

Meeting Notes
Community Involvement Advisory Council
April 14, 2009
Smyrna Rest Area

Members Present: Pam Meitner, Dr. Jay Julis, Dr. Bruce Allison, Harold Truxon, William Pelham. Five members present quorum is not met.

Members Absent: Douglas Corey, Robert Frederick, Dr. Bethany Hall-Long, La Vaida Owens-White, Brian Lewis, Marvin Thomas

Others Present: James Brunswick and Vicki Ward of DNREC, Barbara Woodford of DNREC Del. State Parks, Joe Malloy of Friends Wilmington Parks, Phillip Thayer of N. St. Georges , Ryan Mawhinney of URS Corp. for N. St. Georges Civic Assoc. , Major Thomas E. J. Kelly of St. Georges.

I. Meeting called to order

II. Meeting Protocol Review

III. Approval of Meeting Notes

Bill reviewed the protocol of the Community Involvement Advisory Council as set forth by 29 Del. Code.

Council read the notes of the previous CIAC meeting held on Feb. 10, 2009. Bill noted we are one short of a quorum but **called for a motion to recommend to the next full council that the Feb. 10 notes be approved.** Jay so moved, the motion was second by Harold. With no other comments the members present all approved the recommendation.

IV. Community Environmental Project Fund Review

A. N. St. Georges Community Park

Bill requested James Brunswick to give a short summary of the N. Saint Georges project and the reasons for the follow up at today's meeting.

James advised the N. St. Georges Engineering Phase II grant application was submitted in January 2009. The civic association requested \$85,000 to cover engineering costs for the development of the park. In the February meeting , the council felt it needed more information to address several concerns that members had expressed about the project:

- The \$85,000 cost of the project, given that there was no competitive bidding for contractor.
- Mr. Thayer estimated \$400,000 to \$500,000 for the completion of the project.
- The absence of a fundraising plan and the apparent total reliance on CEPF funds for completion of the project.

Pam Mietner noted that this was a lot of money. It would be difficult for council to support the project at these costs. Mr. Thayer was asked to return with additional information.

James stated that we did receive a letter with some of the follow up information the Council had requested. There are verbal commitments for Highway Enhancement Funds. There has been some indication that DelDOT might assist in the design of the cul-de-sacs. This should significantly reduce the cost of the project. Mr. Thayer and Ryan are here to bring us up to date.

Mr. Phil Thayer – Came back with letter indicating that he was pursuing fundraising with local business people. They had applied for highway enhancement funds through DelDot. These funds would be used to fund the approaches and the cul-de-sacs for the park. DelDOT has agreed to do half. So these steps would diminish the CIAC request for the entire project. We are moving forward to install curbing, cul-de-sac lighting, which is traditional lighting approved by New Castle Co. We have a lease in hand from the Army Corp of Engineers, but it is not yet signed. Mr. Thayer noted that the lease was a 15-year agreement. Thayer

Would the lease be executed pending CIAC decision, someone asked. I need to talk with Heather (Real Estate Agent for the USACE) first. Phil informed the USACE head has approved the operation and maintenance plan for the park.

We ran into a problem with the bid quotes, we don't have money to go out and do. James stated that in talking with Bob Eheman, other than advertising costs, there should not be a great cost for bids. The engineering firms could actually pay to bid on the project.

Bill questioned; what was being bid? Phil replied it was the engineering studies to submit to contractors. The engineer will design it. Test borings will need to be made. Pam differentiated that are two things, getting a bid vs. getting it done.

Bill stated that one only needs to describe what is involved; the type of project, and the date of completion. This would be called a proposal, not a bid. There are engineers that will do this for free. Talk with marketing people, he suggested. A proposal can be a 1 pager.

Brian stated, I am a planner not an engineer. As far as proposals, we do it, but a request for proposal would be done at a cost. I am confused. The community did bid out for designs. There are two phases. The concept phase, and now they want to move to the constructions phase, including the retaining wall, etc. Phil clarified that the initial phase was the engineering studies, and we only selected one company.

James stated that the concern of the Council is the \$85,000 cost is not a competitive bid.

Phil informed we only received two. We solicited 3 and got responses from 2. Bob Eheman was familiar with this and was good with URS. He was familiar with the company, and they do good work.

Bill requested to see the scope of services. He asked if they had the other proposal as well.

Phil stated the other proposal was just was a rough plan. They wanted \$125,000 to do the job, we only had 10,000. He would not come down.

Bill questioned if both bids were on a defined scope, to which Phil replied, yes. Both Bill and Jay requested to see the bids.

Phil stated that DNREC sent the format of the contract; we followed the recommended format. That contract was written around what Bob Eheman told us to put in the contract.

Bill stated we still need to see documentation. It was a concern in our previous meeting. Phil stated that he did not bring to this meeting. Bill questioned; what the name of the other company? Phil did not remember.

Pam asked whether Phil had a copy of the agreement, could we keep it? Pam continued; under the terms of the lease, your organization would need to provide insurance. Are you prepared to pay those costs? Phil indicated ; yes, we are prepared to pay. We will go through the circle society,

Pam asked, how much are you requesting?

Ryan stated \$85,000 for construction and engineering. Full completion is around \$500,000, this would be with no Del Dot involvement. Del Dot will provide road improvements and stop signs for safety. This needs to be done in phases. We must coordinate with DelDOT, one this year, one next year

Phil stated the approach would be this year by DelDot, next year cul-de-sacs.

Bill questioned the \$500,000 and the standard fees to be included; such as certification, payments to inspectors, etc. Brian replied that there is some uncertainty due to coordination with DelDOT. Who will do what, coordination of surveying, wetland remediation, and such.

Bill questioned; why is this was not on a piece of paper, with a budget estimate? We need breakdown.

Phil stated; we have a basic outline by URS.

Pam questioned with DelDOT, do you need \$85,000 or what?

Phil – DELDOT will do design engineering. They have done the initial approach but not the cul-de-sac.

Bill questioned why construction costs were not reduced with the DelDOT assistance from \$500,000 to \$400,000? Phil replied; I believe it will be. Bill noted we have nothing on paper.

Phil questioned what the Council would like specifically. Pam asked if he had anything in writing from DelDOT? Phil replied; only concept plans. Bruce Ennis is getting from discretionary highway funds.

Pam stated that there are concerns with budgetary problems that DELDOT may have on books but not execute due to the state-wide lack of funding. Phil stated that the transportation funds are federal.

Bill questioned the proposal on URS letterhead. The design cost fee is \$10,000. If the DeIDOT funds do not come through, how can the cost be determined realistically?

Brian stated that Denise Husband of URS previously gave an overall project sheet.

Pam stated we need documentation to go along with the proposal stating the next phase is \$85,000. Brian stated that a proposal has been submitted. It was dated April 3rd. James advised the \$85,000 estimate was prior to DeIDOT's involvement.

Jay stated we need a cost that includes from the cul-de-sac down, if DELDOT can come through. Brian stated URS could separate that. James advised we still need formal bids.

Bill commented to Brian that the URS estimate was done so informally, give me a proposal.

Phil said that Bob Ehemann stated this is a new process; we had the letter several months before the process was in place. We need to bid now, if you spend more than 10,000.

Council members requested:

- A budget on paper, not to exceed the proposals, but to describe the scope of work and proposals.
- A commitment letter of good faith from DeIDOT
- A breakout of costs from the cul-de-sac down, to provide accountability for how the money is distributed.
- An explanation of how you propose to cover the next \$500,000. How will the project come to fruition?

Future CIAC funds are not guaranteed. Why should we support something that may not get completed?

Phil stated they were trying to get Valero to come on board for the construction phase of this project as well.

Bruce Allison stated the DeIDOT funds, may be attached to discretionary funds. In a lean budget year this may not play out. A formal letter would be good, and for the second phase, a vision of completion is needed without CIAC included in that pot.

Bill questioned the adherence to the Procurement Act. A project fee over \$50,000 would have to follow the requirements set forth in this law. Brian agreed they would follow the Procurement Act.

Brian requested clarification on behalf of N. St. Georges as far as the line item budget. The first letter asks for quotes, are you asking for two proposals with a line item budget? Two separate documents?

Bill stated we are looking for budget and project costs and breakdown. Where do you expect to get the money, so we can see it as a viable project?

Pam questioned what happens with the lease if you sign and the federal government signs. There is not a great deal of money for insurance. It was stated the insurance would be covered through the civic association. Phil said civic that he felt certain the civic association can cover the costs.

- CIAC would like to see insurance costs in the package also.
- Lease

Phil informed we can't move any dirt until we have the engineering study. Pam felt this was inconsistent with DeIDOT doing work this year. Brian stated it would be prior to the cul-de-sac.

Harold felt CIAC members need to see the bids from DeIDOT. You can't put out funds without the proper papers to show why.

Bruce questioned whether DeIDOT would work on a fiscal year prior to June 30 or calendar year. Phil was unsure but explained DeIDOT would not work on the cul-de-sac, just the approach to it. The second phase is to design and build the cul-de-sac. We are in phase 1 now.

Jay questioned if the cul-de-sac got scrapped by DeIDOT can you put in a walking path? Phil affirmed, yes.

Bill made a recommendation table the request until the additional documents are obtained and bring them to the next meeting with a quorum. It was agreed to table this project.

B. Friends of Wilmington Parks

Joe Malloy, Development Director of Friends of Wilmington Parks and Barbara Woodford of DNREC Parks presented the revised application

Bill requested James please give a summary of the Friends project.

James relayed that at the last council meeting, there was concern about the project had not met the criteria for environmental enhancement to create recreational opportunities. Overall, the sentiment was that the application was a request for a contribution of \$33,875 to a construction project. At this time Friends of Wilmington Parks has amended their application to ask for \$15,000 for an environmental education project.

Joe Malloy stated as a quick review, we agree with your reaction that the construction was not appropriate and we will continue to work on that and will seek alternate sources.

Today, we are asking for funding to support environmental education programs conducted by Barbara Woodford. City and state education are undergoing economic problems, we have folders here to

describe the education courses developed at a cost of \$.350 to \$5.00 per course. This is of great value to children, and school systems in the Wilmington area to attend. Given the economic condition of the education system in Delaware, cuts will place the burden on families again. Some families are unable to pay the \$3.50 - \$5 for the classes. This request will provide funding for children to participate in environmental education from April to the fall. The courses can be conducted inside, year round. As a bit of background on myself I work part time with this program, I retired in 1993 from IBM, the last 15 years I was involved in technology and education at East side and Thomas Edison.

I will now turn this over to Barbara to address.

Barbara: Thanks Joe and thank you for your time. I would like to explain the binder. We began in January 2008 with a series of 4 courses in exploring energy. These were developed for after-school or in- school programs. We would like to bring them out of school and into centers as well.

- The Exploring energy program content was developed to meet science based standards, though the Dept of Education. Widner University gave a donation of \$10,000 for educational tools.
- Green brochure portrays an onsite education program in park. Students are connected to the fact that this is an urban park. We work with our urban center. It combines science and society. It is currently for education in elementary and high school, pre-K through 12. It provides an opportunity for surrounding schools to do programming.
- Wildlife in the city curriculum: shows all standards of the Delaware educational standards are met in the program.
- There is a list of child care, youth centers, elementary schools which are served in the surrounding area. Children that live nearby may benefit from scholarship dollars. Maps – Brandywine and Alapocas on the other side give you an idea of where we are.

We are excited about the opportunity to enhance and enrich students understanding of the environment in science and social studies. I have a Masters in Education, a certified trainer with a staff of 2 certified interpretive guides, all trained to work in informal education.

Pam asked if Barbara worked for the state and is these programs state run. Barbara affirmed yes, we have a program at Delaware State Parks. The programs in schools are fee based programs, like the entry fees into parks. We are fee based to get the funds to continue.

Jay questioned if the people that staff the program are volunteers. Barbara replied, no the people that teach the classes are paid staff.

Joe clarified that the volunteer staff are related to the Hands Across the Brandywine program.

Barbara – Friends have suggested developing a scholarship pool, to provide a program without charging.

Pam questioned how do you get the word out? Joe stated they visit schools, have an electronic newsletter, web site.

Pam questioned the inner-city focus. Joe stated it would be for whoever would want to enroll. We are offering it to surrounding schools, and the child care centers in 19801, 19802, 19806 zip codes.

Pam questioned if there is any screening, for the people that need the funding. For example, the Friends school could attend.

Barbara informed that one screening tool is based on the school lunch program. Students receiving free or reduced lunch provided by the school, and some are based on the information provided by the teacher. Free and reduced lunch is a vetted process already.

James stated with the Friends asking for a scholarship pool, funds would have to be given on reimbursement basis. We would have to ask you to document enrollment and submit on a reimbursement basis.

Joe stated that would be in a project account that would be created. Joe continued, we would accept what is provided. We would also abide by any vetting or screening you would also require. We can work what you think is appropriate.

Pam questioned; how did you come up with the \$15,000 figure? Joe stated that it was based on 2500 students, at \$5.00.

Jay stated this would be 33 classes.

Jay questioned the project staffing. Barbara replied that the teachers include Barbara and a team of naturalist and interpreters who are state employees. We provide education in an informal setting. Jay questioned if the \$3 to \$5 figure in the budget is for supplies. Barbara explained that funding is through state to cover the interpreter, the part-time staff person is paid for by the income brought in.

Pam expressed concern about the identified penalties. Normaco is fine, but the DuPont Red Lion penalty in New Castle is a stretch.

Jay agreed. the air violations travel and there are heavy metals.

Joe made an observation, as an applicant; it seems to be a guessing game of what funds are available for the projects. For example, at the last meeting there was great discussion about air sources. I suggest, putting on web site so people can see what is taken.

Pam stated we appreciate the dilemma. We do not have control of violations that applicants select.

Joe noted it would be easier if you show what is open.

James explained it is difficult. Applicants make competing claims during the application process. If you claim Claymont area violations, the Claymont Community could also be claiming the same violations as they make their application. At this point all that we have the capacity to do is sort out the competing claims when the applications are reviewed.

Joe offered technology help of 1 day worth of knowledge for setting up a web site, to help solve the fund identification issue.

Jay made a recommendation to approval of this project, Bruce seconded. Bill called for the vote: All were in favor, the motion to approve was carried. The council will recommend approval to full council.

The Council members continued the discussion about the identification of penalties.

Bill stated he had called David Small. We want to develop a definition of community. I am looking for guidance, due to this confusion. We are going to meet with the legislators to see what the intent is, and if there is something that will bring clarity. I will report back, what the intentions are when the legislature created the advisory council.

Bruce stated they might not have thought of that dispersion issue, but, we have had time to reflect and give thought.

Pam questioned if the penalties listed are binding, and if specific funds are taken out.

James stated this is more nebulous, finance looks at funds differently. They look at it as a lump sum, as they take funds, they do not account for locations. It is a cumulative problem. We can't go backward to clearly establish the location of violations and the relationship to the grant awards. We can begin to put together a system going forward, but cannot unravel past occurrences. There are additional complicating factors in identifying the origin of penalties. A violation might involve several people, an Air Quality Compliance Engineer, an enforcement officer. A paralegal may write out the description. Between compliance, enforcement and legal, it does not appear that there is standard way of reporting the location.

Parks and Recreation just added GPS capability to their database. This enables them to identify the location. We can draw concentric circles around the location of the penalty that are based on distance. In the future we can say this community is the closest, in order to do what council is asking. We are better with land based violations, but with air dispersion, we cannot pinpoint it exactly..

C. Project Extensions

- Peoples Settlement Association Green Energy/Green Savings - \$71,080
- Ham Run Restoration - \$43,250
- Dragon Run Park - \$33,000
- Seal Island Restoration - \$23,000

Peoples Settlement: March 31 2009 – The problem here is that the Auditor of Accounts has frozen funding due to misuse of state funding. There is a State Auditors report in your packet. This is not an audit of our CEPF program. But the Office of the Auditor states that the next audit will be the Green Energy/Green Savings project. Peoples Settlement Association received \$71,080 in CEPF funds and \$66,000 from Energy office for the Green Energy/Green Savings project.

As a result of Oct 31, 2008 audit of other state funded projects, the Office of the Auditor suggested that state funding should be frozen. We had not received any written instructions from the State auditor, so I called to get some direction. I received an E-mail from the Auditor, saying that they are about to subpoena PSA records, so the Office cannot clear PSA or make comments. We must wait.

Pam – anything we should do to modify review and follow-up and see projects are getting done. We actively review every project when there are any questions. For example, there was some question about the Central Delaware Habitat project. The project sponsor, Bill Miller, Conni Mahoney and I went on a site visit, to physically examine the project and meet with the applicant to review the financial records. We found that the project was completed, but the applicant did not actually expend all of the money allotted for it. We ended up saving seven or eight thousand in CEPF funds. This is as a result of our monitoring.

Bill – Any other action today? James replied that we are asking for project extensions.

The Claymont Community Coalition is asking for an extension in order to complete their final report. Ham Run Restoration, Dragon Run Park and Seal Island Restoration projects all involve delays due to permits and agreements required by the Army Corp of Engineers. They have experienced some of the complications that we have discussed today with the N. St Georges project.

Jay moved to extend all of the projects in a single motion.

Pam raised a question on the motion. In the future, when we recommend extensions, please put the dates of the recommendation extensions.

Pam seconded the motion. All in agreement said: AYE. The motion carried unanimously.

V. Community Ombudsman Report

A. EPA Collaborative Partnership Application

B. Claymont Air Monitoring Update
C. Asthma Action Partnership Update

James stated the Governor has a Climate Prosperity project which our new Secretary will be leading for the State of Delaware. The project, which DNREC will lead, is to aid development of the green economy. I have been working on an EPA grant to obtain three year funding totaling \$166,000 for a sectoral job analysis. The sector analysis identifies the industries that are growing and offer jobs that pay living wages and benefits. Sector projects involve working with employers, job training and education organizations, service programs to design interventions that help low wage workers to overcome their barrier to employment to find jobs in these growing sectors.

Some of the preliminary work was reviewed by our new Secretary and by The Governor's office. They have asked that I hold off until the initiative takes more shape. So, I will not be able to pursue EPA funding for the project.

Claymont Steel has made a written response to the Claymont Coalition's analysis of the fugitive dust falling in the area. Their response asserts that there are many sources of heavy metals in the area. They acknowledge that they may contribute, but they are not the only source of dust in the community.

The Coalition is developing their final report. David Small, when serving as acting Secretary has agreed to refer the final report to the Department of Public Health. The final report is due in June.

Asthma Action: March 23rd New Castle County Director of Redevelopment, Karl Kalbacher convened a meeting with AQM, DeIDot and the city of Wilmington. They have all acknowledged that there is a serious problem with fugitive dust in the area. This really justifies the asthma project funding.

There are many sources of dust. AQM has recognized that there may be some unevenness in the permit conditions of facilities that handle materials that can become airborne. I went on a tour of the area with an Environmental Protection Officer. Driving along you could see some facilities wet down the materials they store to keep dust from flying, some are not required by permits to do so. Looking down at the area from 495, some of the material handling facilities cover the substances with tarps. Some are enclosed, others are open and exposed to wind and rain. AQM (Air Quality Management) is acting now to review permits in the area. There has been a Consent Order for the Port of Wilmington. On the tour I saw one lot where the Port stores coke in the open with no controls. The Port is not meeting requirements for loading/unloading of substances.

Some of the air quality issues cannot be addressed by DNREC. Another lot owned by the Port parks refrigeration trailers that are powered by diesel generators. There may be as many as one hundred generators idling there 24/7. DNREC anti-idling regulations do not cover off road vehicles. AQM is looking at the feasibility of regulating this as a point source. Stay tuned.

James continued, last year we had the Septic Financing Initiative. The project identified these small unincorporated communities that are not served by central sewer. They are underserved, in part because they are not identified by any maps by the state planning office, or any other state agencies. The problem surfaced again in selecting communities to receive Stimulus funds for waste water and drinking water projects.

EP asked the Department to prioritize communities. The lack of demographic information about the communities, the inability to physically identify the location of them proved to be an obstacle to prioritizing funding decisions. One of the original recommendations of the original CIAC was to map the communities throughout the state with multiple environmental problems. Kathy Bunting Howarth, Division of Water Resources Director is trying to identify funds for a mapping project. She is looking at the possible use of administrative funds. Another possible source is the Clean Water Advisory Council. As a result of the Septic Initiative, a subcommittee was set up to map upcoming central sewer projects and underserved areas. This is another possible source of funding. I will be coming back to the council to discuss this as, I think a major project.

Bill questioned the outcome of the charrettes, James said he can send a copy of the final report.

Harold stated he had received a letter from DNREC about contaminated drinking water in Ellendale. We have a big problem in Sussex with the leaking septic tanks. DNREC informed him on Feb 20th of contamination of 17-25 wells of homes and contamination at Mt. Zion AME church. The letter was signed by Alex Rittburg of the Tank Management Branch.

Harold stated that since he applied for water and sewer in Ellendale, 5 years ago, the water quality is worse. But, DNREC is putting filters on the contaminated wells so the drinking water is safe.

Bill asked what the plan for solving the problem was and if anyone from DNREC we could invite next time to ask questions. He requested this be put on agenda for next time.

Pam asked if we can we invite the new Secretary, to see what he expects?

Pam also noted the problem with quorum; she asked a note be sent out now to ask about the June 9th meeting.

James indicated Bob Frederic has a standing meeting on our CIAC dates and asked if anyone would object to changing the meeting date.

Jay indicated he liked Tuesdays but it could be any Tuesday in the month.

VI: Public Comments/Open Forum

There were no questions.

Pam made a motion to close the meeting; all were in agreement, the meeting adjourned.

Respectfully submitted,

Vicki Ward
Administrative Specialist III, DNREC

The notes of this meeting are not intended to be a verbatim record of the topics that were presented or discussed. They are for the use of the Community Involvement Advisory Council members and the public in supplementing their personal notes and recall for presentations.