

TOWN MANAGER'S WEEKLY REPORT



UPCOMING MEETINGS & EVENTS ...

- ✓ **Sussex County Association of Towns:** Wednesday, February 5th, at 6:00 PM, hosted by Georgetown at the Sussex Pines
- ✓ **Sussex County Association of Towns Steering Committee:** Friday, February 7th, at 9:00 AM, Arena's at the Airport
- ✓ **Town Council Meeting:** Wednesday, February 12th, 7:00 PM, Town Hall

UPDATES FROM DEPARTMENTS ...

Finance

- 2013 W-2's have been distributed to employees; 941 forms have been filed
- As of 01/23/14 – 35 customers have made payments online
- We have collected \$317,606 (40%) of our January utility billing

Planning

- 2014 Business License renewal update. As of January 23rd, the following has been renewed:
 - In-Town Business: 84% (\$26,540.00)
 - Out of Town Business: 59% (\$44,442.00)
 - Rentals: 89% (\$67,840.00)

Police

- Significant Incident Reports distributed as received

Public Works

- Snow removal went well – no damage to equipment or property
- New tractor delivered to Maintenance Yard – acquired through LESO Program (see photo 1)
- Two (2) sewer laterals completed on Franklin Street, remaining two (2) scheduled for next week (Inflow & Infiltration repairs)

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Wastewater

- Large Lagoon depth is 16 $\frac{3}{4}$ feet and Small Lagoon depth is 4 feet
- Working with Pettyjohn Farms to schedule timing for repairs to spray piping

TOWN MANAGER'S UPDATE ...

- Delivery of new tree grates for East Market Street anticipated within next two weeks
- Met with legal counsel to review and discuss Transitional Housing Ordinance
- Attended Delaware League of Local Governments. Presentation by Bill Bowser (Young Conaway Stargatt & Taylor) on "Hot Topics in Employment Law" (copy attached)
- Represented the Town at the Blueprint Committee Team meeting
- Resolved resident concern over water bill issue
- Met with local realtor to discuss utilities, permitted uses and planning process



Photo 1 – New Tractor

***PLEASE NOTE THIS REPORT AND ANY ATTACHMENTS ARE ONLY BEING SENT
ELECTRONICALLY UNLESS OTHERWISE REQUESTED***

Hot Topics In Employment Law

William W. Bowser, Esq.
Young Conaway Stargatt & Taylor, LLP



Agenda

- New Laws
- Bills to Watch



New Laws

- Gender Identity
- Medical Marijuana
- First Responders



Gender Identity Discrimination

- Delaware Discrimination In Employment Act amended to prohibit discrimination based on "gender identity"

Gender Identity Discrimination

- What is gender identity?
 - Different than sexual orientation
 - More than just wearing clothes of opposite gender
 - Relates to internal sense of self as male or female
 - May involve outward presentation and behavior related to that internal sense of self

Gender Identity Discrimination

- Transgender
 - Gender identity does not match biological sex at birth

Gender Identity Discrimination

- Statute defines "gender identity" as:
 - "a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth."
 - "gender identity may be demonstrated by consistent and uniform assertion of the gender identity or any other evidence that the gender identity is sincerely held as part of a person's core identity; provided, however, that gender identity shall not be asserted for any improper purpose."

Gender Identity Discrimination

- Common Issues:
 - "joking" about an individual's external appearance (e.g., dress, facial hair, or physical build),
 - resistance to using proper gender pronouns to refer to a transgender individual, and
 - reluctance to share communal bathrooms designated for use by gender.

Medical Marijuana

- Delaware legalized marijuana for medicinal purposes on May 11, 2011
- Delawareans with certain specific debilitating medical conditions and who have received certification of a physician will be able to legally purchase marijuana at "compassion centers."

Medical Marijuana

- Discrimination in hiring, termination, or other terms and conditions of employment is prohibited.
- Cannot discipline "cardholder" for positive drug test unless person "used, possessed, or was impaired by marijuana" at work during normal working hours.
 - "Impaired" is not defined.

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Medical Marijuana

- Marijuana use remains illegal under the federal Controlled Substances Act
- Federal Prosecutors warned that employees at "compassion centers" could be subject to prosecution
- Governor Markell suspended licensing of Centers until August 2013
- DHHS issued regulations in October 2013
- One Center can start growing July 1, 2014

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First Responders

- Volunteer Emergency Responders Job Protection Act
 - Who is covered?
 - Volunteer firefighter
 - Ladies auxiliary
 - Volunteer EMT
 - Volunteer fire police

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First Responders

- Volunteer Emergency Responders Job Protection Act
 - What is prohibited?
 - Termination, demotion or other disciplinary action under the following conditions:
 - Governor-declared state of emergency up to 7 days
 - President-declared state of emergency up to 14 days
 - Absence due to injury while acting as responder

First Responders

- Volunteer Emergency Responders Job Protection Act
 - Don't have to pay them for absence
 - Employee must make "reasonable efforts" to inform you of absence
 - You can get verification of service or injury

First Responders

- Delaware Discrimination in Employment Act
 - Expanded to cover same group
 - Can't discriminate

Bills to Watch

- Expansion of Collective Bargaining Rights
- "Ban the Box"

Collective Bargaining

- Delaware has two separate collective bargaining laws that cover:
 - Police and Firefighters
 - Everybody Else

Collective Bargaining

- Who is covered?
 - Police and Firefighters
 - City or Town must have 25 or more full-time employees
 - Note: Not 25 or more officers
 - Everyone else
 - City or Town must have 100 or more full-time employees

Collective Bargaining

- HB 81
 - Affects rights of Police and Firefighters only
 - Would lower threshold for coverage from 25 to 3 full-time employees

Ban the Box

- HB 167 would prohibit public employers from considering certain information about a job applicant before a job offer is made
- Employer cannot consider
 - Criminal Record
 - Criminal History
 - Credit score

Ban the Box

- HB 167 limits scope of criminal background checks to:
 - Felony convictions within last 10 years
 - Misdemeanor convictions with last 5 years

Ban the Box

- If employer is going to rely on criminal record, employer must consider five factors:
 - Nature of crime and relationship to job duties;
 - Degree of rehabilitation and good conduct produced by employee;
 - Whether job would provide opportunity for similar offense;
 - Whether circumstances leading to offense are likely to reoccur; and
 - Time elapsed since offense

Ban the Box

- Exceptions
 - Police departments
 - Required or permitted by State law
- Arrest records
 - No exception for arrests even if independently verified.

Thank You
