


TOWN OF OCEAN VIEW
DELAWARE

November 14, 2025

TO: Mayor and Council

FROM: Carol Houck, Town Manager 

SUBJECT: Supplement To Recommendation - Details and Responses to Memo from Property Owner Lee Brubaker (Nov 13, 2025)

BACKGROUND

On November 13, 2025, we received the attached correspondence from Ocean View resident Lee Brubaker. The following information directly addresses his points and recommendation.

In regard to former “Town of Ocean View” Water Distribution System customers being refunded from the remaining proceeds after the sale of the utility to Tidewater:

Should the former customers of the Town system get a refund? The short answer is no... and for these reasons:

- The water system was established in good faith, as were water rates charged any given quarter/month.
- The properties connected to the system benefited immediately from increased property value once they had access to a public water supply and “new” access to a system of fire hydrants!
- The future of the water utility servicing the former “Town” customers is now in the hands of Tidewater and it has the same obligations for repairs and maintenance. The customers now on their system were not required to pay into the Tidewater system when sold.
- Nothing has really changed for the former Town customer’s; the transfer is virtually seamless and further highlights the limited role formerly played by the Town. Plus, the water and its operators remain the same.

Taking this thought a bit further,

- If one did believe that former “Town” system customers should benefit from a refund from the remaining funds then there would have been a buy-in to become part of the Tidewater system, as they have not paid into its fees for future needs and improvements.

- They were not required to buy-in as the transition was virtually seamless, and utility services continue just as they had. Payments made to a water utility are **time of use transactions**.
- When one sells a property, they don't receive a refund from the utility or the person that purchases it for the costs paid into the system, and you don't have to buy into the new system when you relocate.
- **Connection to a public water system is a benefit that is derived at the time of use.** The rates are set to provide for water production, delivery, and current and future maintenance. All property owners on a water system pay the set fees and benefit from the service at the time of use.
- **Utilities are not set up to provide a return on investment to each property owner** using the service or supply. Supporting funds for future maintenance is proper asset management practice, much like paying for insurance – so its there if you need it.

Further doing so is simply not done...and here's why:

Would we be expected to track all former customers down?

For instance, if an individual owned a property on the Town system and paid water rates, from 2008 – 2015 and then moved, under this scenario the Town should track them down and provide them with their pro-rata portion of the “rebate”.

The change of ownership over the last 17 years for any given property could have happened multiple times.

In the instance where a past owner has passed away, would we be required to track down the estate of the deceased property owner?

There is no legal obligation, nor ordinance provision that requires any repayment of service/facility fees paid by system users when a utility is sold and the fund supporting it is dissolved.

What about not co-mingling Enterprise Funds and General Fund Monies?

It's correct that enterprise funds (in this case the Town's former water distribution system) should not be co-mingled with general funds when a water system still exists.

- That's how the Town operated while the “Towns” water system was still in existence.
- However, after the sale, **the Town no longer owns a water distribution system or has an enterprise fund** and the typical guidelines for operating an enterprise system no longer apply.
- Statements made at time of development, were made in good faith and with no anticipation that the system might be sold in the future, or with any consideration of the responsibilities and risks associated with owning a water system – outsourced or not.
- In fact, until 2019 no one in the Town, the Council or management ever contemplated or considered that our “water utility” provided **no real benefit and represented ongoing debt and risk without oversight.**

- The recommendation made by staff **transfers the funds to existing Town Trust funds and to establish a New Trust fund, not to the General Fund.**

In closing, the Town Council and Management staff of the Town of Ocean View are charged with among other responsibilities, to make decisions based on what's in the best interest of the Town as a whole. Our recommendation's do just that and in a forward thinking manner.

The Town's FY25 Audited Financial Statement correctly represented that the Town Council will be given recommendations for the use of the unrestricted fund balance from the Enterprise fund which will be dissolved and redistributed per Town Councils final decision in FY26.

Our water distribution system was sold, the enterprise fund is in the process of being dissolved, and the Council has recommendations before it that are in the best interest of the Town as a whole. The Towns former water system customers are receiving the same water from the same operators, and the Town eliminated its debt associated with the system and any future risk related to operating a system with no oversight.

**Lee Brubaker
10 Elliott Avenue
Ocean View, DE**

Date: November 13, 2025

To: Town of Ocean View Mayor, members of Town Council, and Town Manager

Subject: Input regarding use of proceeds from sale of water distribution system

I am aware that several recommendations have been made regarding use of the proceeds from the recent sale of the Town's water distribution system (the "System") and will be discussed at the November 18 town council workshop (posted on November 10). My understanding is that these recommendations include (i) development of a Tax Rate Stabilization Fund and (ii) support of Town Trust Funds (*see June 11, 2024, Introductory Presentation*). I am providing the following input for your consideration at the November 18 workshop.

Background

For council members who may not know, I served as the Town's finance director from April 2007 through 2017. In late 2007 and early 2008, I was one of the participants who provided recommendations to town council regarding the recovery of System costs from System users through the assessment of fees. Prior to enactment of the System ordinance codified in Chapter 213 of the Town Code, we held numerous town council workshops and meetings, as well as several public informational meetings. During these meetings, we discussed how the System would operate, including the establishment of water facility fees and other fees to be assessed to those properties served by the System. These fees were codified by Ord. No. 249 and 255.

At these meetings, some property owners expressed a concern that their tax dollars would be used to support a System that was of no benefit to them because they currently had access to public water. We assured them that the costs of the System would not come from property tax proceeds and would be fully covered by the fees assessed to those properties served by the System. They were told that the financial operations of the System would be accounted for and reported in a fund separate from the Town's General Fund.

Enterprise Fund

The purpose of an enterprise fund for a municipality is to provide a self-supporting mechanism to finance and operate a public service such as the System. The footnotes to the Town's Audited Financial Statements show that the System is reported as a proprietary or enterprise fund (the "Water Fund") which accounts for water services provided to customers on the System. The total costs for the System reported in the Water Fund include direct, indirect, and capital costs. Accordingly, the goal when establishing the Town's Water Fund in 2008 was to cover all costs of the System through user fees, not from property tax or other General Fund proceeds.

Sources of funds to the Water Fund since 2008

My recollection is that the sole source of funds to support the System include the following:

- Quarterly facility charges for both unimproved and improved lots as well as permit, connection, and inspection fees.
- 6" fire service line charges.
- Interest charged for delinquent accounts.
- Fines for failure to connect timely to the System.
- Interest earned on invested reserve funds.

Note that the charges for water consumption are treated as a direct pass through from Tidewater to the customer.

It is important to remember that the totality of funds collected by the System were not paid by all taxpayers, but only by the 968 properties (*as of the FY26 Budget*) located on the System. No System fees were paid by, or funds collected from, those areas of Town that have access to public water through either Tidewater or the Town of Bethany Beach, e.g., The Cottages, Bear Trap, Fairway Village, Bethany Beach Club, and Savannahs Landing.

My recommendation – disposition of surplus funds following System sale

When establishing System fees in the early days, we recognized that funds should be reserved in the System's accounts to provide for future repairs and maintenance over the projected long life of this asset. Additionally, no consideration was given to the possibility that the System might be sold before these reserves were needed.

Surplus funds remaining after Ocean View's sale of its water distribution system should not be transferred to the Town's General Fund. By design, enterprise funds are intended to be self-supporting, relying exclusively on revenues generated from the customers who directly benefit from the service. The funds in question were collected under Town ordinance from System customers for the explicit purpose of covering the costs associated with operating and maintaining the System.

Consequently, any surplus that exists at the conclusion of the System's operation reflects an over-collection from these specific customers. It does not constitute a general municipal surplus. Returning the surplus to the System's customers ensures that funds collected were used solely for their intended and stated purpose. This maintains fairness among taxpayers by preventing the municipality from using customer-generated fees for unrelated general government purposes. This approach also demonstrates to Ocean View's taxpayers that user fees were managed transparently and solely for the benefit of those who paid them.

Thank you for considering this input.

