

**Delaware Coalition for Open Government  
Virtual Board Meeting by Zoom  
February 10, 2022**

**CALL TO ORDER:** Keith Steck, President called the board meeting to order at 6:33 p.m.

**Pre-board reports:**

1. Treasurer's Report of January 31, 2022.

**PRESENT:** David Breen, Letty Diswood, John Flaherty, Al Jackson, John Kowalko III, John Morgan, Coralie Pryde, Anita Rush, Keith Steck

**Absent:** Nick Wasileski- excused.

**DelCOG members:** Cynthia Smith, James Martin, Katherine Ward.

**REGULAR BUSINESS**

1. **Introductions:** Keith Steck called the meeting to order at 6:33 p.m., welcomed everyone and introductions were made.
2. **Meeting Minutes:** Minutes of January 6, 2022, Draft #3 were approved.
3. **Treasurer Report:** Anita Rush gave the report for January 31, 2022.  
The current balance in the checking and savings accounts:  
    WSFS checking account balance as of January 31, 2022, was \$3,991.55  
    WSFS savings account balance as of January 31, 2022, was \$2,776.80  
    Total account balance as of January 31, 2022, was \$6,668.35.  
The treasurer's report was accepted.  
DelCOG received a \$100 donation in January which was deposited into the checking account..
4. **Creation of an Ad Hoc Committee on Sensitive Matters:** Steck spoke about the need to have sensitive matters discussed that would be inappropriate in a public setting, such as personnel issues. He suggested including the officers and board members on a committee. John Flaherty checking weather this issue is already addressed in DelCOG Bylaws. John Kowalko III observed that Section 6.08 of DelCOG's Bylaws already allows for the DelCOG Board having a "closed session" to discuss "personnel matters" and several other sensitive issues. The proposal was deferred to the next board meeting for further discussion.

**COMMITTEE REPORTS:**

1. **Inspector General Update:** Steck reported that he had reached out to a few legislators but has not heard back from them. Steck gave a presentation about the need for an inspector general at the LWVNCCC Hot Topic via Zoom on January 24, 2022. Diswood thanked him for an excellent presentation and noted that the LWV Advocacy Corps will not take a position until they see the actual legislation. Steck said that there is a lot of support from organizations and the community, and he would rather have discussions about strategy in a non-public session.
2. **FOIA Committee:** Steck reported that there is no update at this time. Issues brought up were:

Rep. Paul Baumbach's bill requiring public comment (H.B. 293) would impact the UD Board of Trustees, who have allowed public comment at only some of their meetings. Issues identified by DelCOG in 2017 still have not been acted on such as the right of anyone to make their own audio recordings. Both intentional and unintentional inaccuracies in meeting minutes can be identified. Steck noted that he found huge discrepancies between recorded minutes and what had actually been said in meetings in Sussex County, but there is no mechanism to force corrections.

What is happening with Sen. Kyle Gay's bill (SB155)? Steck has been in contact with Gay's staff. Morgan and Steck should reach out to Rep. Baumbach and see if he can help set up a meeting with her. Further discussion was focused on strategy and what the law currently allows regarding members of the public making their own recordings of public meetings.

DelCOG has a list of issues on FOIA reforms and DelCOG goals developed in 2017 that will be placed on the next meeting's agenda for review and discussion.

Pryde made a motion, seconded by Morgan, to express DelCOG's support for H.B. 293. This motion was approved 8-0.

3. **Nepotism:** Steck noted this committee is also in a holding pattern until the General Assembly session resumes. Item moved to next meeting.

#### **UNFINISHED BUSINESS:**

1. **Issues Up and Down Delaware: Lost access to Delaware Natural Resources and Environmental Control (DNREC) Source Water Protection maps, database; no post-redistricting council-wide elections.**

Steck reported due to an update to the system/server, the map and database are no longer available online. Together they were a critical tool for verifying information about whether the agency has checked certain information, at least for those in Sussex. Links are broken for the public, although some county officials still have access. He is trying to determine how to file a complaint with the AG for withholding access to public information.

**No post-redistricting council-wide elections** – Steck and some other people in Sussex County are concerned that no full elections for county councils will be held this election cycle, but instead only a portion are up for election after redistricting based on Sussex County regular election cycles. However, the Delaware General Assembly has all sixty-two seats in the House and Senate up for reelection.

Steck observed that the racial makeup of some New Castle County Council districts has changed so much that four are now considered majority minority districts, but in three districts the incumbents are not up for election in 2022 and only one of those four is represented by a person of color. Morgan expressed his disagreement with the idea that people of a given ethnicity can be effectively represented only by people of the same ethnicity. Steck replied that he was quoting the phrase "majority-minority" from the minutes of a meeting of the New Castle County Redistricting Commission. Morgan disagreed with this emphasis on racial issues.

The discussion then centered on what can be done at this late date to allow for county-wide elections for 2022. It was decided to check what the law or the Delaware Constitution provides on this issue. It may be an issue DelCOG can address in the next years to be ready for the 2030

Census and redistricting cycle. Flaherty proposed that Steck proceed with the issue and report back at the March meeting.

- 2. Sunshine Week program update:** Katherine Ward reported that she has sent information to the program planning committee and will set up a meeting next week with the Delaware Press Association contact.
- 3. Delaware General Assembly Email Transparency:** Flaherty deferred discussion to the next board meeting. The issue of making legislators' emails subject to FOIA requests is complicated, and there is a wide variety of how other states have addressed this issue.

## NEW BUSINESS

- 1. Continue DANA membership:** A motion which was made by Morgan and seconded to continue membership in DANA was approved unanimously. The annual fee is about \$85. Diswood noted that DANA workshops are particularly good, some are free, and a DANA membership allows a discount on those that require a fee. Also, all board members should be listed with DANA so they receive the email notifications about what DANA has to offer.
- ~~**2. H.B. 293 (Rep. Baumbach bill) — Amend law to require allowing public comment at Open Public Meetings:** After discussion, a motion to support H.B. 293 was seconded and approved unanimously. According to John Morgan this motion was made during #2 Committee reports. I do not have the privilege to listen to the zoom recording and I followed what I wrote in my notes.~~
- 3. Access to Public Information via Private Vendors:** This topic was moved to the next meeting.
- 4. DE Judicial Proceedings During Covid:** Flaherty introduced James Martin, who expressed his concerns regarding Superior Court in New Castle County.

For Superior Court in New Castle County, pre-trial hearings are now being held remotely due to the pandemic, but with a limited number of participants, with the number decided prior to the hearing, which effectively prevents open public hearings. A person has to have a number and passcode to be able to participate. A judge often asks for the identities of those listening, including those who are merely members of the public, who previously were not required to identify themselves when at an in person hearing in public. This is a loss of anonymity. Participants cannot see who is participating in the court proceedings. It is like a teleconference. Lots of discussion, and the trend seems to be towards more non-public proceedings. Courts have now gone back to in-person jury trials with Covid protocols.

- 5. UD Searches for Administrators-Conduct and Transparency:** John Morgan said that the search for Provost is continuing and that there is essentially no transparency.

## OPEN FORUM

(There was no time left)

Next DelCOG board meeting is scheduled for Thursday, March 3, 2022, from 6:30 – 8:30 p.m.

Adjourned: 8:26 p.m.  
Submitted by,  
Letty Diswood  
Secretary