge/waste hauling.
- Line 14, Other Supplies and Expenses: Sewer is now splitting surcharges from actual products.
- Line 24, Impact Fees- Started increasing but not as fast as budgeted. Budget adjustment needed. Reversal of the elementary school.
- Line 26, Grant Revenue- Reversed Headworks payments, going towards loan liability; budget adjustment needed.
- Line 27, Change in Market Value- \$889,000 loss.

Ms. Bellere stated that she did not include the grant money from the city, because the details are still being worked out. The operational expenses were not updated for sewer, as the Inframark contract is being worked on. Interest Income was not included.

Mr. Webb questioned what the process to get better every year. Mr. Lee questioned if the finance committee is working on this process. Mr. Nichols confirmed. Ms. Bellere is hopeful that with another year of post COVID data that budgeting will be easier. President Panetta stated that budgeting will be difficult because of inflation and supply chain issues. Mr. Calaman stated that the fluctuation of revenues would benefit from a fluid interaction with the key accounts. President Panetta stated that meeting with key accounts was done pre-COVID and should be re-established.

## **OLD BUSINESS**

### **10. Open forum/general discussion of the revisions to the pole attachment application from AT&T for wireless facilities. INFORMATION/DISCUSSION/ACTION (Robin Davis)**

Mr. Davis stated that he received some proposed revisions from the AT&T. Received the document on Wednesday. Board can review as staff and counsel reviews. One item that AT&T has requested to change is the timeframe for invoices. Originally, AT&T wanted 120 days, the Board responded with 30 days, and now AT&T has requested 45 days. Mr. Davis stated that AT&T requires their customers to pay in 30 days and all other BPW customers pay in 30 days. AT&T requested clarification of prevailing rate.

Mr. Webb questioned if AT&T is willing to pay a higher interest rate for a longer term. Mr. Davis stated that AT&T was questioning if Delaware has a code for interest rates. 18% was chosen because that is what BPW charges for other invoices. Mr. Davis recommends being consistent.

Mr. Davis stated that Shentel is looking to do an agreement for Fiber only.

## **NEW BUSINESS**

### **11. Open forum/general discussion on the annual donation to the Lewes Fire Department. INFORMATION/DISCUSSION/ACTION (Austin Calaman)**

Mr. Calaman stated that the Lewes Fire Department 2021 990 form and past minutes were provided. BPW donation last year was \$50,000. The city has donated \$75,000 in the past. Mr. Nichols referenced a \$75,000 donation from City of Lewes Board of Public Works. Mr. Calaman stated that a special donation was made during the COVID-era and was a separate donation from the annual donation and reflects 2020 income. Mr. Nichols referred to schedule A and the total number grants, gifts, contributions, and membership fees in the amount of \$2.598 million. There is no breakdown. Mr. Webb questioned if the Fire Department has received any money from ARPA. Mayor Williams stated that the only amount given from ARPA Funds, from the city, was \$10,000 to do an engineering study. The expectation is once the study is finalized that the Fire Department will request more. Mayor Williams stated that the Fire Department is largely funded through donations.

Mr. Webb stated that money will need to be borrowed to pay for this donation. President Panetta stated that the Lewes Fire Department is protecting Lewes BPW assets and is dependent upon the department responding if there was an accident. Mr. Webb stated that the BPW does a lot of work for the fire department, like the water project, lines, and fire hydrants. President Panetta challenges this thought because the BPW does provide these items because the fire code requires it. Mr. Webb agrees but stated that the BPW is still spending money. President Panetta stated that the fire department's budget is also tight.

Mr. Calaman questioned if the Mayor Williams thinks that the city donation will change at all. Mayor Williams is not speaking for the council, but from his standpoint, he echoes President Panetta's opinion. The safety of the citizens is the concern and the police and fire department fall under this. The city adds the donation to the budget and is awarded in the spring.

Mr. Lee agrees with President Panetta and that the Fire Department provides a service and are anticipating the donation. Mr. Lee stated that the BPW should continue to make the donation. President Panetta stated that this is the only donation that the BPW makes. Mayor Williams stated that the fire department is struggling with finding volunteers and is due to the lack of affordability to live in the area. Rehoboth have similar issues with staffing.

Mr. Lee recommends continuing to donate what was donated last year, \$50,000. Mr. Webb stated that the Board does not have the money to donate. Mr. Nichols stated that it is a benefit of the community via the fire department versus a financial issue that the BPW should be able to solve. Mr. Nichols believes the right thing to do is to keep supporting the community. Mr. Webb stated that the fire department is \$646,000 above where they were last year. For the BPW to donate, the money will need to be borrowed and BPW customers will be charged more than what it is actually given because of the

debt. Mr. Lee stated that the BPW has a large budget and does not believe that the overall impact of the donation is major.

**ACTION:** *Mr. Lee motioned to donate \$50,000 to the Lewes Fire department. Mr. Nichols seconded the motion. Mr. Owen absent.*

Aye	Nay
Thomas Panetta	
	Earl Webb
D. Preston Lee, P.E.	
Richard Nichols	

*The motion carries.*

Mayor Williams suggested adding an attachment to BPW bills for customers to donate to the Fire Department.

Tim Ritzert joined the meeting as the city representative. Mayor Williams left.

## **12. Open forum/general discussion on updating the policy regarding the 15% admin fee.**

### **INFORMATION/DISCUSSION/ACTION (Austin Calaman and Michael Hoffman)**

Mr. Calaman stated that the current policy states 15% of the estimated cost of construction for those utilities. Resolution 22-008 changes language to state 15% of the actual invoices. Mr. Hoffman stated that what is being corrected is consistent with the BPW policy and approach.

**ACTION:** *Mr. Webb motioned to read the resolution by title only. Mr. Nichols seconded the motion, which passed unanimously. Mr. Owen absent.*

Mr. Hoffman read resolution 22-008 by title only.

**ACTION:** *Mr. Lee motioned to approve resolution 22-008. Mr. Webb seconded the motion, which passed unanimously. Mr. Owen absent.*

## **13. Open forum/general discussion on the developer's agreement for Fishers Cove.**

### **INFORMATION/DISCUSSION/ACTION (Austin Calaman and Michael Hoffman)**

Mr. Hoffman stated that the Board has a form agreement and the Fisher's Cove Developer Agreement tracks closely to that form agreement. Resolution 22-008 admin fee language was inserted into the agreement. The city section is for city council to approve. Any motion to approve the agreement will be conditioned on city council approving their section. John Horner was present for questions for the developer.

Mr. Nichols referred to the first recital on page one and if there was a definition of stormwater management facilities that the developer is responsible for and the BPW will inherit. Mr. Hoffman referred to the third recital on the first page and the improvement construction plans. There is a date that is not filled in and needs to be completed prior to execution. The improvement construction plans spell out the responsibilities of the Board and responsibilities of the community. Mr. Calaman stated that the record plan has not been codified and there are still areas to be defined.

Mr. Hoffman stated that the developer agreement refers to the improvement construction plans. The actual responsibilities on BPW's end, will be spelled out on the improvement construction plans. The

developer agreement requires the Board to approve the plans before construction. Mr. O'Donnell stated that the developer's engineer submitted plans this afternoon. GMB will review. In the past, the BPW has never taken over stormwater management devices. The Board does operate and maintain pipes. President Panetta stated that the terminology is different in the recitals: stormwater systems and stormwater management. The Board should be clear what can be connected and who is responsible. Mr. Hoffman stated that the document is to point to the BPW improvement plans and highlights the importance of delineating the difference and who is responsible for what.

Mr. Nichols questioned if it is appropriate to reference the cross-control program. Mr. Hoffman stated that once the cross-control program is adopted then it will become an overreaching policy and become a standard specification. Mr. Calaman stated that the process is similar to fire suppression. Mr. Hoffman stated to govern is a policy of the Board. If there is a conflict between BPW policy and the agreement, then the BPW policy controls. The purpose of the developer's agreement is to make sure the infrastructure is installed and inspected to the BPW specifications.

Mr. Nichols referred to section 2.7: BPW obligations. Stormwater is not mentioned in section 2.7 or 2.8. Mr. Hoffman stated that the catch all is referring the BPW improvements but for consistency stormwater can be added. Mr. Horner has no objection.

President Panetta referred to Section 2.10c: Will construction be phased or is this standard language for agreements? Mr. Horner stated that the development will be constructed in one single phase.

Mr. Ritzert stated that the agreement does not recognize that the BPW is dependent upon the consulting engineer to do onsite inspections. Was this intentional? Mr. Hoffman referred to section 2.5. Historically, since the BPW hiring is the function, the function falls under the umbrella of the BPW. Mr. Ritzert questioned if this is satisfactory to counsel. Mr. Hoffman stated that yes and that inspections are billed through the BPW. President Panetta stated that the BPW umbrella is whoever is hired. Mr. Ritzert suggested that there is some acknowledgement that it is not a BPW employee doing the review, approval, and acceptance.

Mr. Ritzert stated that there is nothing to suggest that the City Solicitor has not been involved in the review of the document. Mr. Hoffman stated that the document incorporates the city section. The document is a BPW document other than section 3. When the BPW acts, it will be conditioned on city council approval. City Solicitor will not review any other section than section three. City Solicitor has the document and has been providing comments pertaining to section 3. Mr. Ritzert stated that it would be helpful to have a record of who has reviewed the document.

Mr. Horner questioned why the agreement is combined with the city, even though two separate entities. Mr. Hoffman stated that from a legal perspective, once the portion of the document that pertains to the Board is approved, the Board is done. Mr. Hoffman stated that the BPW role will be done with approval. Mr. O'Donnell stated that the document relates to city code, so there is a connection between the BPW and the city code. Without being one document, the agreement could be convoluted. President Panetta agrees.

Mr. Ritzert questioned if receiving the revised plan late this afternoon, gives reason to pause. Mr. Hoffman stated that there is no reason to pause and referred to section 2.2: *"Once approved by the BPW, the BPW Improvement Plans shall control and govern unless amended by the written agreement"*



Not quite approved. Referred to the plans. Approve is the structure. But plans still need to be approved. And section 2.1: *“Developer shall construct, install, and provide for the BPW Improvements, and be responsible for the costs of the same, as outlined in the BPW Improvement Plans, which have been submitted to and approved, or are to be approved, by the BPW.”* The document itself anticipates a situation where the improvement plans may not be approved, but nothing can be done until the plans are approved.

**ACTION:** *Mr. Nichols motioned to approve Fishers Cove Development Agreement conditioned on city council review and approval, with change 2.7 and 2.8 to add stormwater management to the list of services being provided. Mr. Webb seconded the motion, which passed unanimously. Mr. Owen absent.*

**14. Open forum/general discussion on the Cross Connection Control Program.  
INFORMATION/DISCUSSION Robin Davis)**

Mr. Davis stated that in February 2021, the state enacted cross-connection control regulations which require all public water systems to develop a cross-connect control plan. Regulations were set up for prevention of contamination of drinking water. This includes keeping inventory, keeping records of testing, repairs, and maintenance of all backflow assemblies and backflow methods. Includes that utility must enact policies for completing assessments of the of the customer’s premises for cross connections. Public water systems are required to comply with the regulations by February 1, 2024.

In May of 2021, the BPW entered into agreement with Hydro Corp to assist in development and implementation of the program. Mr. Hoffman and counsel are working on resolution language. A draft of the required plan was presented to the Board for review. Staff is not looking for the Board to take any action today. Possible to bring a finalized draft to January or February meeting.

Mr. Calaman stated that the BPW is not the only utility going through this process. Not inventing the wheel. Hydro Corp has worked with Kevin Williams in Rehoboth. There is a public education piece that Hydro Corp will assist with creating website, mailings, etc. Mr. Davis stated that Kevin Williams sent Rehoboth’s draft plan and the BPW is consistent with Rehoboth’s. The plan does need some minor tweaking.

Mr. Nichols presumes that BPW meets those 25 psi requirements. Mr. Davis confirmed. Mr. Calaman stated that there are known connections that have separate water meters. There are other connections that are being billed through standard water meter for irrigation use. This will be a challenge because all connections will have to have backflow prevention.

Gary McLarin, Hydro Corp, stated that this new cross-connection control regulation has been adopted by the State of Delaware. Mr. McLarin believes that Lewes can be compliant by the February 1, 2024, deadline. Being a water regulatory program, the program is about water protection and protecting the unknown cross connections from backflow contamination. Hydro Corp’s program will help administer the testable assembly, tracking details. Hydro Corp will help to administer the details of on-site surveys that facility owners will be responsible for. The component for public education is almost complete and ready to broadcast when appropriate. It is important that the water customers perceive the program as a safety program rather than a regulatory program. It is the water customers responsibility to have the backflow preventers tested and identifying and potential cross connections.

Mr. Nichols questioned funding assistance available. Mr. McLarin stated that the initial part of the scope of work was to develop a cross-connection control plan that was funded 50/50 between the BPW and Delaware Rural Water Association.

President Panetta questioned the experience and qualifications dictated by the "Authority". This implies that there is some specific Authority. Mr. Hoffman stated that "Authority" refers to the BPW and should be changed.

President Panetta referred to page three, under inspections. The plan states "at any reasonable time". Is the BPW required to provide notice to go into a customer's home in advance. Mr. Davis stated that notification letters are a part of the plan. Mr. Lee stated that the notification letter does not provide a timeframe. This does not seem to be very accommodating to the customer.

President Panetta referred to the service line protection section "an RPBP installed immediately after the water meter or before the entrance of the building prior to any connections." Mr. Davis stated that he would like to remove the wording, because RPBP, are allowed in basements. In section 3.5, President Panetta suggested striking the word "location".

Mr. Lee questioned if both vacuum breakers and double check valves are suitable. Lewes is a low elevation community. Is there potential for water to come in the other direction with flooding? Mr. McLarin stated that if installed properly, the pressure vacuum breakers are to be 12 inches above grade. There is a provision to allow in certain locations for an alternative backflow preventer approved in the plumbing code. Mr. Lee questioned using the double check valve as a standard. Mr. McLarin stated that it could be written to standardize. President Panetta questioned if a double check valve is acceptable for fire prevention. Mr. McLarin stated that there are two categories of hazards for backflow preventers: high level and low level hazards for potential contaminations. Depending on the design of the fire protection system, a chemical additive to the system would be rated for a high hazard type of backflow preventer, RPBP. A double check valve would be allowable for low level hazards.

Bill Hague, Delaware Rural Water Association, stated that what must be installed is spelled out in the plumbing code. Mr. Lee questioned if there is a situation where a vacuum breaker must be installed versus a double check. Mr. Hague stated that a vacuum breaker is for high hazard, and a double check is for low hazard. Which type installed depends on application. A standard home with no irrigation and no chemicals added a double check valve would suffice.

Mr. Webb questioned the term highest point of use. Mr. Hague stated that the standard is 12" above the highest point of use. Mr. Webb questioned the benefit. Pressure vacuum is designed to work against back siphonage. A RP is designed for back pressure.

Mr. O'Donnell stated that GMB has addressed cross-connection for years, mostly for fire service lines. Standards set now. GMB has never used vacuum breakers but used the double check valves or the back pressure prevention systems. Mr. Calaman stated that cost will fall on the customer.

The Board will provide comments on the plan.

**15. Open forum/general discussion on the net metering legislation update.  
INFORMATION/DISCUSSION/ACTION (Austin Calaman)**

Mr. Calaman stated that old legislature, 2018, stated that a solar customer could be billed to 110 percent of their two-year average consumption. The BPW keeps a rolling average, from month-to-month, based off the BPW fiscal year. Some months could overproduce, and that credit would go to the next month. At the end of 12 months the customer has the option to have a credit or a check. Anything under \$25, the customer will receive credit on the account.

The new legislation changes the BPW procedure for billing solar customers. The net-metering cap was increased to 8%. At the end of 12 months, the utility would receive any of the over generation and there would be no reimbursement to the customer. The utility can now charge for reviewing a solar application, up to \$200. Staff recommends continuing billing solar customers for the current year, the way the BPW has been in the past. April 1, 2023, is when a decision will be needed, regarding policy. Other municipalities in the state are following what the legislation is. This is a Board policy discussion, whether to grandfather in the old systems or to follow the current legislation and adjust as it is amended. Mr. Calaman suggested following legislature so that when it changes, the policy changes.

Mr. Calaman recommends charging a fee for the solar application. There is time put into the review. There are admin costs, metering installation, etc.

President Panetta stated that when the original net-metering legislature was written, it was written to heavily incentivize solar panels. Incentives do not necessarily need to be there. The new legislation is trying to move where the market and environment is right now.

Mr. Lee agrees that the policy should be changed for those solar owners because they are being subsidized at the other users expense. Mr. Webb questioned if there are any technology changes that the BPW needs to embed in the system. Mr. Calaman stated that there are some heavy discussions on technology changes. President Panetta referred to AMI and stated that the BPW is blind to hourly usage or time of day. Mr. Nichols stated that the AMI is not meant to tell when people when to charge. President Panetta stated that the AMI system allows sending a notice to adjust usage (ex. adjusting the temperature two degrees) and help to shave the peak. The customer has the choice. There is experimentation in the industry, not standardized. Mr. Webb would like to see the user acceptance of AMI. President Panetta agrees that if left up to the individual to make adjustments, the system does not work. But if a system can automatically adjust within ranges, AMI would work.

Mr. Calaman stated that staff will look to an April timeframe to codify the Board policy on net-metering.

**16. Open forum/general discussion on amendments to Agreement with Inframark for the operation of the Howard Seymour Water Reclamation Facility and supporting pump stations, as well as concerning resolution of certain invoices. INFORMATION/DISCUSSION/ACTION (Thomas Panetta, Austin Calaman, and Michael Hoffman)**

Mr. Hoffman provided an Amendment to Wastewater Treatment Plant Agreement and a Settlement Agreement and Release to the Board. There is wastewater treatment plant operations and maintenance agreement that was entered into on September 18, 2020, with Inframark. Inframark has identified a cost increase to operate the plant. There were several conversations with Inframark about what the base fee should be and how to make clear the responsibilities, in terms of expenditures. The amendment proposes an increase and clarifies questions. Makes clear that either party, the Board of Public Works or Inframark, can terminate the agreement for any or no reason on 90 days' notice. The

document that was circulated and before the Board tonight is missing one change, confirmed with Inframark. If the Board takes action and approves the amendment, then Paragraph 12 will include the following sentence: *“The disputes provision as set forth in section 9 of this agreement shall not apply and shall not be applicable to any termination pursuant to this section 6.1.”* In addition, there needs to be a section that specifically says, *“Section 6.2 shall be deleted in its entirety.”* Section 6.2 was merged into section 6.1, so it is superfluous. The document is consistent with the party’s discussions.

The Settlement Agreement questioned who is responsible for what. The Settlement Agreement shows what the BPW will owe in full and final payment for any costs incurred up the amendment. The two agreements will be adopted in tandem. Starting fresh.

**ACTION:** *Mr. Nichols motioned to approve the first amendment to the water and wastewater treatment plant agreement between the Board of Public Works of the city of Lewes and Inframark LLC, with the following two amendments: Added to paragraph 12, “The disputes provision as set forth in section 9 of this agreement shall not apply and shall not be applicable to any termination pursuant to this section 6.1.” and adding another paragraph that expressly stated that 6.2 of the agreement shall be deleted in its entirety Mr. Lee seconded the motion, which passed unanimously. Mr. Owen absent.*

**ACTION:** *Mr. Nichols motioned to approve the Settlement Agreement. Mr. Webb seconded the motion, which passed unanimously. Mr. Owen absent.*

#### **17. Open forum/general discussion on receiving the GHD Long Range Plan Report.**

##### **INFORMATION/DISCUSSION/ACTION (Thomas Panetta, D. Preston Lee P.E. and Austin Calaman)**

President Panetta stated that the WWTP is located on the beach side of Lewes, in a flood susceptible area. In March, the BPW held a public workshop, regarding long-term plan for the WWTP. There are three options: hardening the plant in the current the location, build a new facility at another location, or to combine with the county at the Wolfe Neck plant. GHD was hired to complete a study. This report includes pros, cons, risks, etc. for each option. The objective tonight is to accept the report and schedule a public workshop to present the report and receive public comment. The public workshop will be held on January 23, 2023, at 6pm, at the Rollins Center. Documents are currently available on the website. A public notice will be sent out in January to all the ratepayers. Cape Gazette is expected to run an article.

President Panetta and Mr. Lee attended a County Council meeting where the GHD report was presented because option three includes the county. Option one and two affect the county because the BPW has a current flow agreement with the county.

Mr. Webb has received calls regarding the plans, good feedback.

**ACTION:** *Mr. Webb motioned to accept the GHD report. Mr. Lee seconded the motion, which passed unanimously. Mr. Owen absent.*

**Action:** *Mr. Lee motioned to set the WWTP public Workshop on January 23, 2023, at 6pm, at the Rollins Center. Mr. Webb seconded the motion, which passed unanimously. Mr. Owen not present.*

#### **18. CALL TO THE PUBLIC**

None.

#### **19. CALL TO THE PRESS**

Aaron Mushrush, Cape Gazette questioned if there is a stormwater management plan for Fisher’s Cove. Mr. O’Donnell stated that there is a complete design and has SED approval.

Mr. Mushrush questioned if homes in the historic district can put on solar panels. Mr. Davis stated that it is allowable but has to be reviewed by historic preservation commission. President Panetta stated that those who cannot install solar panels is because of orientation or cost effectiveness. Mc. Davis stated that the Historic Preservation Commission does have a say on the location of the panels. Installation professionals may want a different orientation. Mr. Hoffman recommends reaching out to the city. Mr. Calaman stated that every solar installation must be approved by the city through a building permit.

**20. Executive Session**

**ACTION:** Mr. Webb motioned to adjourn to executive session. Mr. Nichols seconded the motion, which passed unanimously. Mr. Owen absent.

President Panetta adjourned to executive session at 6:25pm.

**21. Return to open session**

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

**ACTION:** Mr. Lee motioned to approve April 28, 2021, executive minutes. Mr. Webb seconded the motion. Mr. Owen absent.

Aye	Nay	Ineligible
Thomas Panetta		
Earl Webb		
D. Preston Lee, P.E.		
		Richard Nichols

The motion carries.

**ACTION:** Mr. Lee motioned to approve May 17, 2021, executive minutes. Mr. Webb seconded the motion. Mr. Owen absent.

Aye	Nay	Ineligible
Thomas Panetta		
Earl Webb		
D. Preston Lee, P.E.		
		Richard Nichols

The motion carries.

**ACTION:** Mr. Lee motioned to approve June 3, 2021, executive minutes. Mr. Webb seconded the motion. Mr. Owen absent.

Aye	Nay	Ineligible
Thomas Panetta		
Earl Webb		
D. Preston Lee, P.E.		
Richard Nichols		

The motion carries.

### **23.ADJOURNMENT**

**ACTION:** *Mr. Lee motioned to adjourn. Mr. Nichols seconded the motioned, which passed unanimously. Mr. Owen absent.*

President Panetta adjourned the meeting at 6:54pm.

Respectfully Submitted

Sharon Sexton

Executive Assistant