

October 25, 2018

BY LAWS OF THE TRUSTEES OF THE POST-EMPLOYMENT
BENEFITS OTHER THAN PENSION (OPEB) TRUST FUND

ARTICLE I. NAME, PURPOSE

The name of the Trust is the New Castle County Other Post-Employment Benefits (“OPEB”) Fund. It was established in accordance with New Castle County Code Section 26.03.911, as amended, which was originally adopted as Substitute to Ordinance 08-068, enacted by the New Castle County Council on June 24, 2008. The purpose of the Fund is to pay the retiree benefits and related expenses of New Castle County. The Trust instrument was executed by the trustees at the first meeting on September 11, 2008.

The Trust is intended to be construed as a trust separate and distinct from all other entities and as an asset for purposes of financial reporting under the requirements of the Governmental Accounting Standards Board Statements Number 74 and Number 75. It is further intended that the income from the Trust be exempt from Tax under Section 115 of the Internal Revenue Code as income derived from the exercise of an essential governmental function of the County, a political subdivision of the State of Delaware.

ARTICLE II. BOARD OF TRUSTEES

A. Composition of the Board

1. The Board of Trustees shall consist of the following members, as set forth in the ordinance:
2. The Chief Administrative Officer
3. The Chief Human Resources Officer
4. The Chief Financial Officer
5. The Compensation and Pension Systems Coordinator
6. One Representative from the Office of Finance, designated by the Chief Financial Officer
7. One Representative from among the County labor unions, to be jointly selected by all of the unions.

B. Officers

The Trust shall have the following officers:

1. The Chairperson, who shall be the Chief Administrative Officer of the County.
2. The Administrator of the OPEB program who shall be the Chief Human Resources Officer of County.

3. The Treasurer, who shall be the Chief Financial Officer of the County and who shall have custody of the Fund's monies and securities.

ARTICLE III. MEETINGS

A. Notice

The Trustees shall be given notice of scheduled meetings, and these meetings shall be publicly noticed in accordance with the provisions of the Freedom of Information Act.

B. Voting

Each Trustee shall be entitled to one (1) vote on the Board at any regular or special meeting. Any action may be taken by the Trustees by the affirmative of a simple majority, provided the meeting was properly noticed.

C. Quorum

Four Trustees shall constitute a quorum. In the absence of a quorum no formal action shall be taken except to adjourn the meeting to a subsequent date.

D. Agenda

Agendas shall be provided at least three (3) days in advance of meetings.

E. Chair

The Chairperson shall preside at the meetings.

F. Vice Chair

The Chief Financial Officer shall serve as Vice Chair and shall preside at meetings if the Chair is absent.

G. Minutes

The Chief Financial Officer shall be responsible for the minutes, keep all approved minutes in a minute book and distribute copies to all Trustees. The Administrator shall provide support and recording equipment for meetings.

ARTICLE IV. POWERS AND DUTIES OF TRUSTEES

- A. Trustees shall have all powers necessary or desirable to perform properly the duties set forth herein.

In extension and not in limitation of the powers given them by law or by other provisions of this Trust Agreement, Trustees shall have the following powers with respect to the Trust Fund in accordance with New Castle County Code Section 26.03.911, as amended:

(i) To invest and reinvest the funds held in the OPEB fund in accordance with the investment policy adopted or confirmed by the Board from time to time. The Board shall discharge its duties with respect to investment of the fund solely in the interest of participants and beneficiaries of the *OPEB* fund.

(ii) To manage the funds for the exclusive purpose of providing post-employment benefits other than pensions to County retirees and defraying reasonable expenses of administering the Fund;

(iii) To perform their duties with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(iv) To diversify the investments of the OPEB fund so as to minimize the risk of large losses, unless doing so is clearly not prudent under the circumstances.

(v) To keep as an available fund for current expenditure an amount not to exceed the anticipated requirements for such purposes for a period of ninety (90) days.

(vi) To review the investment policy and revise or confirm it as appropriate no less frequently than at one-year intervals. Such review shall include review and comment by a qualified person or entity engaged by the Board.

(vii) To enter into arrangements with qualified persons, agents or entities as in its discretion may be useful to enable it to perform its investment duties, or to enter into investment management agreements with qualified persons, agents or entities under which investment responsibilities of the Board shall be delegated to such persons, agents, or entities.

- C. Trustees shall adhere to the New Castle County Code of Ethics¹ in fulfilling their duties to OPEB.

ARTICLE V. AMENDMENTS

These by-laws may be amended by a vote of at least two thirds of the Board, provided a quorum is present, the meeting has been properly noticed, and the trustees have been provided with a copy of the proposed amendment at least one week prior to the meeting.

Adopted April 23, 2009; Amended October 25, 2018

¹ *New Castle County Code § 2.03.100 et seq.*