

Del. Op. Atty. Gen. 07-IB24, 2007 WL 4913657 (Del.A.G.)

Office of the Attorney General
State of Delaware

Opinion No. 07-IB24

December 27, 2007

Re: Freedom of Information Act Complaints Against Town of Dewey Beach

Ms. Ellen Danaher

Dear Ms. Danaher:

On July 24 and 25, 2007, our Office received your complaints under the Freedom of Information Act, 29 *Del. C.* Ch.100 (“FOIA”), alleging that the Town of Dewey Beach (“the Town”) violated FOIA by: (1) not providing the public with adequate notice about the building height of a Ruddertowne development proposal discussed at a series of meetings in May-July 2007; and (2) not providing you and the public with updated and complete copies of the Town's draft Comprehensive Plan.

According to your first complaint, the Town appointed a “Ruddertowne Architectural Committee (RAC)” in late 2006 “to find options for developing/saving the commercial features of Ruddertowne. The objective was to find a buyer/developer for the property or face Highway One [the owner of the property] demolishing Ruddertowne and building 48 townhouses. Harvey Hanna Associates (HHA) was the second developer the committee talked with. HHA put down a deposit on a large Ruddertowne parcel that Highway One wanted to sell. Informal talks began, then public meetings about the HHA proposal began.”

According to your first complaint, the HHA development proposal was controversial because HHA wanted “to build something as tall as the Lighthouse, which was about 70 feet tall, twice the height allowed in the current zoning code.”

By letter dated July 25, 2007, our Office asked the Town to respond to your complaints by August 6, 2007. Our Office received the Town's response by facsimile on August 6, 2007.

On August 9, 2007, our Office asked you and the Town for additional information which we received by August 17, 2007.

RELEVANT STATUTES

FOIA provides that “[a]ll public bodies shall give public notice of their regular meetings and of their intent to hold an executive session closed to the public, at least 7 days in advance thereof. The notice shall include the agenda,” 29 *Del. C.* § 10004(e)(2).

FOIA defines an “agenda” as “a general statement of the major issues expected to be discussed at a public meet-

ing, as well as a statement of intent to hold an executive session and the specific ground or grounds therefor” *Id.* § 10002(a).

FOIA requires public bodies to post conspicuous notice of their meetings “at the principal office of the public body holding the meeting, or if no such office exists, at the place where meetings of the public body are regularly held, ...” *Id.* § 10004(e)(4).

FOIA requires that “[a]ll records shall be open to inspection and copying by any citizen of the State during regular business hours by the custodian of records for the appropriate public body.” *Id.* § 10003(a).

LEGAL AUTHORITY

A. Public Meeting Issues

1. May 11, 2007 Town Council Meeting

a. Posting Notice

*2 You allege that the Town did not post notice of this meeting “in the two local newspapers. NOTE: Approximately 90% of Dewey Beach's property owners are nonresidents. Many of them subscribe to the local newspapers - The Cape Gazette and the Coast Press. They depend on the Legal Notices section to inform them of town meetings.”

“FOIA requires public bodies to post notice of all meetings ‘at the principal office of the public body holding the meeting, or if no such office exists at the place where meetings of the public body are regularly held.’” *Att’y Gen. Op.* 06-IB09 (Apr. 25, 2006) (quoting 29 *Del. C.* § 10004(e)(4)). “The purpose of requiring conspicuous posting of notice at the public body's principal office ‘is to ensure that no member of the public will have to search out to discover public meetings.’” *Att’y Gen. Op.* 06-IB09 (quoting *Att’y Gen. Op.* 97-IB13 (June 2, 1997) (quoting *Att’y Gen. Op.* 96-IB26 (July 25, 1996))).

According to the Town, it posted notice of the Council's May 11, 2007 meeting at Town Hall, 105 Rodney Street in Dewey Beach; at the Lifesaving Station Museum, # 1 Dagsworthy Avenue (where the Town Council holds its meetings); and on the Town's website. It is not disputed that the Town Hall is the Council's principal office. FOIA only requires a public body to post notices of meetings at its principal office. “While public bodies are encouraged to give notice in different forms,” *Att’y Gen. Op.* 01-IB10 (June 12, 2001), FOIA does not require a public body to publish notices of meetings in local newspapers. [FN1]

Our Office determines that the Town complied with the public notice requirement of FOIA by posting notice of the Council's May 11, 2007 meeting at the Town hall because that is the Town's principal office.

b. Agenda

The agenda for the Town Council's May 11, 2007 meeting listed, “Old Business ... b. Discuss and give an update the Ruddertowne Architectural Design Committee's activities.” You contend the agenda “failed to draw the public's attention to the fact that a specific important subject (building height and tall buildings) was associated with the agenda item.”

The minutes of the May 11, 2007 meeting reflect that a member of the Ruddertowne Architectural Committee (“RAC”) informed the Council that he had met with representatives of Harvey Hanna & Associates, Inc. (“HHA”) to discuss a development proposal to be presented to the RAC at its meeting on May 24, 2007. The

minutes of the May 11, 2007 Council meeting do not reflect any discussion of building height.

According to your complaint, members of the RAC had met with HHA several times already and the committee was aware “that HHA was going to ask to build something taller than the current 35 foot height limit and that height adjustments would have to be made” and that “there might be citizen opposition to that.” You contend that the issue of building height should have been raised for discussion in the agenda for the Council’s May 11, 2007 meeting.

***3** FOIA, however, does not determine when a public body must take up a matter of public business. FOIA only requires a public body to give notice to the public of the matters of public business it intends to discuss at a meeting. A public body controls its own agenda, so if the Town Council did not wish to discuss any building height issues associated with the HHA development at May 11, 2007 meeting, FOIA did not require it to do so at that time.

Our Office determines that the agenda for the Council’s May 11, 2007 meeting sufficiently notified the public that there would be discussion of the RAC’s recent activities, which included the HHA development proposal. FOIA did not require the Council to discuss any building height issues that might be associated with the HHA proposal at that time.

2. May 24, 2007 RAC Meeting

The agenda for the RAC’s May 24, 2007 meeting listed for discussion, “Presentation of Harvey Hanna.” You contend the agenda failed “to draw the public’s attention that an important subject of concern to them (building height) would be treated.”

The minutes of the May 24, 2007 RAC meeting reflect that after an attorney for HHA made a presentation, Commissioner Eisenhower “stressed the importance of design: It will be difficult to get any agreement for any structures to be higher than the Lighthouse. David King likes the scale of the Town: 60-70 ft. structures would be a deal breaker. Height is a critical issue.” The RAC scheduled further public meetings to discuss the HHA development proposal on June 15, 22, and 29, 2007.

FOIA requires an agenda to include “a general statement of the major issues expected to be discussed at a public meeting.” *29 Del. C. § 10002(a)*. “An agenda serves the important function of notifying the public of the matters which will be discussed and possibly voted on at a meeting, so that members of the public can decide whether to attend the meeting and voice their ideas or concerns.” *Att’y Gen. Op.* 05-IB11 (Apr. 11, 2005) (quoting *Att’y Gen. Op.* 03-IB22 (Oct. 6, 2003) (quoting *Att’y Gen. Op.* 97-IB20 (Oct. 20, 1997)).

In *Att’y Gen. Op.* 05-IB30 (Oct. 24, 2005), the agenda for the Laurel Town Council’s meeting listed for discussion, “Bob Harris, Gulf Stream Development.” Our Office determined that this agenda item provided the public with adequate notice that the Council might discuss matters related to the development, such as writing a letter to the county planning and zoning commission in support of a conditional use request by the developer. “In determining the sufficiency of an agenda for a public meeting, we believe we should also consider the local context. The item listed in the agenda for the July 5, 2005 Town Council meeting - ‘Bob Harris, Gulf Stream Development’ - might not mean anything to a resident of New Castle County. But to a resident of the Town [of Laurel], it might be sufficient notice based on prior public discussion of the same matter.” *Att’y Gen. Op.* 05-IB30.

***4** “The [Laurel] Town Council discussed the [Gulf Stream Development] annexation and related water/sewer

issues in public prior to the July 5, 2005 Council meeting In light of this previous public discussion of the [Gulf Stream] development, we believe that the agenda for the July 5, 2005 meeting sufficiently apprised the public that the Council would discuss issues related to the [Gulf Stream Development] property.” *Id.*

You provided us with an article published in the *Cape Gazette* on May 8, 2007 which reported on development proposals for Ruddertowne and the possibility of a building height variance. You contend this was significant because “[c]itizen opposition to tall buildings was talked about in the article and had been at previous Town Council meetings.”

Our Office reviewed the minutes of meetings of the RAC since its inception in late 2006 leading up to the May 24, 2007 meeting. The minutes reflect that at the February 1, 2007 meeting the committee discussed “the possibility of easing height restrictions.” At the March 16, 2007 meeting the committee again discussed “square footage, height limits, etc.” and the possibility that “the zoning codes must be revised.”

Our Office determines that the agenda for the RAC's May 24, 2007 meeting sufficiently alerted the public that the Council would discuss development proposals for Ruddertowne, which might include the issue of building height. As you acknowledge, the issue of building height was the subject of discussion “at previous Town Council meetings” and we have found that building height was also discussed at prior meetings of the RAC. Given the local context, our Office does not believe that FOIA required the RAC to specifically mention building height in the agenda for its May 24, 2007 meeting.

3. June 8, 2007 Council Meeting

a. Posting Notice

You allege that you “found no published public notices for the June 8 Town Council meeting in either the Cape Gazette or the Coast Press.” FOIA does not require a public body to publish notice of meetings in local newspapers, only to post notice at the public body's principal office. According to the Town, it posted notice of the Council's June 8, 2007 meeting at the Town Hall; at the place of the meeting (the Lifesaving Station Museum); and on the Town's website. Our Office determines that the Town satisfied the public notice requirements of FOIA by posting notice of the Council's June 8, 2007 meeting at its principal office, the Town Hall. FOIA did not require the Town to give the public notice of that meeting by publication in local newspapers.

b. Agenda

The agenda for the Town Council's June 8, 2007 meeting listed, “8. Old Business a. Discuss and give update of the Ruddertowne Architectural Design Committee's activities.” You contend this agenda item “did not draw the public's attention to the important subject of building height. It was a very hot topic by this time.”

*5 The minutes of the June 8, 2007 meeting reflect that Commissioner Eisenhower gave an update on the May 24, 2007 RAC meeting and the HHA development proposal. The minutes of the June 8, 2007 Council meeting do not reflect any discussion of building height. You contend that the agenda for the June 8, 2007 Council meeting should have alerted the public to the building height issue associated with the HHA development plan which came up at the May 24, 2007 meeting of the RAC.

Again, FOIA does not prescribe when a public body must take up a matter of public business. FOIA only requires a public body to give notice to the public of the matters of public business it intends to discuss at a meeting. Our Office determines that the agenda for the Council's June 8, 2007 meeting sufficiently alerted the public that there would be discussion of the HHA development proposal. FOIA did not require the Council to address

the issue of building height at that time.

3. June 15, 22, and 29, 2007 RAC Meetings

a. Posting Notice

On May 25, 2007, the Town posted notice of three RAC meetings for June 15, 22, and 29 to discuss the HHA “options for the Ruddertowne property.” On June 8, 2007, the Town posted an amended agenda for the June 15, 2007 RAC meeting which listed: “Harvey Hanna & Associates, Inc. Group will present a proposal to develop the site between Dickinson and Van Dyke Avenues Southwest corner of Route 1 Discussion will include height, commercial uses, business types, landscaping, awnings and roof design.” [FN2]

You contend that the Town did not give the public adequate notice of the three RAC meetings (June 15, 22, and 29, 2007). You acknowledge that the Town published notice of the June 15, 22, and 29, 2007 meetings of the Ruddertowne Architectural Committee in the *Cape Gazette* and the *Coast Press*. You contend, however, that the timing of the meetings raised concerns about adequate notice to non-residents: “The meetings were on Friday nights. Town Hall was closed Saturday and Sunday. Newspapers came out on Tuesday and Thursday and Friday [and nonresidents might not receive them for several days later]. There was some concern about the meetings being so close together and the problems of adequately notifying the public.”

According to the Town, it posted notice of the June 15, 22, and 29, 2007 RAC meetings at the Town Hall; at the Lifesaving Station Museum (where the meetings were held); and on the Town's website. Our Office determines that the Town complied with the public notice requirements of FOIA by posting notice of those meetings at the Town's principal office, the Town Hall. [FN3]

b. Agenda

You contend that the “wording of the public notices ... did not draw the public's attention to the important issue of building height.” The original agenda for the June 15, 22, and 29, 2007 RAC meetings listed “a presentation by Harvey/Hanna on options for the Ruddertowne property.” The amended agenda for the June 15, 2007 meeting was more detailed: “The Harvey Hanna & Associates, Inc. group will present a proposal to develop the site between Dickinson and Van Dyke Avenues Southwest corner of Route 1 Discussion will include building height, commercial uses, business types, landscaping, awnings and roof design.” The agenda also stated: “After the presentation, public comment will be accepted. If all comments cannot be completed that evening, the meeting may be recessed until another date to receive comments and/or cover agenda items.”

*6 Our Office determines that the agendas for the June 15, 22, and 29, 2007 RAC meetings adequately informed the public that the HHA development proposal would be discussed, including the issue of building height. The revised agenda for the June 15, 2007 meeting specifically mentioned “building height” and that the issues discussed might continue at the RAC meetings scheduled for June 22 and 29, 2007 “to receive [public] comments and/or cover agenda items.”

4. June 22, 2007 RAC Meeting

The agenda for the RAC's June 22, 2007 meeting listed for discussion, “a presentation by HarveyHanna on options for the Ruddertowne property.”

You allege that “[a]t the June 15 [, 2007] meeting, the RAC had discussed writing an informational letter/survey to the citizens regarding the HHA proposal. But at the June 22 [, 2007] meeting, they changed their minds and decided not to send out a survey to property owners.” You contend the committee should have disclosed in the

agenda for the June 22, 2007 meeting that the committee would not send a survey letter.

Our Office does not believe that FOIA required the RAC to state in the agenda for the June 22, 2007 meeting what action the committee might take with regard to a survey letter to property owners about the HHA proposal. "FOIA only requires an agenda to include a general statement of the major issues to be discussed." *Att'y Gen. Op.* 06-IB09 (Apr. 25, 2006). FOIA does not require a public body "to detail in the agenda ... every possible course of action it might take" or "to state all of the consequences which may necessarily flow from the consideration of the subject stated." *Id.*

Our Office determines that the agenda for the June 22, 2007 RAC meeting adequately informed the public that the Committee would discuss the HHA development proposal and issues related to that proposal like the survey letter. At the June 15, 2007 meeting the committee had discussed sending a survey letter to homeowners about the HHA development proposal, and then recessed to continue discussion at the next meeting on June 22, 2007. Given this local context, we believe that the committee could revisit the survey letter at the June 22, 2007 meeting without specific mention of the letter in the agenda for that meeting.

5. June 29, 2007 RAC Meeting

The agenda for the June 29, 2007 meeting listed, "Discuss and Vote to send to the Commissioners a recommendation regarding the Highway One Dickinson Ave. development proposal from Harvey Hanna Associates." You contend that the agenda for the June 29, 2007 meeting did not notify the public that the RAC "would vote on whether to approve the HHA proposal and send the proposal forward to the Town Council for their consideration." In fact, the agenda for that meeting specifically stated that the committee would vote to "send to the Commissioners a recommendation regarding the Highway One Dickinson Ave. development proposal from Harvey Hanna Associates."

*7 You also contend that the agenda did not mention "building height but there was lots of press coverage and there had been a mailing to property owners by a grassroots organization opposed to going above 35 feet." The issue of building height was the subject of public discussion at the June 15 and 22, 2007 meetings of the RAC. Given this local context, our Office believes that the agenda for the June 29, 2007 adequately informed the public that the committee would discuss and vote on the HHA development proposal which might require a building height variance.

7. July 13, 2007 Council Meeting

a. Posting Notice

You allege that "[t]here were no published notices of the July regular meeting of the Town Council in the legal notices sections of the Coast Press or Cape Gazette." FOIA did not require the Town to publish notices of meetings in local newspapers. According to the Town, it posted notice of the July 13, 2007 Council meeting at the Town Hall; on the Towns' website; and at the Baycenter at Ruddertowne, a larger facility where the meeting was held "due to anticipated attendance." [FN4]

Our Office determines that the Town complied with the public notice requirements of FOIA by posting notice of the Council's July 13, 2007 meeting at the Town's principal office, the Town Hall.

b. Agenda

The agenda for the Council's July 13, 2007 meeting listed for discussion under "New Business ... e. Discuss and Vote to send to Referendum the issue of changing the current Zoning Code of 35 feet regarding height of the

Town's Zoning Code.” You allege that “[w]hen it came time for the discussion of item e., Mr. Tucker, the attorney for HHA, started passing out a 15-page supplement to item e. to the Commissioners and the public The 15-page version spelled out exactly which sections and lines in the zoning code they wanted changed and how they wanted them changed.”

Our Office determines that the Town gave the public adequate notice in the agenda for the July 13, 2007 meeting that the Council would discuss changing the height limitation in the zoning code. FOIA only requires an agenda to include “a general statement of the major issues expected to be discussed at a public meeting.” *29 Del. C. § 10002(a)*. We do not believe that FOIA required the Town to detail in the agenda for the July 13, 2007 meeting the specific revisions to the zoning code necessary to change the height limitation.

B. Public Record Issues

You allege that on July 13, 2007 you went to Town Hall and requested and received a copy of the Town's draft Comprehensive Plan “with two cover sheets: one dated October, 2006, and one dated May, 2006. The pages of text were dated 2-12-07 (not the latest revision and not the 10-31 -06 version that's on the website) and only Maps 1-7 were included. Maps 8 and 9 were not in the package.” According to your complaint, after you asked for Maps 8 and 9 the Town provided them to you.

*8 You allege that in May 2006 two other citizens asked the Town for a copy of the draft Comprehensive Plan and did not receive Maps 8 and 9. According to your complaint, “that demonstrated to me that the maps were available and could have been included in the copies of the Plan that the Town was giving to citizens It also showed that the Town had all nine maps and could have put them on the website for citizens to look at and download.” You acknowledge that on July 27, 2007 the Town “added Maps 1-9 to the website version of the Comprehensive Plan” but allege that “the most recent draft of the Plan - 6/21/07 - was still not available on the website.”

You contend that the Town violated the public records requirements of FOIA by not posting the complete, most recent draft of the Comprehensive Plan on the Town's website. According to your complaint, “When citizens ‘enter’ a town website (instead of walking into a municipal office) and click on ‘Comprehensive Plan,’ they are asking for a public record [T]he public record that was given to the citizens by the Town [on its website] was not an accurate version of the information the citizens were requesting.”

You contend that FOIA required the Town to “make an updated current version of the Plan available to the citizens ... electronically ... on the [Town's] website” because “significant changes have been made in the Plan since October, 2006.”

The Town responds that FOIA does not require “that electronic copies of all documents, ... be maintained on a town website. The Town does that as a courtesy, however the official copies are maintained at Town Hall. As the complainant stated, when she came to Town Hall to get copies of maps 8 and 9, they were given to her.”

According to the Town, the initial draft of the Comprehensive Plan was dated May 30, 2006. The Town revised the plan on October 31, 2006, February 12, 2007, and June 21, 2007 (the last draft). According to your complaint, when you went to the Town Hall on July 13, 2007 to request a copy of the plan, initially you received the February 12, 2007 draft. You acknowledge that you then asked for and received the draft “dated 6/21/07.”

Based on this record, our Office determines that the Town did not violate the public record requirements of FOIA by initially providing you with an older draft of the Comprehensive Plan without all of the attached maps.

When the Town provided you with a copy of the most recent draft (revised as of June 21, 2007) with all of the attached maps, the Town cured any possible FOIA violation. [FN5]

Our Office now addresses your other public records claim: that the Town did not post updated, complete versions of the draft Comprehensive Plan on the Town's website.

Delaware's FOIA requires public bodies to make public records available for "inspection and copying ... during regular business hours by the custodian of records for the appropriate public body." 29 Del. C. § 10003(a). Implicit in the concept of "business hours" is that public records must be made available at a physical place (even though the records may be in electronic form), in most cases at the public body's principal place of business. It follows that FOIA does not require a public body to make all of its records available for inspection and copying on a website which is accessible (to those with a computer) twenty-four hours a day. Otherwise, it would not be possible to determine the proper venue for suing in court to remedy a FOIA violation. See 29 Del. C. Section 10005(b)(venue is laid where the public records are located).

*9 Under the federal FOIA, federal agencies are required to establish a website and post certain records on that website as an "electronic reading room." See Electronic Freedom of Information Act Amendments of 1996, Pub.L. No. 104-231, 110 Stat. 3048, codified in 5 U.S.C. § 552(a)(2)(E). Delaware's FOIA, in contrast, does not require municipalities to establish or maintain a website to post public records in electronic form. [FN6]

Our Office encourages public bodies to establish websites to make information easily and readily accessible to citizens and promote "e-government." But FOIA does not require a public body to establish or maintain a website. Even if a public body chooses to establish and maintain a website, FOIA does not prescribe what records the public body must post on that website or how often.

Our Office determines that the Town did not violate the public record requirements of FOIA. The Town provided you with a copy of the most recent draft Plan (revised as of June 21, 2007) with all of the appended maps after you asked for copies at the Town Hall. FOIA did not require the Town to put its draft Comprehensive Plan on the Town's website. Once the Town put the October 31, 2006 draft plan on its website, FOIA did not require the Town to append the nine maps to the Plan or to put later revisions of the Plan on the Town's website.

CONCLUSION

For the foregoing reasons, our Office determines that the Town did not violate the public notice requirements of FOIA. The record confirms that the Town posted notices of the May 11, June 8, and July 13, 2007 Council meetings at the Town Hall, the Town's principal office, as required by FOIA. The record confirms that the Town posted notices of the May 24 and June 15, 22, and 29, 2007 RAC meetings at the Town Hall, the Town's principal office, as required by FOIA. The Town also posted notices of those meetings at the place where they were held (the Lifesaving Station or the Baycenter) and on the Town's website to ensure even greater public awareness and participation. FOIA did not require the Town to publish notice of those meetings in local newspapers (like the *Coast Press* and *Cape Gazette*), even though the Town chose to publish notice of the RAC meetings in those newspapers.

Our Office determines that the agendas for the May 11, June 8, and July 13, 2007 Council meetings and the May 24 and June 15, 22, and 29, 2007 meetings of the RAC adequately notified the public of the matters of public business that would be discussed, in particular the HHA development proposal. Not all of the agendas specifically mentioned the building height issue associated with the proposal, but that issue had been the subject of prior

and ongoing public discussion. Given the local context, our Office believes that the agendas for those meetings sufficiently alerted the public that the building height issue might come up again.

Our Office determines that the Town did not violate the public record requirements of FOIA by not posting complete and updated copies of the of the Town's draft Comprehensive Plan on the Town's website. FOIA only requires that public records be available for inspection and copying at the public body's place of business during regular business hours. FOIA does not require a public body to maintain a website or to post electronic copies of records on that website. Pursuant to your request, the Town provided you with the most recent draft Plan and all of the appended maps when you went to the Town Hall on July 13, 2007 and asked for copies. FOIA did not require that the Town also make those records available to you and other members of the public on the Town's website.

Very truly yours,
*10 W. Michael Tupman, Esquire
Deputy Attorney General

Approved

Lawrence W. Lewis, Esquire
State Solicitor

[FN1]. Our Office appreciates your concern about notice to non-residents. Because the Town posts meeting notices on its website, non-residents can access the agendas for upcoming meetings without having to visit the Town Hall.

[FN2]. FOIA allows a public body to amend an agenda after initial posting up to six hours before a meeting but the "reasons for the delay in posting [must] be briefly set forth in the [amended] agenda." *29 Del. C. § 10004(e)* 5). The amended agenda for the June 15, 2008 RAC meeting stated that it "was amended June 8, 2007 due to comments received at the June 8, 2007 [Council meeting]." Our Office believes that was a sufficient reason to amend the agenda for the June 15, 2007 RAC meeting. *See Att'y Gen. Op. 02-IB22* (Sept. 13, 2002) (executive committee of the New Castle County Council did not violate FOIA when it amended an agenda after its initial posting to include issues which came up at a meeting of the County Council two days after the committee originally posted the agenda for its meeting).

[FN3]. There is no evidence in the record to suggest that the timing of the three June 2007 meetings of the RAC (one week apart) deprived members of the public of the opportunity to attend. The minutes of those three meetings reflect that they were well attended by members of the public who had an opportunity to express their views during a period on the agenda reserved for public comment.

[FN4]. Our Office has determined that "if a public body has reason to know that a large number of citizens is likely to attend a meeting, then FOIA requires the public body to find another, larger space for the meeting." *Att'y Gen. Op. 02-IB09* (Apr. 12, 2002). Our Office commends the Town for recognizing the extensive public interest in the Ruddertowne development proposal and moving the venue for the July 13, 2007 meeting to the Bay-center to accommodate all those who wanted to attend.

[FN5]. Our Office does not express any opinion whether the Town might have violated FOIA by providing older drafts of the Comprehensive Plan to other citizens without all of the attached maps because you do not have

standing to raise that claim under FOIA. *See* [29 Del. C. § 10005\(e\)](#) (only a citizen denied access to public records may petition the Attorney General for relief).

[\[FN6\]](#). However, Delaware's FOIA requires public bodies in the executive branch of state government subject to FOIA to post notices and minutes of their meetings “to the designated State of Delaware website approved by the Secretary of State.” *29 Del. C. § 1000(e)(4), (f)*.

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