

LAWS OF DELAWARE
VOLUME 83
CHAPTER 302
151st GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 355
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 2
AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 7 OF DELAWARE CODE RELATING TO THE FORT DUPONT REDEVELOPMENT AND PRESERVATION CORPORATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

WHEREAS, the Fort DuPont Redevelopment and Preservation Act was passed by the General Assembly in 2014 to create an entity capable of managing the redevelopment of underutilized, environmentally sensitive, and historically significant lands on and around the grounds of Fort DuPont; and

WHEREAS, the Fort Dupont project has made tremendous progress in the last 8 years, with more than 50 residential units now occupied or ready for sale and rent in a carefully planned mixed use community that preserves a portion of Delaware's past; and

WHEREAS, the Complex must be better integrated with Delaware City as it moves forward; and

WHEREAS, the General Assembly recognizes the importance of adjusting the Fort Corporation's governance structure to assure its continued success.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Chapter 47, Title 7 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 4730. Short title.

This subchapter shall be known, and may be cited, as "The Fort DuPont Redevelopment and Preservation Act."

§ 4731. Declaration of purpose.

The General Assembly declares the following to be the policy and purpose of this subchapter:

(1) The Fort DuPont Complex, located along the Delaware River adjacent to Delaware City, is currently underutilized but has enormous potential as a sustainable, mixed-use community;

(2) To preserve and protect the historical and recreational amenities within the Fort DuPont Complex and to expand economic opportunities therein, additional capital will be required to improve infrastructure, renovate certain historic structures, and make additional improvements to said Complex;

(3) Redevelopment and renovation of the Fort DuPont Complex is both desirable and necessary, provided that:

a. The Fort DuPont Complex will remain a public destination, with its historic, natural, and recreational resources maintained for public enjoyment;

b. Fort DuPont's National Register status (where applicable) will be maintained, and historic building and landscape resources will be rehabilitated and reused to the extent possible;

c. Redevelopment and infill will be concentrated within several defined areas, and will be complementary to existing historic buildings and landscapes;

d. Fort DuPont and Delaware City will grow together as “one city” with strong physical and visual connections and complementary land uses;

e. Diverse land and building uses will be supported at Fort DuPont to achieve a shared vision for a “live-work-learn-play-and-visit” community; and

f. Community engagement will continue to be a key component for ongoing planning for Fort DuPont’s future.

(4) In light of the foregoing, it is in the best interest of the State to enable the creation of an entity to manage, oversee, and implement the redevelopment and preservation of the Fort DuPont Complex in accordance with the Redevelopment Plan and the provisions of this subchapter.

§ 4732. Definitions.

When used in this subchapter:

(1) “Board” means the Board of Directors of the Fort DuPont Redevelopment and Preservation Corporation.

(2) “Corporation” means the Fort DuPont Redevelopment and Preservation Corporation to be established pursuant to § 4733 of this title.

(3) “Department” means the Department of Natural Resources and Environmental Control.

(4) “Fort DuPont Complex” or “Fort DuPont” means such real property, as well as such facilities, personal property, buildings, and fixtures located thereon, owned by the State along the Delaware River bounded by the Chesapeake and Delaware Canal on the south, and a branch canal, currently separating it from Delaware City, on the north, which includes the Fort DuPont State Park, the Governor Bacon Health Center, and surrounding lands, formerly tax parcel numbers 1202300020, 1202300021, 1203000001, and 1203000002.

(5) “Redevelopment plan” means the draft master plan for the redevelopment of the Fort DuPont complex dated October 2013, as may be amended from time to time by the Board, which is intended to guide the redevelopment of the Fort DuPont Complex.

§ 4733. Fort DuPont Redevelopment and Preservation Corporation.

(a) There shall be established within the Department a body corporate and politic, with corporate succession, constituting a public instrumentality of the State, and created for the purpose of exercising essential governmental functions, which is to be known as the Fort DuPont Redevelopment and Preservation Corporation. The Corporation shall be a membership corporation with the Department as the sole member and shall have a certificate of incorporation and bylaws consistent with this subchapter. The Board of Directors is hereby authorized to file a certificate of incorporation with the Secretary of State pursuant to Chapter 1 of Title 8. The certificate of incorporation of the Corporation shall provide for approval of the Delaware General Assembly in order to amend the certificate of incorporation or to effect a merger or dissolution of the Corporation.

(b) The powers and management of the Corporation shall be vested in a board of directors consisting of ~~15~~ 13 voting members. Each director shall have general expertise relevant to the implementation of the Redevelopment Plan, which may include expertise in the fields of land use, historic preservation, economic development (including without limitation real estate, redevelopment, and real estate financing), environmental protection, parks and recreation, and tourism. The Board ~~shall be comprised~~ is composed of the following directors:

(1) One director appointed by the Governor to serve as ~~Chair~~; Chair.

(2) The Secretary of the Department of Natural Resources and Environmental ~~Control~~; Control.

(3) ~~The Controller General;~~ General.

(4) ~~The Secretary of the Department of Health and Social Services;~~ The Director of the Prosperity Partnership.

(5) ~~The Secretary of State;~~ State.

(6) ~~The Director of the Office of Management and Budget;~~ Budget.

(7) ~~The Director of the Office of State Planning Coordination;~~ Coordination.

(8) ~~Four directors appointed by the Mayor of the City of Delaware City and approved by City Council of Delaware City;~~ The Co-chairs of the Capital Improvement Committee.

(9) ~~The City Manager of the City of Delaware City;~~ and City, in an ex officio capacity.

(10) ~~Three directors that shall be elected and appointed by the Board and shall to the extent possible have expertise in 1 or more fields or areas set forth in this subsection.~~ One director appointed by the Speaker of the House, who is a resident of Fort DuPont.

(11) One director appointed by the President Pro Tempore of the Senate, who is a resident of Delaware City.

(12) One director who is a resident of Fort DuPont appointed by the Governor.

(13) One director who is a resident of Delaware City appointed by the Governor.

Directors serving by virtue of their position may appoint a designee to serve in their stead. All appointed Directors shall serve at the pleasure of the appointing authority.

(c) Any vacancy created by the resignation or early departure of a director shall be filled by the appointing authority within 60 days.

(d) A majority of the total number of directors shall constitute a quorum of the Board, and all action by the Board shall require the affirmative vote of a majority of the directors present and voting.

(e) The Board shall adopt bylaws that provide for operating procedures such as election of officers, conflicts of interest, appointment of committees, conduct of meetings, and other matters that will promote the efficient operation of the Board in the performance of its duties under this subchapter. The bylaws shall include the following provisions:

(1) A requirement that any credit card purchase over \$500 must be approved by 2 members of the executive committee.

(2) A requirement that checks in an amount over \$10,000 require the signatures of the Treasurer and either the Chair or the Vice Chair of the Board.

(3) A requirement that a policy be adopted for the hiring and contracting process of the Corporation that is designed to be impartial and merit-based.

(4) A requirement that all contracts for purchase, sale, or lease of land be signed by the Executive Director and the Chair of the Board.

(f) Pursuant to subsection (a) of this section, the Board of Directors is provided express authority to file an amended and restated certificate of incorporation for the Fort DuPont Redevelopment and preservation Corporation consistent with ~~82 Del. Laws, c. 72-~~ [this Act.]

(g) The Board shall select from among its membership a Vice-Chair, who shall discharge the powers and duties of the Chair when the Chair is unavailable, incapacitated, or the position of Chair is vacant.

(h) The Controller General or the Controller General's designee shall serve as Treasurer of the Board.

§ 4734. Subcommittees.

(a) The Board may create subcommittees as needed to assist the Corporation in fulfilling its purposes and obligations. Each subcommittee shall have a Director of the Board serve as Chair and may include persons that are not directors of the Board. ~~Subcommittees may assist the Board in any of the following ways:~~

~~(1) Developing plans to implement recommendations from the redevelopment plan and tracking ongoing implementation efforts.~~

~~(2) Reviewing and providing recommendations on proposals for the purchase, sale, lease or disposition of lands or buildings.~~

~~(3) Providing guidance on updates to the redevelopment plan upon request by the Board or the executive director.~~

~~(4) Providing recommendations on infrastructure improvement plans, budgets, or any other matters referred by the Board or the executive director.~~

~~(5) Recommending rules, regulations and policies to the Board.~~

(6) [Repealed.]

(b)-(d) [Repealed.]

§ 4735. Powers of the Corporation.

(a) The Corporation shall have on July 23, 2014, and upon its creation as provided for herein the powers listed in this section. The Corporation shall be empowered, without limitation and notwithstanding any other laws to:

(1) Adopt bylaws, rules, regulations, and procedures;

(2) Act generally in a planning and development capacity, and in connection therewith, to hold, own, preserve, develop, improve, construct, rent, lease, sell, or otherwise acquire or dispose of any real property, including without limitation any real property comprising the Fort DuPont Complex or any portion thereof transferred to the ~~Corporation;~~ Corporation. The power in this paragraph (a)(2) does not exempt development and construction on the Fort DuPont Complex from otherwise applicable environmental law and regulatory requirements. All activity on the Fort DuPont Complex must comply with otherwise applicable permitting processes of the Department.

(3) Employ an executive ~~director~~ director, a deputy executive director, and such other deputies and assistants as may be necessary or desirable, and to retain by contract such legal counsel, engineers, advisors, and other providers of professional ~~services;~~ services.

(4) Borrow moneys or accept contributions, grants, or other financial assistance from the federal government, the State, any locality or political subdivision, any agency or instrumentality thereof, or any source, public or private, for or in aid of any project of the Corporation, and to these ends, to comply with such conditions and enter into such mortgages, trust indentures, leases, or other contracts and agreements as may be necessary or ~~desirable;~~ desirable.

(5) Have and exercise any and all powers available to a corporation organized pursuant to Chapter 1 of Title 8, the Delaware General Corporation Law; Law that are not inconsistent with this subchapter.

(6) Take such other lawful actions that are consistent with the purposes of this subchapter as may be necessary or desirable to oversee, manage, and implement the redevelopment and preservation of the Fort DuPont Complex in accordance with the redevelopment plan and the provisions of this ~~subchapter;~~ and subchapter.

(7) Recover costs for the use of, or the benefit derived from, the services or facilities provided, owned, operated, or financed by the Corporation benefiting property within the Fort DuPont Complex.

§ 4736. Powers and duties of executive ~~director.~~ director; deputy executive director

(a) An executive director shall be selected by a majority vote of the Board. The Board shall require executive director candidates to undergo a credit and criminal history background check. The executive director shall exercise such powers and duties relating to the Corporation as may be delegated to him or her by the Board. Compensation of the executive director shall be established by the Board, and the executive director shall serve at the pleasure of the Board.

(b) The executive director shall hire a deputy executive director, and may hire such additional deputies and assistants as are authorized by the Board. All hires must be approved by majority vote of the Board prior to assuming a position with the Corporation.

(c) The executive director or any employee of the Corporation may not receive any gift valued in excess of \$200 from the Corporation, the Board, or any member of the Board.

(d) The executive director or any employee of the Corporation may rent, lease, or purchase property on the Fort Dupont Complex but only for fair market value and through the Complex's standard rental or purchase process. Housing on the Fort DuPont Complex may not be included in an employee's compensation package.

(e) The executive director shall provide an annual written report of the Corporations activities to the Chair of the Board.

(f) The executive director shall provide an annual presentation to the City Council of Delaware City, setting forth any pending or approved changes to the Redevelopment Plan and a summary of development progress. The presentation shall be made in a public forum and time shall be reserved for public comment.

§ 4737. Initial duties of Corporation.

On or before June 30, 2015, the Corporation shall, at a minimum:

(1) Select and hire a qualified executive director;

(2) Perform or have performed such tests, studies, examinations, and evaluations upon the lands of the Fort DuPont Complex as may be desirable or necessary to permit such property to be transferred to the Corporation and to evaluate economic development opportunities and the historical and other resources to be preserved; and

(3) To develop such feasibility, sales, and marketing plans as may be required to preserve and redevelop the Fort DuPont Complex in accordance with this subchapter.

§ 4738. Continuing duties of Corporation.

(a) The Corporation shall prepare and submit an annual report of its activities during the previous year to the Governor and the Chair and Co-Chair of the Capital Improvement Committee of the General Assembly by January 1 of each year. Such annual report shall include all of the following:

(1) A complete list and explanation of all land it has acquired within the previous 12 months.

(2) A complete list and explanation of all development projects that may impact wetlands.

(3) An enumeration of all projects and services provided by Homeowners Association fees, and explanation of any duplication with services provided by Delaware City.

(b) The Corporation shall prepare and submit an annual audit which shall be provided to the Governor and the Chair and Co-Chair of the Capital Improvement Committee of the General Assembly by January 1 of each year.

§ 4739. Administration costs of Corporation.

§ 4740. Open meetings and public records.

The Fort Dupont Redevelopment and Preservation Corporation and its Board are "public bodies" for purposes of Chapter 100 of Title 29.

§ 4738 § 4741. Liberal construction of subchapter.

This subchapter, being necessary for the prosperity and welfare of the State and its citizens, shall be liberally construed to effect the purposes hereof.

Approved June 14, 2022