

**Delaware Coalition for Open Government
Virtual Board Meeting by Zoom
Tuesday, February 7, 2023**

CALL TO ORDER: John Kowalko, III called the meeting to order at 6:36 p.m.

Pre-board reports:

1. Treasurer's Report of January 31, 2023
2. Minutes January 3, 2023
3. Bank Statements of January 2023
4. Email Memo from John Kowalko, III, Presidents

PRESENT: David Breen, Letty Diswood, John Flaherty, Al Jackson, John Kowalko III, Coralie Pryde, Anita Rush, Nick Wasileski

DelCOG members: Amy Roe, Cynthia Smith

REGULAR BUSINESS

1. **Introductions:** Kowalko welcomed board members and DelCOG members.
2. **Meeting Minutes:** It was moved and seconded, to accept Draft #2 of the minutes of the January 3, 2023 with corrections. Motions approved unanimously.
3. **Treasurer Report:** Anita Rush gave the following Treasurer's Reports.
The current balances in the checking and savings accounts:
 WSFS checking account balance as of January 31, 2023, was \$3,853.27.
 WSFS savings account balance as of January 31, 2023, was \$4,777.60.
 Total account balance as of January 31, 2023, was \$8,630.87.

The Treasurer's report was adopted as read.

There were three deposits earmarked for the Reception for Elected Officials which was held in early December 2022. The Delaware Corporate Franchise Tax was paid by Wasileski. The IRS filing will be done shortly by Wasileski, and Rush.

COMMITTEE REPORTS:

1. **Inspector General Chapter Committee:** Wasileski reported that he, Ward and Kowalko III have spent about 300 hours on the chapter for a forthcoming book authored by D. Robin Kempf. The final draft will be sent to David Finger for proofreading and checking footnotes etc.

There will be a Colloquium will be held May 2023 at Villanova University for the authors of the book champers.

Kowalko III thanked Ward, and Wasileski for all the work they have done on this chapter and the organization this past months.

2. **Inspector General Committee:** Flaherty attended Rep. Mike Smith's constituent coffee and was told that the Inspector General legislation will be introduced in March and that Sen. Sturgeon will be a sponsor in the Senate.

3. **LLC Committee Updates:** Wasileski announced that the University of Delaware is hosting a webinar on Hal Weitzman's book *What's the Matter with Delaware?* A Book Talk & Discussion Event.. An email was sent to board members with all the detail and a link. Event to be held Wednesday, March 1, 2023, at 4:00pm Via Zoom (Registration required)

4. **FOIA Committee – John Kowalko, III** noted that he had not been active last year but now will be able to do so. The following bills were discussed:
 - a. HS1 FOR HB 34. The bill has passed the House and heads to the Senate.
Original Synopsis: House Bill No. 34 requires school boards, including charter schools, to permit public comment on each agenda item presented for a vote at a school board meeting. The public comment period must take place before the school board vote on an agenda item. The school board may reasonably restrict the time, place, and manner of the public comment period.
House Substitute No. 1 for House Bill No. 34 makes the following changes:
 1. Clarifies that public comment is not required on procedural items on the agenda that require a vote such as a request to approve minutes or enter into executive session.
 2. Removes language referring to open meetings; and
 3. Makes other non-substantive changes to improve the bill's clarity.

 - b. LEOBOR legislation – DelCOG will work I partnership with ACLU and other organizations.

 - c. HB 471, 2022, (last session bill number) if passed would have exempted info regarding bird disease from disclosure under FOIA. The Delaware Department of Agriculture wanted certain information regarding persons, animals, land, and emergency response plans be kept secret and exempt from disclosure under Delaware's FOIA.. Flaherty notes that it might be introduced this session with a new number and recommended to oppose this bill. Sunshine is the best disinfectant. He has reached out to other groups to learn more about their concerns.

UNFINISHED BUSINESS

1. **Lead Free Delaware Update:** Amy Roe gave a summary of activities surrounding this issue.
 - a. The AG has notified Amy that the retention policy of DHSS and fees charged did not violate the FOIA.
 - b. DHSS has admitted they made mistakes, but fees still had to be paid.
 - c. Amy may want to file a lawsuit to not have to pay fees if an agency makes mistakes when charging fees. Is it worth pursuing? Discussion ensued and it was recommended not to file a lawsuit. She suggested that DelCOG set up a small fund to help with payment of fees or legal issues. The idea was not discussed further. Flaherty thanked Roe for her work on this issue and her persistence.

2. **FOIA Updates:** Flaherty has put together a data file of summary of 688 FOIA opinions and will send this file to the board. One can sort file different ways. He suggested to use this for sunshine week for anyone interested.

NEW BUSINESS:

- 1. Nepotism Bill:** Flaherty said there is a need to draft this bill and will pursue further. He is waiting for the taskforce to be developed then take action.
- 2. National Police FOIA Project:** There is a local group being established that is modeled after this national group to pursue police transparency at the local level.
- 3. HB 39 Police Fund:** Kowalko, III reported that legislation establishes a police fund of \$20,000 grant to any police agency with no oversight how it is going to be used. After discussion a motion was made to opposes HB 39 as unjustified giveaway of state money with no oversight, at a time when Delaware communities demand increased accountability for law enforcement activities and funding. The motion was seconded and passed unanimously.
- 4. Replacing a Vacant Board Position:** Kowalko nominated Cynthia Smith as a director to the board. She has been attending board meetings and helping out with its activities. A motion to appoint Cynthia Smith to replace the vacant seat on DelCOG's Board of was seconded and approved unanimously.
- 5. Appointing Parliamentarian:** Kowalko appointed John Flaherty as parliamentarian.
- 6. DelCOG Outreach:** Kowalko, III will be working on DelCOG internal processing in the next few months. He will be updating how we use ZOOM meetings and also look at how we do PR. He is also seeking job descriptions. Diswood noted that there is a board manual with job descriptions that was developed by board members and put together by Ward who has it as a digital file. All board members need to have a copy of it.

Kowalko also is looking for the lates IRS determination letter.

OPEN FORUM

- 1. Wasileski** proposed publishing a letter to do action this month or next month. He will pass the letter to the board for comments and approval.
- May 24, 2023, Common Cause Delaware will be honoring Kowalko, Jr.

The next DelCOG Board meeting will be Tuesday, March 7, 2023, at 6:30 p.m. by Zoom.

Adjourned: 7:30 p.m.

Submitted by Letty Diswood, Secretary

Email from John Kowalko, II, President

Hi DelCOG Board and Committee members,

I hope everyone is doing well. I am very honored to be the new DelCOG President, and I hope we can have a very productive year! We have a few pressing matters that I wanted to bring up before our next monthly meeting, and apologies in advance for the long email.

Sunshine Week 2023

We need to start planning for Sunshine Week, which is March 12-18. Last year we held an excellent panel on increased transparency in law enforcement on April 11 through Zoom. We could once again hold an event in early April if March is too soon.

Last year, the committee included me, Cynthia, Katherine, Nick, Mark Fowser, and Billie Travalini, and the event was sponsored by DelCOG, Delaware Press Association, and Network Delaware.

If you want to be on the Sunshine Week 2023 Event Committee to help plan this year's event, please let me know so that we can get moving.

FOIA Updates

Common Cause Executive Director Claire Snyder-Hall contacted me about a proposed FOIA bill that would create a broad exemption for Department of Agriculture public records. She is worried they may try to push it through fast, but it has not been introduced yet. I will send an update if they try to take action on it before our February meeting.

We created a standing FOIA Committee last year, but we never added any members. Please let me know if you are interested, and we will vote on the membership at the next meeting.

Please also let me know if you have any FOIA priorities or proposed changes to the law, both new ones or any unresolved ones from previous years.

Organizational Development

DelCOG has a lot of knowledgeable people and useful information to provide to the public about open government in Delaware. Several board members have mentioned that we should grow our membership, and I want to also expand our ability to educate the public and advocate in favor of open government as we do so. In addition to our annual report, I think we could publish some type of e-newsletter or action updates when needed, and I also want us to publish more press releases and open letters when we take a stance because our voice is too important to not be part of the public discussion. I am going to try to get more regular posts for our social media accounts as well.

If you know anyone who is interested in open government, please ask them to come to our monthly meetings. Hopefully if we can expand our regular attendees, then we can expand our Board of Directors after our next officer election as well. Also, any member of DelCOG can join our committees, which is where a lot of our important work gets done!

Next week, I will send out the draft agenda for the February meeting. If you have anything new that wasn't on the agenda for January, please let me know. Please also don't hesitate to contact me about anything else.

Best,

John

John Kowalko III, President, Delaware Coalition for Open Government

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