

Regular Meeting Minutes
August 24, 2022
3:00 pm
City Council Chambers

The Wednesday August 24, 2022, regular board meeting was held at 3:00 pm in the Lewes City Council Chambers.

1. Welcome, Call the meeting to order and pledge of allegiance.

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
A. Thomas Owen

Ex-Officio Members

Andrew Williams, Mayor
Austin Calaman, General Manager
Robin Davis, Assistant General Manger
Michael Hoffman, Legal Counsel

Others

Sharon Sexton, BPW
Joshua Gritton, BPW
Kayla Demar, Zelenkofske Axelrod LLC
Kim Stark, Zelenkofske Axelrod LLC
Laura Oakley, BPW
Michael Wolgemuth, Inframark
Richard Plack, Inframark
Charlie O'Donnell, GMB
Ann Marie Townshend, City Manager

3. Executive Session

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

President Panetta adjourned to executive session at 3:01pm.

4. Return to open session.

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

Returned to open session at 4:00 pm.

5. Revisions and/or deletions to the agenda.

President Lee stated that the Board will strike discussion on well #3, item 11.

6. Consent agenda.

Mr. Lee requested to remove the verbal Secretary Report and the approval of minutes remains.

ACTION: *Mr. Owen motioned to approve the consent agenda removing the verbal secretary report but approving minutes. Mr. Nichols seconded the motion, which passed unanimously.*

Mr. Lee presented on mitigation committee. The committee decided to design to 2050 as a base year. The committee discussed the flood design elevation for 2050 at 11 feet and will confirm after receiving the GHD report. GHD gave a preliminary report the following day and showed between 10.6' and 11.6'. Next meeting to approve. Mr. O'Donnell recommends not to say a specific number because the flood plain varies across the town. For critical infrastructure, GMB has been using the standard of 18 inches of freeboard plus another 1.25 feet and another 15 inches for median sea level rise projection. 33 inches above the flood plain. Mr. Lee stated that Brett Jett will be at the next meeting. The mitigation committee has identified assets affected by sea level rise and global warming in general. The committee will be discussing wind load next week because of the more intense and more frequent storms. Mr. Lee stated that the committee will be preparing a mitigation plan and will discuss recommending policies or programs to the city to support things like solar, EVs, AMI, etc. President Panetta reinforced the strength and background of the team.

7. Receive Inframark Report

Mr. Plack presented.

- Headworks- Inframark continues to utilize the dewatering dumpster and continue to see positive effects. Completed the de-ragging of train three and train three will go back online tomorrow. Train three's condition has improved, and instead of a foot of ragging Inframark is seeing about 4 inches.
- Received the classic T rotating assemblies for pump station three. However, those assemblies were not the proper equipment due to a change in product. Received a quote for new housing and in the process of working with Mr. Calaman to determine the best course of action. President Panetta questioned where the ball was dropped that the rotating elements did not fit the casings. Mr. Plack stated that in the two-year period, the manufacturer transitioned away from the units that the BPW has. The

manufacturer received all the serial numbers and were forewarned of the possible discrepancy.

- Sprig completed hydraulic excavation at pump station three. Installation work is tentatively scheduled for the week of the 12th.
- Personnel- Currently Inframark has five fulltime and one part-time employees at the facility.
- Bypass installation plan at pump station three will give added security.
- Tentative schedule for initial assessment of diesel tank monitoring equipment will be around September 8th.
- Met with Nickel electric to do conductor, mag meter testing and receive a quote. Also getting a quote for breaker testing and an assessment for changing out sump pumps and electrical manholes. Met on the 23rd for a secondary option with Lywood Electric for the same electrical test to be done.
- President Panetta questioned if the staff is the same or any transitions. Mr. Plack stated that there have been no changes.
- Effluent quality is still well below the permit limitations but more in the middle range. This is typical for this time of year.
- President Panetta noticed the Suez report is not available. Mr. Plack stated that connectivity issues were restored as of last week and Mr. Gritton confirmed that Suez is receiving data now.
- Mr. Webb questioned the amount of liquid hauled, 56,000 gallons. How many truckloads is this and what does a truckload cost? Mr. Calaman stated that a CDI bill is anywhere from \$2500 to \$3500. Mr. Webb questioned if there are belt filter presses available to buy. Mr. O'Donnell stated that it is in capital project budget. Mr. Webb suggested that the Finance Committee investigate what the payback of a belt filter press would be.

8. Receive President's Report

President Panetta stated that there is a meeting with the hospital set up for September 9th to discuss what they are doing on their side for no wipes in the pipes. The BPW will take them on a tour of the BPW facility.

The battery storage project was tabled, and some things have changed at the federal level. Original vendors have called about the changed landscape and the possibilities. There is potential that there may be monies available or subsidies. What is out there is fuzzy. The vendors are the ones who is saying that it may now be worthwhile discussing. President Panetta will set up discussions, probably not until late September.

9. Receive General Manager's Report

Mr. Calaman reported:

- The Savannah Road sewer extension project had a progress meeting yesterday with a minor punch list. The project and road look good.
- Went to closing for Donovan Smith project last week. Hopeful to go out to bid sometime middle to end of September.
- Pilottown Road project is almost complete. Still concrete collars that need to be done and a couple of punch list items. This will happen after the holiday weekend.
- The audit will be presented today.
- Met with Senator Carper to review the Army Reserve again. This was a joint meeting with the city.
- Meeting scheduled with the Director of facilities of Beebe.
- Met with AC Schultes to discuss the options for well three. There needs to be more discussion before making a commitment. This kind of coordinates with the water tower project, which there is a planning grant out for.
- The energy stakeholders group met and there is a big push in expanding energy. The Board has discussed AMI in the past. There are only two members of DEMEC that do not have AMI, Lewes and Clayton. The cost of off letting the NRG plant or being stagnate until called upon, is being pushed to members on the east coast. Because of the high costs, people are getting more creative with rates and pushing towards time of use and demand charges. Complex rates do require the ability to implement them, and AMI is being utilized for this. Mr. Lee stated that AMI was a financial issue in the past. Mr. Webb suggests reviewing the projects to see what is in and out because of changes. Mr. Webb questioned the estimated and actual costs of the Pilottown Road project. Ms. Bellere stated that the original contracted amount was \$3.66 million, and the change orders are just over a million. The original budget was \$2.6 million two or three years ago in the capital budget and kept increasing by a million each year. This year it was \$1.5 million. Mr. Calaman stated that from the strategic plan there was discussion on replacing ductile iron pipe. A change order was done to put in pvc.
- The joint BPW and city meeting is scheduled for August 29, 2022.
- Mr. Lee questions where the bidding is at for the headworks project. Mr. O'Donnell stated that GMB had a hard time getting the equipment data from Sherwood, Logan, and Freemeyer but they have finally received the information. The mechanical design is done and now waiting on Keystone electrical design. The project should be out to bid next month.

Mr. Gritton reported on IT:

- Security Report: At the main office there has been a significant uptick in credible threats, 7x. This is a concern. The WWTP saw a tremendous increase. Typically hover around 14-18 threats a month, now seeing 2089, all coming from one source. The threats all have been stopped. Mr. Owen questioned if there is a way to find out where the threats are coming from. Mr. Gritton said that it is foreign. Mr. Owen questions if this is reported to the federal government. Mr. Gritton stated that he has considered discussing this with CESA, but the BPW has not been negatively affected, just attempts. Mr. Owen thinks this should be reported. Mr. Gritton stated that the firewall company

report to the same entities. Other locations are very moderate. Email threats are down to eight from sixteen this month.

- General update: The new helpdesk specialist has completed training. Creating documentation for encryption for emails. Complaint with MFA and is deploying in next 30 days. Mr. Gritton is working with the IT assets to get a detailed inventory, cost forecast, etc. BPW phones are currently with Verizon and is considering alternative, FirstNet. FirstNet is based with AT&T and geared for first responders. In the event of an emergency event, they will clear the entire network and only those on this FirstNet will have access to respond. With 700-megahertz band, the BPW should have a broader reach. Mr. Gritton will purchase a few test phones, iPhones. Mr. Lee questioned if the BPW would be signing up for a long-term high-priced contract. Mr. Gritton stated that FirstNet has competitive pricing and is month to month, no long-term contract.
- Cyber audit is being conducted and cyber tested. Mr. Gritton is confident that a portion of the numbers he reported as attempts, is partially up due to this audit. The .gov submittal is confirmed awaiting final approval.

Ms. Sexton stated that there are a few events coming up. The first is Public Power Week, October 2nd-8th. The BPW will be at the Lewes farmers market giving out information and efficiency smart light bulbs. Staff will be promoting BPW online presence with giveaways. Staff will be conducting a customer satisfaction survey, even though there have not been great results in the past. The second event will be the Lewes Lights and potentially having Board members participate as judges and provide a prize, possibly a discount on the December bill. Mr. Calaman stated that a Billboard will be going up as part of Public Power Week as well.

10. Open forum/general discussion on the 2021/2022 FY Audit Report performed by Zelenkofske Axelrod LLC. INFORMATION/DISCUSSION/ACTION (Kayla Demar, Kimberly Stank, Kimberly Bellere and Austin Calaman)

Z & A presented:

- Ms. Stank stated that the Board received a letter and the BPW financial statements. There were no issues this year. The letter identified some significant risks. No unusual transactions. Overall, it was a great audit.
- Ms. Demar reviewed the financial statements. Page one was the opinion with no modifications. The format of the opinion changed slightly and is related to a new auditing standard. This year the BPW adopted Gasby statements 89, 98, and 99, none had an effect on the BPW financial statements.
- There was an increase in unrestricted net position and an increase in cash. This are good indicators of a healthy financial position.
- Ms. Demar referenced the report on internal control over financial reporting and that it was a clean opinion with no findings.
- There are a few accounts that are carrying similar balances between the years, none were material. Ms. Bellere will look into cleaning up.
- The new software made the audit process easier.

- President Panetta questioned the net investments on capital assets. This is not indicative of replacement costs but is a benchmark of how much capital assets the BPW has. The Board had discussed re-upping replacement value cost. This is outside of the audit.
- Mr. Calaman and Ms. Bellere are going through everything to identify the current depreciation and replacement cost. This is an ongoing project. Mr. Lee questioned if Mr. Calaman anticipates another rate adjustment. Mr. Calaman stated that staff is entertaining different ways to accommodate costs, such as pollution and flood insurance. The Finance Committee is going to take a deeper dive into the financials. How depreciation is done and is it still relevant in today's time. Ms. Bellere has reviewed the financials and found things like a piece of equipment that was depreciated for 60 years. Ms. Bellere is accumulating assets that need to be retired. Mr. Lee questioned the new truck that is ordered and if there is an escrow account for its predecessor. Mr. Calaman stated that the bucket truck used to cost \$150,000 now costs \$300,000 and this is what needs to be evaluated. Mr. Lee stated that rates may need to be raised to compensate for this increase. Mr. Lee questioned how much was allocated for the new truck. Ms. Bellere does not have that figure but will get it.
- President Panetta referred to page six of audit and the stormwater utility is in the red. What will this be with the new rate structure. Mr. Calaman stated going forward this would not be an issue. Mr. Calaman noted that the change in fair market value of asset investments is a significant number.

**11. Open forum/general discussion on a proposal to redevelop well #3.
INFORMATION/DISCUSSION/ACTION (Austin Calaman and Thomas Panetta)**

Removed from agenda.

**12. Open forum/general discussion on a proposal to purchase the temporary generator at PS#4.
INFORMATION/DISCUSSION/ACTION (Austin Calaman)**

Mr. Calaman referred to the quote to purchase the existing Caterpillar generator and if it sized appropriately at 60 kw. There is a possibility to go a larger generator that will power both pumps at the same time. The generator currently there will work for pump station four and eight. Looking to put in a 100kw generator. The rental company stated that the current generator is the largest in their fleet. Mr. Webb questioned if the rental company is proposing that the BPW buy the used one and Mr. Calaman confirmed. Mr. Calaman stated that Inframark can investigate to see if the 60kw can serve all the stations. President Panetta stated that the diesel-powered pump alleviates all the rest of the electrical risks. Recommends continuing to discuss. Because of the agreement with the county this is potentially something that the BPW may not need to buy. Mr. Calaman will put on September's agenda. Mr. Webb stated that the BPW spends \$1768.68 a month on pump station four for the generator.

**13. Open forum/general discussion on the setting of a pole attachment application fee.
INFORMATION/DISCUSSION/ACTION (Robin Davis)**

Mr. Davis stated that the Board reviewed and approved pole attachment license agreement a few months ago. Mr. Davis referred to Exhibit A which is a schedule of fees. There was no fee assigned at the time of approval for the application fee. Mr. Davis has been in contact with several contractors to come on board. AT&T has permits into the city for three wireless facilities on poles. Shintel, fiber company, is looking to put fiber strings on poles. There is no fee to get the process started. Mr. Davis contacted several municipalities, and most do not have a separate pole attachment agreement. This is covered under the franchise agreements. Seaford and Municipal Service Commission from Newcastle do have an application fee.

Mr. Webb questioned how invasive these new attachments will be. Mayor Williams stated that Shintel will be making a pitch next week at a city workshop. The review must go through building department and the city regarding the wireless facilities. The BPW must have a license agreement saying that BPW allows the companies to put equipment on the poles.

President Panetta questioned how this interacts with the wireless 5g that was done several years ago. There is split jurisdiction if the equipment is on buildings, then it is on the city and if on poles, then it is on the BPW. Mr. Davis stated that it is a two-part review process. If the application has anything to do with wireless facilities the city is involved. Mr. Hoffman clarified that the pole attachment agreement is the BPW role in the process and the zoning piece is the city. Mr. Calaman stated that anyone who wants to put something on a pole needs to fill out the BPW application for pole attachments. The discussion today is to simply to set an application fee. The Board is not setting all the terms now and will be reviewed when someone applies. This fee allows the BPW to be compensated for the review time.

Mr. Davis stated that Seaford's fee is \$100 for application. Mr. Webb questioned how long ago this fee was set. Mr. Calaman assumes that it was set at the same time they adopted the pole attachment agreement, 2018-2019. Mr. Lee believes this is cheap and questioned how much time and effort is involved. Mr. Calaman stated that it has been a while and there is not really a benchmark. It will also depend on each application. There is no field work for the application review, just administration time. President Panetta stated that the wireless agreement that split jurisdiction, put the onus for engineering on who is applying regarding structural stability of the pole. Mr. Davis stated that AT&T has submitted extensive pages to the building department but have not officially submitted anything to BPW because there is not an application fee. Mr. Lee stated that \$100 is not much. Mr. Davis stated that the application fee will remain the same for all applicants and the other fees will be adjusted based on what is asked.

Mr. Owen questioned what is needed for now. Mr. Calaman stated that the application fee amount is what is needed. Staff can continue to gather more information if needed. Mr. Owen questioned staff opinion if \$100 is enough for the application review. Mr. Calaman and Mr.

Davis stated that it is reasonable. Mr. Webb that he would be willing to look at the application for \$100. Mr. Nichols stated that the \$100 is not forever and could be changed.

Mayor Williams questioned the XX's on the fee schedule. Mr. Davis stated these fees will be relevant in the future and will need to be determined by the Board. Mr. Lee stated that the Board has discussed in the past that they would like to see some type of enforcement ability to take things down, such as hanging wires. Mr. Hoffman stated that this is a different issue, and the new agreements cover this concern. Mr. Lee questioned if some of these fees should be determined case by case. Mr. Calaman stated that it can be done with fixed fees or case by case, the Board will determine later. The application fee needs to be determined first.

ACTION: *Mr. Owen motioned that the pole attachment application fee will be \$100. Mr. Nichols seconded the motion, which passed unanimously.*

14. Open forum/general discussion on a resolution for the unsecured line of credit through Fulton Bank. INFORMATION/DISCUSSION/ACTION (Kimberly Bellere, Austin Calaman and Michael Hoffman)

Mr. Hoffman stated that the prior meeting the Board authorized pursuing a line of credit. At the stage of closing on the line of credit. The resolution will go to the bank to formalize the Board's approval. There was a question if the mayor and city council is required. The resolution specifically calls out the section of the charter under which this application is being approved, section 4.14. There are two specific subsections that require mayor and city council approval to borrow. Those two sections are 4.14.1 where the Board is borrowing for a specific project and pledging the revenues, and the second instance is where the Board is pledging general obligation bonds in section 4.14.3. What is being done here falls under section 4.14.2. The Board is empowered to borrow temporarily from time to time on anticipated revenues of the Board, in general to provide for the expenses of maintenance, replacement and operation utility systems. Mr. Hoffman stated that if the Board borrows under 4.14.2, there are conditions that are expressly in the charter. One is that there is a limit of how much can be borrowed and is based on the average revenues in the past year. The other condition is that there is an obligation to pay within ten fiscal years. There is a minimum rate in the resolution. All of these conditions are spelled out in the resolution. When borrowing under this section, mayor and city council approval is not needed. Mayor Williams questioned if the bank is satisfied with the reading. Mr. Hoffman stated that bank reached out in answer to this question and BPW provided a response. The BPW has not heard anything further from the bank.

ACTION: *Mr. Owen motioned to read Resolution 22-005 by title only. Mr. Nichols seconded the motion, which passed unanimously.*

Mr. Hoffman read resolution 22-005 by title only.

Discussion: Mr. Lee stated that at previous meetings that it was discussed that the finance committee would look at this line of credit. Has this been done? Ms. Bellere stated that the

three million unsecured line of credit was a unanimous “let’s move forward”. The other options that Fulton offered are deferred to the finance committee. The resolution is the approval of the line of credit.

ACTION: *Mr. Owen motioned to approve Resolution 22-005. Mr. Lee seconded the motion, which passed unanimously.*

**15. Open forum/general discussion of the Sussex County Mutual Aid agreement.
INFORMATION/DISCUSSION/ACTION (Austin Calaman)**

Mr. Calaman stated that this is a continued discussion from September 2021 where Sussex County was present. There was a general discussion about mutual aid between both parties. The agreement has been worked on and encompasses both water and wastewater for both entities. The BPW has the ability to call on Sussex County and vice versa. President Panetta stated that the county operates Dewey Beach water system and is looking to have back up on their side as much as the BPW is looking for back up. President Panetta and Mr. Calaman attended Sussex County Council meeting yesterday and the agreement was unanimously approved. Mr. Calaman stated that the copy in front of the Board, section eight referenced to section nine but was modified modify back to section eight. Mr. Webb stated this is a great step in mutual aid.

President Panetta stated that it is expected to have a signed copy tomorrow from the county.

ACTION: *Mr. Nichols motioned to approve the Sussex County Mutual Aid Agreement. Mr. Owen seconded the motion, which passed unanimously.*

16. Call to the Public

Tim Ritzert stated that the BPW should consider doing an audit of the pole attachments throughout the city. It appears that the BPW may not know who has attached to the poles. Mr. Owen stated that the discussion today concluded that the BPW would charge \$100 to apply going forward. Mr. Hoffman stated that Mr. Ritzert’s suggestion was to audit or survey which poles have an agreement. Mayor Williams stated that this may lead to an unauthorized attachment discovery.

Mr. Calaman stated that there was a detailed list done in 2005. There have been no new attachments. If everyone is good and does not do anything illegal, then the BPW has an updated list. President Panetta stated that he has been collecting abandon drops and the BPW should take it a step further by removing them and investigating what other ones are out there. Mr. Ritzert suggested a field audit of who and what is attached to the BPW poles. There is a spatial requirement for each communication company that is attached to the pole, and if there are attachments that are no longer being used this is an opportunity for the “attachee” to be notified that they need to remove their attachments. This is an opportunity to replace poles if needed and not at the expense of the BPW. President Panetta reiterated that the BPW does a detailed list of attachments that are out there. Mr. Calaman stated that it is unknown what is abandoned and what is not abandoned. Mr. Ritzert is suggesting doing a field measurement. By

measuring the height of the poles, the BPW would actually clean up what is on the poles. President Panetta stated that the majority of what lines drop are from the house to the pole, not interpole wiring. Mr. Ritzert stated that the service drop is still responsible to the communication carrier. This is an enforcement issue. Mr. Webb questioned if there is an opportunity to do these surveys and measurements when the Christmas lights go up. Mr. Calaman stated that yes, it is possible where the Christmas lights exist, but that just scratches the surface.

17. Call to the Press

Aaron Mushrush questioned FirstNet and clarification on a mobile service. Would all AT&T customer lines be killed or for just FirstNet customers. Mr. Gritton stated that his understanding that FirstNet customers on an AT&T provider would have priority over other consumers.

Mr. Mushrush questioned if the drive for pole attachment applications will be coming from residents or telecommunication providers. Mr. Calaman stated that it is a mixture. A lot has to do with telecommunications. One company that has approached the BPW, received federal funding through ARPA for underserved areas. Not so much from the customers. Mr. Calaman stated approximately six years ago a project providing internet service to customers through fiber was looked in to. There was a lot of interest, but it was a very large capital investment. There is a big push for wireless.

Mr. Mushrush questioned the line of credit and if the 10-year payback date is 2033 or from the initial borrowing. Mr. Hoffman stated it is 10 years from the initial borrowing and it is in the resolution.

18. Executive Session

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

Adjourned to executive session at 5:32 pm.

19. Return to open session

Returned to open session at 6:01pm.

ACTION: *Mr. Owen motioned to approve executive minutes from January 27, 2021, February 10, 2021, February 22, 2021, February 24, 2021, and March 24, 2021. Mr. Lee seconded the motion, which passed unanimously.*

20. Adjournment

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

President Panetta adjourned the meeting at 6:02pm.

Respectfully Submitted
Sharon Sexton
Executive Assistant