

**Lewes Board of Public Works
Policy Workshop
November 30, 2023
2:00pm**

1. Welcome, Call the meeting to order.

President Panetta called meeting to order at 2:04 pm.

2. Roll Call

Board Members

Thomas Panetta

Earl Webb

D. Preston Lee, P.E.

Richard Nichols

Barbara Curtis

Ex-Officio Members

Austin Calaman, BPW General Manager

Michael Hoffman, Legal Counsel

Others

Kim Bellere, BPW Finance Director

Sharon Sexton, BPW Executive Assistant

Michael Posey, BPW IT Assistant

3. Review BPW Policies and Procedures.

President Panetta stated that the object is to get a consensus of what policies should be developed and updated. Staff would like recommendations on the policies that the Board would like to implement.

President Panetta cautioned for unintended consequences and different interpretations of policies.

Staff reviewed possible new policies and policies that should be reviewed:

Debt Coverage Ratio: Would be a newly developed policy and would be used in the finance department. This is a common requirement for funding. Legal counsel has reviewed, and staff will be presented to the BPW Finance Committee. The proposed policy is for a 1.25 debt ratio, while most funding requires 1.2. Mr. Lee is concerned that there are not any financial limits. Ms. Bellere cautioned that if the 1.2 debt ratio is not met, then in an emergency then the BPW could be denied funding. Mr. Hoffman stated that the policy is being drafted so that the Board can

make an informed decision when borrowing. Mr. Hoffman cautioned against having a strict policy against borrowing outside of the ratio because of emergency situations.

Development Agreement Update: This is an existing policy and the BPW Finance Committee will review the development agreement, specifically reimbursement for construction phase services through the escrow account, interest charges, and what actions can be taken against those developers who fail to meet the requirements. Mr. Nichols stated that the BPW is financing projects when developers do not reimburse escrow in a timely manner. GMB estimates can be out of proportion to the cost of the development. Mr. Nichols would like to see penalties put in place when developers continue postpone/delay fulfilling requirements by challenging the bill. The current escrow threshold is \$50,000 and should be replenished at \$25,000. Review fees are backdated and a month behind when the actual work is completed.

Mr. Hoffman stated that the updated policy would include under section 6.1.4.1, *“Developer must replenish such funds within thirty (30) day’ notice from the BPW. Any amounts not paid within such thirty (30) day period shall incur interest at the lesser of: (i) eight percent (8%) per annum; and (ii) the maximum annual interest rate permitted by law.”* Mr. Hoffman suggests that if the BPW has a reason to believe that the review fees are going to be significantly higher than the \$50,000 then the escrow should be reasonable compared to the estimate. Mr. Nichols recommends changing the replenishing amount to 50% rather than a dollar amount. Mr. Hoffman stated that the intention of escrow is to cover what the expenses are expected to be. May consider reviewing annual expenses if a larger project. Mr. Lee and President Panetta suggested using the contractor completion schedule to use to set the escrow account. Mr. Hoffman stated that the challenge will be to determine the reasonable expectation for administration fees.

Mr. Webb stated that some of the pushbacks from the developers stem from what GMB charges. President Panetta stated that leadership is in discussions with GMB and will bring topic to the Board at a future meeting. Mr. Hoffman stated that once there is clarification from GMB then the Board will have a better idea of what the estimate of administration review fees should be.

BPW requires performance guarantees, and the developers are required to bond the project of 150% of the construction costs but does not necessarily correlate to the escrow.

Ms. Bellere would like the developer agreement to match customer bills. Currently the customer bills charge 1.5% interest per month/18% a year.

Water Meter Policy: The existing policy is vague and does not include trigger points for meter relocation and the required placement of meter/pit. The update would help BPW staff to enforce the policy. Staff provided suggested changes, but draft still needs to be reviewed by legal counsel. Mr. Lee stated that there was a recent instance where meter was not able to be read and owner argued who was responsible for paying for replacement. Changes address meters/pits in disrepair.

Establishing Water/Sewer Tariff: BPW currently has an electric and stormwater tariff. Staff questioned if the Board is interested in developing a water and sewer tariff. A tariff explains processes how and why the utility is run the way it is. Tariff also includes definitions. Mr. Hoffman questioned if other utilities have these types of tariffs. Mr. Calaman stated that some do have water/sewer tariffs, and some do not. Mr. Hoffman suggested finding out pros and cons from those utilities and cautioned that this level of detail can provide clarity or back the BPW in the corner.

Electric Tariff Update: Staff have reviewed the tariff and suggested changes and updates. The electric tariff will go to legal counsel for review. Currently the electric tariff has information that is no longer relevant, and changes need to be made. Big undertaking.

Investment Guidelines: The current investment policy has a lot of bandwidth when it comes to what accounts can be invested in. Discussion by staff on whether the policy needs to be tightened. There was an instance where the BPW was out of balance per the policy last quarter. Staff recommend the Finance Committee review. Mr. Webb is not as concerned with the out of balance but the overall bad performance of the firm and would like to look at other options.

Cash Reserve Policy: The cash reserve Policy should be reviewed at the same time as the investment policy. One concern is that the cash reserve policy uses the one-year capital budget amount and also includes the one-year in the five-year capital budget that was already accounted for. President Panetta suggests prioritizing because many policies are going to the Finance Committee.

Customer Complaints Policy/Procedure: Staff compile a list of complaints and provide the list to the Board. Staff questioned if the Board would like to make this a policy or procedure. Mr. Webb stated that customers are the most important to the utility and would like to see and understand customers' comments, good and bad. Ms. Curtis does not feel a policy is necessary, but a procedure would work. Mr. Webb sees the need for a policy because the list is not always presented to the Board. The request for customer comments was made six months ago. The board was presented monthly lists three or four times. Staff are gathering information through contact tracking. Contact can be made through the website, by phone, by email, or in person. Mr. Hoffman feels that customer comments do not fit in as a policy and views it as a monthly report. If the Board says that staff are obligated to report customer comments every month, then staff must comply. Mr. Lee stated that the report may not need to be reviewed in Board meetings, but if there is a trend then an item could be flagged to discuss. The Board agrees to include a report as part of the consent agenda. Ms. Curtis would also like to see the trend of water usage per month in a report.

Policy for onboarding new Board members: Mr. Hoffman does not feel that a policy is needed for onboarding but is the will of the Board. Mr. Webb feels that there is an opportunity to expand the onboarding process and would have appreciated it more when he joined the Board. Ms. Curtis agreed that more history and something more formal would have been appreciated but is something that should be handled at the staff level. President Panetta agreed a more in-

depth orientation is needed, including tours of the facilities, i.e. WWTF, water treatment facility, etc.

GM Review Policy: Mr. Webb would like to see the General Manager review done more often than annually, possibly bi-annually or quarterly. Completing more reviews will allow more action instead of waiting to discuss something that happened 12 months ago. The city does review more than once a year and done more at the lower level, department managers. This gives the employees an opportunity to adjust. President Panetta stated that it is crucial to provide feedback to Mr. Calaman along the way so that it is timely. Mr. Webb would like to provide feedback as a group, the Board, so that information is cohesive. Mr. Calaman agrees that he would like to be informed if there is an area that needs to be improved, and semi-annual would allow for this. Mr. Webb believes there is value in a mid-year evaluation.

Mr. Webb would like to see a policy because not everyone will communicate like Mr. Calaman. Mr. Lee stated that he was shocked when the previous General Manager quit. With more reviews there will be an opportunity for communication.

Mr. Hoffman recommended adding semiannual review to the schedule as a trigger to include in executive session.

Ms. Curtis would like feedback from the General Manager if the Board is completing their duties, taking up too much time, etc.

Ms. Sexton stated that a six-month review is recommended by the APPA as well.

Mr. Calaman recommended discussing General Manager reviews with Mr. Hoffman because he is a contract employee. For other employees, the handbook only stated there is an annual review and a policy modification would be needed.

The Board is in support of a bi-annual review on both sides.

President Panetta recommended adding the General Manager bi-annual review to the schedule that is published with the agenda every month. Mr. Hoffman stated this would just be a practice not a policy. Past practice was that the President would solicit input from all Board members and compiles into a review. Mr. Calaman stated that personnel matters can be discussed in executive session with the General Manager in or out of the room. President Panetta is in favor of soliciting information and opinion and speaking as one voice of the Board. Mr. Hoffman stated that both ways are acceptable.

Stormwater Management Tariff: Mr. Calaman stated that this is the document the was created to shape the stormwater fee. The document needs to be reviewed so that the expectations of the fee are met. Was created 15 years ago and never updated.

Annual Review of 5-year Strategic Plan: Mr. Calaman questioned if the 5-year Strategic Plan should be reviewed and approved annually as part of the budget process. The 5-year Strategic Plan is due for an update at the end of the year. Mr. Webb questioned what the benefit is of having a policy. Mr. Calaman stated that is already a practice, but a policy will formalize the process. President Panetta feels that it is an important item to review but does not want to codify when it must be done. Board consensus is to continue as a procedure.

Capitalization Threshold: Ms. Bellere stated that when a fixed asset is recorded into the accounting system, it must be a minimum of \$5,000 and one-year useful life. Ms. Bellere questions if this threshold is still adequate. The policy has not been updated in years. Ms. Curtis questioned the impact of changing the threshold. Ms. Bellere stated the way an item is expensed: either all at once or over its useful life. Ms. Bellere recommends raising the threshold because of inflation or the \$5,000 could be the floor but allowing staff to use judgement to expense or depreciate items. President Panetta stated that \$5,000 is an insignificant amount of money these days. Board consensus is that the threshold should be higher than \$5,000. Staff will come back with a recommendation.

Disposal of Surplus Equipment Threshold: Mr. Calaman stated the threshold for the disposal of surplus equipment is \$5,000. Staff will return to the Board with a recommendation.

Credit Card Fee: Mr. Calaman stated that the BPW does not currently charge a fee for using a credit card. Mr. Calaman's understanding is the fee must be charged for the transaction, not the amount. Mr. Lee questioned how the credit card company's charge fees. Ms. Bellere stated that the credit card companies charge based on a percentage. BPW pays about \$2500 in credit card fees a month. Ms. Curtis stated her tax bill in Danbury charged 2.5% for credit use and \$.95 for an online check. Staff will research the law. Mr. Calaman stated that Delmarva Power and Delaware Co-operative charge a flat fee of \$1.95 for the use of a credit card. The Board consensus is to look further into charging for credit card use.

Overhead vs. Underground Lines: Current policy states that any new electric service must be underground. Mr. Calaman questioned if the Board would like to incorporate underground policy into capital projects. Ms. Curtis would like the Board to look long-term. Mr. Lee stated that the expense is overwhelming. President Panetta stated that there are some State funds available for resiliency, but do not seem to be large amounts. Ms. Curtis questioned if a road is open, would this not be a good time to underground lines. President Panetta stated that it is, but the cost must be balanced against the benefits. Mr. Calaman also pointed out supply chain constraints, transformer pads are 400 weeks out. Mr. Nichols suggested approaching each project and conducting a cost/benefit analysis. Ms. Curtis stated that this was a popular discussion at the city environment workshop. The Board will investigate further.

Definition of Impact Fees: Mr. Lee stated that the impact fees are important, and staff and the Board are finalizing the definition and rates.

BOD (Biological Oxygen Demand) Loading Rates (c +1 customers): President Panetta stated that there are several classes that are concerned. There are two breweries in town, one to be coming online in the future. This is true organic BOD. It was discovered recently that the City Garbage Trucks wash down area drain goes into the BPW sewer system. This is an uncontrolled source with unknown aspects. The third class refers to the potential of the State Park coming online and how to treat the trailer dump stations. This is a future what-if. President Panetta stated that the BPW should do 6-months of monitoring the brewery to see the effect. Ms. Curtis agrees. The County does not have a process for breweries and does not charge a BOD. The Board consensus is to monitor for 6 months and revisit BOD rates then.

Having to move vehicles during emergencies (Gaining Access): Mr. Calaman suggests that moving vehicles during an emergency should be a practice not a policy. Currently staff contacts Lewes PD in emergency situations. Mr. Webb stated that he has witnessed six cars and trucks by the pump station, four with no affiliation or reason to be there. Mr. Webb suggested adding signage. The Board agrees.

Late Fees on Bills (1.5% or \$2.00 min): Mr. Calaman stated that the current late fee, 1.5% or \$2.00 minimum) is very low. Staff would like the Board to consider this fee for an increase. Staff and legal counsel will need to review State law. Staff to research other community's fees.

Staff will contact customers who are late to remind them to pay bills before disconnection. Most are repeat offenders. The late fee does not create a big enough impact to make it a priority to pay the bill on time. The office staff typically has a list of 40-50 people a month to call. Three notices are sent before staff calls. Mr. Webb and President Panetta feel that this is a valuable customer service. Mr. Webb questioned if those who cannot afford their utility bill, are there programs available. Ms. Sexton stated that office staff recommends programs and helps them through the process.

Emergency Spending: Staff questioned if there should be a threshold for emergency spending or allow staff to make purchases as necessary in an emergency situation. Should there be a framework? Mr. Webb stated that the Board should not slow down staff from keeping operations running.

Line of Credit Usage: Mr. Calaman stated that the line of credit is like the emergency spending. Should there be parameters? Mr. Webb suggested this could be a phone call to the President and if unavailable, the Vice President. President Panetta stated that in an emergency, the Board should not hinder operations, by needing approval.

EV Charging Station (rates) Policy: The current charging stations do not collect any revenue. There are credit card stations available to purchase. Customers would pay by usage. An EV rate would need to be created. The question is who will enforce non-EV vehicles parking in EV spots. President Panetta would like to pursue an EV charging rate. Mr. Webb questioned the city's position. Mr. Calaman stated that the city has not indicated that they will move forward at this time. Ms. Curtis agrees that a rate is needed to create revenue. Mr. Nichols questioned the

projected revenue. Ms. Bellere stated that the EV chargers are costing the BPW money and will provide the numbers to the Board. Mr. Calaman stated that the cost is in the thousands a year. Mr. Lee would encourage the implementation of a rate for EV chargers. Mr. Calaman stated that there are grant opportunities and BPW could potentially use green energy funds to fund the project. The Board consensus is that there is interest.

Street Light Policy (Ownership, Billing, O&M): This policy may become more prevalent based on the environmental committee discussions of dark sky compliance. The question will be who will take the lead, BPW or City, in replacements, modifications, etc. Ms. Curtis stated that the environmental committee is looking very favorable to dark sky lighting but may be a year out before making any recommendations. The city owns the streetlights, BPW just maintains the lights.

Ms. Curtis noted that the environmental committee would like the Board to provide a letter of support to increase the freeboard regulation from 18" to 36". President Panetta stated that he would be hesitant to provide a statement without fully understanding the issue. Regulations are a city issue. Mr. Hoffman agreed that regulations are left to the city and if the BPW is not an active participant, the BPW should not be involved. There should be dialogue between both parties.

Mr. Nichols left the meeting at 4:56pm.

Emergency Response Plan w/City: BPW does not currently have an Emergency Response Plan but falls under the city's plan. Staff are working with the city to implement BPW into the City's updated plan. Looking to include separate BPW section within the city plan. President Panetta would like to see a more specific BPW response plan. Staff will continue to develop a BPW plan.

Policy for sewer rates when water is not available: The current policy states that water and sewer services must be used together. There are areas within the BPW service territory that only have sewer service, and customers have another water provider. BPW has a rate designed for this scenario. Should there be a policy reflecting when water service is not available, but sewer service is? The Board consensus is to codify the resolution into the policies.

City/BPW MOU: Mr. Hoffman does not recommend making the BPW/MOU a policy because it is an agreement and is already documented.

Formal Policy on spokesperson for BPW: The Bylaws dictates that the Board President is the BPW spokesperson. Mr. Webb would like to see the ability to delegate. President Panetta agrees. Mr. Webb would also like the Board to have general talking points to be supportive of the President's comments.

Fee Schedule Review: Staff can compare to other utilities and approach the Board when updates are needed. Leave as a procedure.

Development Outside City Agreement: There is a current procedure for inside the city development: developer goes through the city first and the city posts an escrow. Out of city developments it is on BPW to collect an escrow, but there is no formal policy and no procedure for review of plans. Mr. Hoffman stated that anytime there is infrastructure to be reviewed, inspected, and accepted by the BPW, there should be a development agreement to set for expectations. BPW does have utility only agreements. Staff and counsel to review.

Rate Categories: Mr. Webb stated that a hospital is commercial not industrial. Would like to review the rate categories. Water is not separated into categories, but a tiered rate based on usage. The Board consensus is to review.

Easements: Mr. Webb recommended that staff review older easements and rights-of-way and make sure they are papered. Mr. Hoffman agrees but stated that this will not be an easy task. This process starts with where infrastructure is now and if it is in a proper easement.

Line Maintenance: Mr. Webb would like to look into how to hold those with pole attachment agreements to maintaining lines. President Panetta agrees. Ms. Sexton stated that the electric tariff does address pole maintenance by third parties by there is not a way to enforce it. Suggested to review section when reviewing electric tariff. Mr. Hoffman stated that if the attachments are on BPW poles, then BPW has greater authority and if there is a pole attachment agreement. New agreements address this issue. For those attachments that do not have agreements, the first step is to identify whose pole it is, then contact the organization. Once identified and if there is an agreement in place then the Board can direct counsel to take the next steps.

Recently there were many complaints about a loud generator near the water tower. Mr. Webb contacted Lewes PD as it was not a BPW generator. Mr. Calaman stated that there is a usage agreement with AT&T, but it took time for techs to arrive.

ACTION: *Mr. Lee motioned to move to executive session. Ms. Curtis seconded the motion, which passed four to none. Mr. Nichols was absent.*

4. Executive Session

5. Return to Open Session

Returned to open session at 5:54pm.

6. Discussion and action on items from Executive Session, if necessary.

None

7. Adjournment

ACTION: Mr. Webb motioned to adjourn. Mr. Lee seconded the motion, which passed four to none. Mr. Nichols was absent.

President Panetta adjourned the meeting at 5:55pm.

Respectfully Submitted
Sharon Sexton
Executive Assistant