

Lewes Board of Public Works
Finance Committee Meeting Minutes
December 5, 2023
1:00pm

Committee Members

- Richard Nichols, BPW Treasurer, chair
- Barbara Curtis, BPW Assistant Treasurer, chair
- Carolyn Jones, City Council Ex-Officio
- Austin Calaman, BPW General manager
- Kimberly Bellere, BPW Finance Director
- Michael Hogan, Committee Member
- Calvin Jaber, Committee Member

Others Present

- Sharon Sexton, BPW Executive Assistant
- Ellen Lorraine McCabe, Acting City Council Manager
- Elizabeth Schafer, City Finance Manager

The meeting was called to order at 1:03 pm.

Key Takeaways

- The purpose of the meeting was to address issues related to the debt service coverage ratio and establish a policy for compliance and seeking new funding.
- The main topics discussed included the ratio requirements, calculating and reporting frequency, legal considerations, and actions to take if the ratio falls below the target.
- The main issues addressed were falling below the minimum ratio, late payments from developers, and lack of transparency in agreements.
- The next meeting will focus on the escrow deposit process and addressing any remaining questions regarding potential actions if the ratio drops and the interest rate for the deposit.

Current Workflow

- The Finance Committee acknowledges the current ratio, highlights the significance of adhering to financial policies for federal funding agencies, and emphasizes the impact on the interest rate for loan applications.
- The Finance Committee discussed the debt service coverage ratio, emphasizing the minimum requirement of 1.2 and their goal to maintain a ratio of 1.25. They suggested quarterly calculation and visibility to the board.
- Discussed risks and vulnerabilities in their financial situation, particularly for emergencies or major disasters.
- Reviewed the possibility of using the SOFR rate as a reference rate for late payments.

- Explored implementing penalties or interest rates for late payments in Developer's Agreements.
- Requested clarification on whether the Board of Public Works receives benefits from the escrow deposit and suggested a separate discussion to delve into the details of the escrow deposit process.
- Discussed developer contracting directly with GMB for out-of-city projects.
- Discussed conflicts of interest with developers hiring their own inspectors.
- Addressed the need for transparency and clarity in developer agreements.
- Mentioned upcoming projects: Mitchell's Corner, beach house, 205 Alaska property, and White's Pond Preserve.
- Noted need for tracking developer payments and accountability.
- Discussed updating escrow account and determining calculations and timing.

Goals

- The Finance Committee discussed the need for a formal policy to establish a target ratio and ensure compliance for securing new funding.
- Aims to improve workflows and processes to minimize financial risk.
- Identified the need for clear pricing structures to ensure revenue generation and incentivize timely payment.
- Aim to find a reasonable and profitable solution for the escrow account and address potential agreement issues, including late payment issues.

Challenges

- The Finance Committee discussed the potential of falling below the ratio in unexpected events or debt refinancing, emphasizing the necessity for strategic actions during emergencies. They addressed the legal implications related to the ratio when negotiating new loans or special bonds.
- Have the action item of calculating the ratio on an annual basis, as it may be overlooked and lost. It is recommended to have it on a quarterly basis to keep it visible and ensure awareness.
- In case of an emergency, if the ratio falls below 1.25 to one, a line of credit must be used.
- Financial stress and limited options arise when the ratio reaches 1.25 or lower.
- The need to include criteria in the policy for when it is advisable to go below the goal level but still maintain a certain ratio.
- The company does not have any provisions in the development agreement to charge interest or penalties for delayed payments, resulting in delayed reimbursement for projects dating back to the 2010s.
- The need for an escrow amount mechanism for development projects is essential. However, there is a pressing requirement for a detailed discussion about the escrow process due to frustration with the current system.

- Pointed out the issue of late payments from developers and the lack of an efficient payment collection system.
- The developer might hesitate to provide a quarter of a million dollars upfront before making any progress on the development. In order to protect BPW, suggest requiring a larger sum of money, whole project, 50% , etc.
- The conversation highlights the complexity of seemingly simple things in detail.
- Raised concerns about lack of collateral and difficulty of fund recovery in certain scenarios.
- Noted the vagueness of the agreement's language, especially regarding the definition of "commercial reasonable time."

Decision

- The Finance Committee agreed to include actions and a timeline in the policy for when the ratio falls below the target. They decided to gather more information from banks and experts on acceptable ratios and insights from other entities that have closed bonds recently.
- Mentioned the possibility of a charter change to allow greater flexibility in interest rate setting.
- The Finance Committee will explore options like bonds, liens, and interest rates to balance incentivizing payment and meeting legal requirements.
- Propose implementing interest on loan extensions for late payments by introducing a late fee and determining an appropriate interest rate for it.
- Considering evaluation of escrow amount on the agreement's anniversary date.
- Acknowledged the need for more discussions and legal advice.

Follow-up Meeting

- A meeting will be held once additional information is gathered.

Respectfully Submitted
Sharon Sexton
Executive Assistant