



COUNTY COMMENTS

CIVIC LEAGUE FOR NEW CASTLE COUNTY
Informed Citizens for Sound County Growth

**February
2012**

STATEMENT OF PRINCIPLE

Monitor and selectively evaluate government actions including laws, regulations and policy.

Provide appropriate forums for informing as well as soliciting input from the public.

Establish positions based on responsible studies and consistent with the aims and purpose of the organization.

Advocate these positions.

Founded in 1962, the Civic League is non-profit volunteer organization, which studies and illuminates County and State government actions concerning comprehensive developments and the quality of life and is a vocal advocate of relevant positions.

County Comments is the official publication of the Civic League for New Castle County.

Chuck Mulholland,
President

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CivicLeagueforNCC.Org

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MEETING

Monday, February 20, 2012

6:45 PM at the Delaware State Police Troop 2 Building
100 La Grange Ave
(Route 40 East of Route 896)
Bear, DE 19701

AGENDA

- Delaware Transportation Secretary Shailen Bhatt's plans for DeIDOT
- Red Clay School District committee on their referendum plans

Purchasers in Work Force Housing Developments Buy Blindly

The battle waged by the SNCCA leadership to make Council fully realize the impact of inadequate regulations on the purchasers of regular homes in developments with "work force housing" units has been temporarily derailed. Vice Chancellor Glasscock dismissed their lawsuit, and Council approved yet another WFH development far from public transportation or jobs.

In my opinion, after a decade that ended in the crash of the residential housing market, HUD and the County have not connected the dots. Relaxing standards to provide mortgages for people who cannot afford home ownership produced this Recession according to David Stockman, Ronald Regan's CBO director. Not only did it undermine our economy, but that of the Europeans who purchased our worthless paper, Stockman said on Bill Moyers' new show last week. Yet the County is operating as though people living on the edge with little recognition of the expenses they will encounter as commuters can afford to be two-car families driving long distances for jobs, food, further education, or even medical services.

The WFH program gives homebuilders a major incentive to keep building when there is no demand in the market for their houses. They are given the right to build far more houses than would normally be the case, but if that sounds high risk to you, consider this. They have the right if the WFH houses do not sell in 365 days to offer them to the County to purchase. With what money would the County purchase them?.. you may ask. How about with the funds that come to the County through federal low income housing Programs? I would like to know if there is any regulation that would keep these houses from being purchased by the County and then rented to

families or even used as group homes? I have no problem with the County providing incentives for low income families and individuals to enable them to have a roof over their heads in hard times. God knows I would hate for us to be as bad off as Florida with hundreds of families living in motels and cars. Children are our future and we must be sure they have stable lives when we can do something about their situation. But who really wins if a lot of money is spent in this inefficient manner? The homebuilders who have been making money in the good times will continue to make money. A few jobs will come back for awhile. And who loses? Probably the renters who will not be able to afford the commuting expenses—especially if gas does go to \$4.50 a gallon. Also, the purchasers of market valued homes in these WFH developments will lose.

Why is that so? Because the value of your home depends on the sale prices of homes around you. The WFH units are built to fit into the neighborhood, but they are smaller and have less amenities. Thus, when they sell, they will not bring as high a price as the buyers are paying for the larger homes, and they will drag down the market prices for the whole development. All SNCCA has been trying to do is get the County to see that these developments are located where they will not cost the occupants so much money to get to a job or a grocery store or a doctor. They also think it extremely important that purchasers be informed before buying in one of these developments of the circumstances into which they are investing their money. This should not be a big deal. It is only fair and reasonable. Public officials who turn a deaf ear to these pleas leave us wondering whose side they are on.

The Bible tells us that the poor we shall have with us always. So why has it taken so long for us to learn to provide them with real opportunities to succeed? They should be near training schools and community colleges to finish their education. They should be able to walk to a bus and when they start a job have tickets to take one until their first paycheck comes in. The country is not the place for poor people without land. That is reality. I arrived in Wilmington in the Sixties with \$10 in my pocket. I survived because I could walk 20 blocks to the first job I found. I thrived later because I could walk to classes at the YMCA.

Lesson learned.

By Christine Whitehead

Proposed Legislative Agenda

By Christine Whitehead

- 10 Del.C. 8126 must be revised because it is denying citizens their right to bring cases to protect their property under the Del. Constitution.
- Politics must be removed from the Delaware judiciary's decisions. Suggesting one term, but longer appointments.
- For purposes of lawsuits, LLC investors must be identified to the plaintiffs because of the rules on indispensable parties. Rights granted in the Delaware Constitution are being denied by the secrecy of LLCs combined with Section 8126.
- Purchasers in Work Force Housing developments must be protected by the Legislature. County Council refuses to deal with the issues.
- New decision from Vice Chancellor Glasscock makes effect of Comprehensive Plan future land use maps a complete rezoning in Kent.

Time for legislative clarification - not New Castle County.

More details in articles by Christine Whitehead below.

Calling All Commuters and Other Users of Lancaster Pike and Route 141

Neighbors close to Barley Mill Plaza have raised a substantial amount of money to start a lawsuit to overturn the rezoning on the site. However, this lawsuit will benefit far more people than just the neighbors.

If you must deal with the traffic congestion on these routes at rush hours, you may wish to help with the suit. Go to www.save-our-county.org for more information or to donate. A massive regional shopping center will increase traffic congestion beyond the ability of DelDOT to improve the roads. Money for roads will run out in 2020. The developer appears to be trying to avoid making more than minimal changes. Yet he wants a new entrance between the stoplight at Centre Rd. and Lancaster Pike. This will add to commuter headaches.

The Council approved the rezoning before being shown a traffic impact analysis required by State law. If the Clark Administration gets away with violating procedures this time, residents will have no way to fight the traffic huge commercial rezonings can cause anywhere. Rational decisions cannot be made by the Dept. of Land Use or Council in the absence of critical information. The law does require that they make rational decisions. This is one extreme makeover we need to fight.

To donate, the Save Our County website has Pay Pal; but you can also mail a check to them at P.O.Box 4164, Wilmington, DE 19807.

CANDIDATES NEEDED

BE A PART OF THE SOLUTION.

RUN FOR PUBLIC OFFICE !

LET US KNOW - EMAIL: Christine2w@aol.com

10 DEL.CODE, Sec. 8126

This section essentially states that any person wishing to file a lawsuit against a decision of a political body like the Council has only 60 days to do so. After that the courts will not have jurisdiction.

Sixty days sounds like a long time, but there are problems that make it too short. First is finding an attorney willing to take a land use case against the county and a developer. The attorneys with experience in the field represent developers or towns and counties against their residents. Trying to find an experienced attorney who knows anything about land use and will fight those major interests is difficult. Once a group shops around to find one, then they have to make the attorney familiar with the hundreds of details about a case and sometimes wait for him or her to study applicable county and state laws and write a "complaint" to begin the case. This is difficult to do in less than 60 days for busy attorneys, so most such cases are filed at the last minute. That is where the big problem with 8126 arises.

Mistakes can be made due to other state laws and difficult situations. For example, under State law developers can form LLCs - limited liability corporations - quite easily, and people cannot find out who the investors in them are other than the one who acts as agent for the corporation. The common law rule (established by court opinions) is that plaintiffs must sue all indispensable parties, and if one is missed in the rush to file, under 8126, the plaintiffs are out of luck. They cannot add a defendant past 60 days and the missed party cannot even join the lawsuit.

Another time problem is that some final decisions are not reached for several years and there are many things happening in the years leading up to them that may need to be included in the complaint. The attorney needs to verify the facts which are often not accurately understood by the residents involved, and wading through years of documents takes more time.

The policy behind 8126 is to insure stability in the land use process. That is certainly a good policy, but when it operates to deny plaintiffs any chance of stopping the violation of state and county laws, it becomes a weapon to be used against the public by persons who are willing to abuse their power.

Thus, the Civic League should ask the Legislature to extend the period for filing land use lawsuits to one hundred (100) days from the date of the decision they are challenging. This law does not prevent a developer from starting a project, and most who are certain no laws have been violated will probably do so when they are ready. These days no one seems anxious to build immediately, so the 60 day law seems less necessary.

This needs discussion at the next meeting.

Changes to Comp Plan Maps are a Rezoning Says Vice Chancellor

The newest vice chancellor of our court of equity is quickly becoming a player in the field of land use law. One recent decision will have a major impact on how all towns and counties handle their comprehensive plans.

Vice Chancellor Glasscock found in the language added to the Quality of Life Act in 2001 a reason to hold Kent County had rezoned many parcels in their Comp Plan Future Land Use Map because they used the zoning district names and changed the number of units that could be built in them. He has not ruled yet on whether the County violated due process by rezoning this way, but he denied its motion to dismiss the case - *Farmers for Fairness v. Kent County Levy Court*.

Is this precedent for New Castle County? The 2007 Future Land Use Maps in our Comp Plan Charlie Baker produced did not use the same terms as the zoning maps and readers were advised to consult the zoning maps in conjunction with the FLU Map. NCCo did not follow the law requiring it to rezone the County to match the FLU Map except for one large district south of the Canal to allow a village. While the decision will no doubt cause confusion, these two factors may keep this county from experiencing what Kent is going to go through.

The Legislature needs to pass a bill to clarify the situation before the new comprehensive plan updates are enacted. Should all counties be uniform in this respect? What do you think? Blog us!

Have you looked at the Future Land Use Map for 2012's update of NCCo's Comp. Plan? Go online to the County website to compare it with 2007.



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PLEASE ADVISE ADDRESS CORRECTIONS

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Excerpt - 12.12.11 Wilmapco PAC Meeting Minutes

In case you missed it- here is an excerpt from minutes of last PAC meeting -

"Dan Bockover said that there is a perceived lack of transparency in the NCC comprehensive planning process. Mr. Bockover suggested that each Council member hold a meeting within their district and invite constituents. The meeting should include a presentation on the old comprehensive plan, the new comprehensive plan, and the differences between the two in order to disseminate accurate information about the process."

This is an unusually important matter and council members should be eager to demonstrate to constituents their mastery of the subject on which they will voting.

Dan Bockover