



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES

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February 1, 2012

The Honorable Paul G. Clark
New Castle County Executive
87 Reeds Way
New Castle, DE 19720

Dear Mr. Clark:

I write on behalf of the State Council for Persons with Disabilities (SCPD) regarding New Castle County's decision to contract for the erection of a 20,000 square foot skateboard arena situated within the 300-acre Glasgow Park. Prior to completion, many skateboarders "hopped the fence" and began using the facility. The attached News Journal article describes the situation. In response, the County hired a security firm to deter use until the construction is completed and the skateboard park officially opened.

The article notes that the County plans to maintain the park with no oversight and no standards for safety equipment. This has raised valid concerns within County Council:

There will be no security guard at the park once it opens. People can use it from dawn to dusk. "We'll have rules, but it's going to be an unmanned facility," he (Jon Husband) said. "It will be skate at your own risk. We'll recommend that people wear helmets and pads, but if they choose not to, it will be their own risk and their own liability."

That concerns County Councilman Bob Weiner, who thinks the county should look into having someone monitor skating at the park or hire a contractor to do so. He thinks the county could get sued if someone is injured in the park. "It's an ultra-hazardous activity and precautions need to be taken," Weiner said.

On January 2, the News Journal published the attached follow-up article discussing the issues.

The County's laissez faire approach to the park will predictably be disastrous. With 150 participants there during construction, the park will be extremely crowded upon opening with a hodgepodge of little children, teens, and large adults using skateboards, bikes, skates, and rollerblades doing "tricks" on uneven concrete surfaces with metal railings with no helmets or protective gear. It is difficult to imagine a more "risk-laden" situation

that will predictably result in many concussions and broken bones.

SCPD strongly encourages the County to mandate a “staffed” site, requirement of at least a helmet, and other safety standards. Virginia Beach has maintained a similar 24,000 square foot skate park for decades known as Mt. Trashmore. It therefore has considerable experience with operation. Consistent with the attachments, it requires all participants to apply for a free park pass which includes a signed waiver of liability. The park is staffed and, upon presentation of the pass, pass holders are given a wrist band to enter the park. Helmets are required and no electric or motorized scooters or bikes are permitted.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Daniese McMullin-Powell". The signature is written in a cursive, flowing style.

Ms. Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

cc: New Castle County Council
Division of Public Health
Brain Injury Association of Delaware
Nemours/AI DuPont

P&L/polices/NCC Glasgow Park – 1-27-12



Skate Parks

The City of Virginia Beach operates two premier skate parks located in Mount Trashmore Park and Woodstock Park. Both skateboarding facilities are free and open to the public.



Mount Trashmore Skate Park is a 24,000 square foot extensive street course flowing from an aboveground, seven-foot deep bowl. The skate park components are framed with treated wood and completely covered with composite material. It boasts a Skatelite Pro skating surface that skateboarders, inline skaters, and BMX bikers can enjoy.

Adjacent to the skate park is a competition-sized vert ramp that stands at a massive 13.5 feet tall and 40 feet wide. Located at 310 Edwin Drive. Phone: (757) 473-5237

Woodstock Park Skate Plaza has 10,400 square feet of concrete skateable area and 3,200 square feet of interior green space. Boasting several challenging components, the plaza contains a five-foot tall quarter pipe, vert wall, rails, hubba ledges, radial ledges, stairs and handrails to provide endless skating action. Bleachers are available for spectators. Located at 5709 Providence Road. Phone: (757) 366-4538

Coming in September 2012: Williams Farm Skate Park! [Learn more](#) about this exciting addition!

Skate Pass Information

Skate park participants must sign-up for a **free** skate park pass. The skate pass is valid for Mount Trashmore Skate Park and Woodstock Skate Plaza.

Simply complete the [skate pass application](#) and bring it the park staff. Participants under the age of 18 must have a parent/guardian complete and sign the form. Parent/guardian will be contacted to verify the information. Participants 18 years and over will be required to provide a photo ID and proof of residency for verification.

Once you are issued your skate pass, you will provide it to the park staff on each visit to receive your wristband, which is required to enter the park.

Hours of Operation

- 8 am until ½ hour before the posted park closing time, daily.

- Unauthorized access to the skate park after posted operating hours or when the facility is closed due to safety or maintenance reasons shall be considered trespassing. Violators will be prosecuted.
- Park staff reserve the right to open or close the skate park as needed.

Entering the Parks

- Patrons must check in and obtain a free wrist band to enter the skate park.
- Registered participants must present the Skate Park Pass upon each visit. To register for a free Skate Park Pass, please see park staff. Parks staff are not responsible for lost or stolen skate passes.
- All skate park participants must wear an industry standard helmet. Protective pads are strongly encouraged. Park staff reserve the right to deny access or use due to inappropriate equipment.

Using the Parks

- Patrons are expected to follow posted rules and staff instruction.
- Skateboards, bikes, razors, kick scooters, and rollerblades may be used at the skate park.
- No electric, motorized, training wheels, or "spark" apparatus are permitted in the park.
- Inappropriate behavior/actions and language, including failing to obey park safety requirements and rules, will result in disciplinary action and may result in the loss of skate park privileges.
- Smoking is not allowed in the skate park or at the entrance gate.
- Food is not allowed in the skate park at any time.

Inclement Weather

In the event of rain, snow or other condensation on the ramps or concrete, the skate park will close until park staff determine the facility safe for use.

Contact Information

Parks & Natural Areas

Direct: [\(757\) 385-0400](tel:7573850400) | Email: fun@VBgov.com



Skaters must wait a little longer to use park

The fencing around the nearly completed Glasgow Skatepark is adorned with "no trespassing" signs.

But the concrete bowls, steps and ramps have been too inviting for the impatient skateboarders, BMX bicycle riders and people on scooters to resist.

For nearly a month, they have torn down the signs, scaled the fences and used the park. On Thursday, 150 people were there, according to Jon Husband, a manager in New Castle County's Special Services Department. Nearly 700 people "like" the skatepark's unofficial Facebook page.

"It's like putting candy on the counter, walking out and saying, 'Don't touch it,'" Husband said.

New Castle County has hired a security firm to make sure the trespassers stay out of the park until the finishing touches have been put on it before opening, which could be several weeks or months away. The guards started their work on Friday.

The \$750,000 skatepark is part of the development of the \$2.2 million third phase for Glasgow Regional Park at Del. 896 and U.S. 40. The county is using

\$400,000 of its own money and \$350,000 from the state to build the facility.

The contractor is finalizing construction of the 20,000-square-foot skatepark. The county owns the land, but the contractor officially owns the skatepark until the work is complete and the facility is transferred.

The kids using the park is delaying that transfer, Husband said. The county won't take ownership if there are cracks in the concrete or scrapes on the metal railings.

"I'm hoping they can stay out of the park until we can get it in our possession," Husband said. "It's going to be a great facility and they really are great kids."

Eric Vanderpoel, 32, vice president of Friends of Glasgow Park and a skateboarder who maintains the park's Facebook page, said he has tried to get the skaters to stay out of the park for now. The owners of Switch and Adrenaline skate shops having been trying to get the message out as well, Vanderpoel said.

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"Everyone is chomping at the bit to use it," he said. "The police come and chase people away, but the kids just run into the woods and come out and go back onto the park when the police leave."

"We want to keep it as a freedom park without pad nannies and locked fences," he said. "We want everyone to stay out of it until it opens officially as much as the county does."

The security guards are at the park from 4 to 8 p.m. on weekdays and from 8 a.m. to 8 p.m. on weekends and holidays. The contractor will be at the site until 4 p.m. on weekdays, Husband said.

There will be no security guard at the park once it opens. People can use it from dawn to dusk.

"We'll have rules, but it's going to be an unmanned facility," he said. "It will be skate at your own risk. We'll recommend that people wear helmets and pads, but if they choose not to, it will be their own risk and their own liability."

That concerns County Councilman Bob Weiner, who thinks the county should look into having someone monitor skating at the park or hire a contractor to do so. He thinks the county could get sued if someone is injured at the park.

"It's an ultra-hazardous activity and precautions need to be taken," Weiner said. "It's only a matter of time until someone gets hurt. We need to balance the interests of making sure people skate safely and protecting the taxpayer from liability."

Vanderpoel said he would like to see the park unsupervised.

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Public must be part of discussions on Glasgow skate park

The Delaware Freedom of Information Act protects the public's right to participate in New Castle County Council's deliberations regarding skate park liability and fiscal concerns. The Clark Administration appears to want to preclude the public from discussion of the ramifications of this \$750,000 public expenditure.

When the concept of a county-owned skateboard park was proposed in 2002, I

joined other county officials in expressing concern that careful research and planning was needed before a skateboard park opens in Glasgow County Park.

On Dec. 11, I witnessed hundreds of skateboarders, BMX bikers and Scooter riders, most not wearing any safety equipment, using the county's skateboard facility, which was technically still "under construction," and thus still under the legal control of the construction company.

Unsupervised children, as young as 6, appeared to be in harm's way. County Administration noted that it had not been able to keep users out of the park.

I expressed and many other council members expressed our safety and liability concerns two days later during a public meeting of the Public Safety Committee.

The Clark administration took appropriate short-term precautionary action on Friday Dec. 23, by requesting the contractor post part time security guards at the construction site and increasing county police surveillance.

According to the administration officials, NCCo Council will have the opportunity to consider the administration's ideas about appropriate long-term safety and liability strategies at our Jan. 10 public executive committee meeting, 4:30 p.m. in Wilmington's City/County Building at Eighth and French Streets.

According to a Dec. 24 News Journal article, an administration official said:

"There will be no security guard at the park once it opens. People can use it from dawn to dusk ... We'll have rules, but it's going to be an unmanned facility. It will be skate at your own risk. We'll recommend that people wear helmets and pads, but if they choose not to, it will be their own risk and their own liability."

Unfortunately the public may be ex-

cluded from hearing and participating in much of this discussion.

The Clark administration has advised Council that a motion to "move into executive session" [thus excluding the public from our deliberations] is appropriate, even though there is no actual pending or threatened litigation.

Based on emails sent to Council members, it appears the Clark administration is claiming on one hand that there is little likelihood of a successful lawsuit against NCCo, while on the other hand, contending that the applicability of a narrow exception to FOIA [presumably based on "potential litigation"] precludes the public from being present during Council's discussions of these concerns.

The Clark administration cannot have it both ways. This specific narrow exception to FOIA has been interpreted to apply only to actual "pending or potential litigation." The exception does not extend to theoretical "potential litigation."

Posting "skate at your own risk" signage is never an absolute defense, when the activity is legally deemed to be "hazardous" and/or "an attractive nuisance." New Castle County would be well advised to adopt an

ordinance requiring the wearing of safety equipment and reference the ordinance on posted signs.

This is a public matter of grave concern to all taxpayers, parents and citizens. Everyone's right to participate in this discussion needs to be protected.

There are competing schools of legal thought as to whether or not NCCo should:

- » Outsource the management of the skate park to a private vendor with provisions for a "hold harmless" contract to reimburse the county for legal or other expenses.

- » Construct additional fencing to prevent scaling the fence.

- » Charge a user fee.

- » Require users to wear protective equipment.

- » Limit users to skateboards, prohibiting small bikes and other equipment.

- » Require the signing of a waiver.

I look forward to a public discussion of the pros and cons of these and other concerns.

The public's right to participate in these discussions should be fully protected.

Robert S. Weiner represents District 2 on the New Castle County Council.