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**February
2014**

**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 consistent with the aims and purpose of the organization.

Advocate these positions.

Founded in 1962, the Civic League is a 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.

Bill Dunn - President

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COUNTY COMMENTS

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

MEETING
Tuesday, February 18, 2014
7:00PM

Public Safety Building
3601 N. DuPont Hwy. (Route 13)
New Castle, DE

AGENDA

Spokesperson from
Delaware Department of Transportation

Proposed Questions for DeIDOT:

What do you plan to do with the money the Governor is adding to your Budget with a tax increase? Will any of it be spent on the new Route 301?

Why does the Governor wish to move the Transportation Trust Fund to the General Fund?

What will DeIDOT do if the tax increase does not pass?

How can we lobby for more sidewalks in older areas where Land Development planning is encouraging "In-fill" Development, when DeIDOT and the Governor seem to be more focused on major roads and bridges?

One member asks; Do we have to lobby our Congressman for sidewalks on federal highways like the Newport Gap Pike?

FORWARD THIS PLEASE

Please forward this newsletter to the members of your umbrella group, civic association, or maintenance corporation. We need to increase our ability to communicate with our entire membership. Also, we are looking for new Board members and we think the people most interested in being watchdogs on County government and planning for our future are out there among our civic groups.

Contact me if you are interested. Christine Whitehead, Secretary,
christine2w@aol.com

Workforce Housing Debate Heats Up County Council

For political theater, one could not find a more interesting debate within a legislative body than the one that took place Jan. 28 in the Land Use Committee of County Council.

After doing 4 years of research, writing, filing legal actions, and arguing with public officials at the State and local level, former Civic League President Chuck Mulholland finally found what was needed to fix the law. Tom Gordon is not just an official who listens, but he acts. Chuck tried to make officials understand that the Workforce Housing law is harmful to the buyers of all the houses in such a development because of unenforced federal and County regulations and because of non-disclosure by the developers have been selling them. His investigations have shown that low income housing was not included any longer. The purchasers of a workforce house must stay in it 15 years and if they sell it for a profit, the profit goes into a special County housing fund. A workforce house is worth less than the houses around it, and if it does not sell within a year, it can be rented or offered to the County to buy. The federal regulations for this program can be used to regulate some of the abuses but the County Department of Land Use in the past has not used them. Standard houses have been built in developments without any workforce houses being built. The promised lower priced houses gave the developer twice the density to which he was entitled, but the bargain was not being honored.

The bonus density was adopted as an incentive to build low and moderate income housing at a time when no one was building such housing. The developers soon realized it could be used to get more houses on the land they were purchasing without having to go through a more expensive rezoning process. This also appealed to large landowners selling to them because the price developers pay for land depends on the number of houses they can build per acre. For adjacent homeowners, this bonus denied them the due process rights to which they are entitled when land is rezoned next to them (right to notice, right protest at hearing and present evidence, right to an impartial decision by administrators based upon certain standards and a vote by County Council).

Besides reacting to the injustice of the process, our experienced County Executive probably realized immediately that all the comprehensive plans and the State Plan with its critical "carrying capacity" base would be totally ignored by permitting this concept to be hijacked for the greater profit of wealthy developers. Proper planning protects all the landowners and residents of a state and county. The objective of it is to protect property values and promote the best use of all land for economic, environmental, and social reasons; so that the needs of the population for clean water, clean air, food, and mobility can be met.

While the potential for harm was great, the Recession stalled homebuilding so much that few Workforce Housing developments were built between 2009 and 2012. No additional applications for them were filed until the news that a moratorium was in the works was spread at the end of 2013. What transpired was cooperation between two people who have often been at odds. Tom Gordon understood how strongly Councilman Hollins feels about the need for low income housing and this program which he sponsored. So Gordon suggested they put a moratorium in place to give them time to come up with legislation that would make the program work to the benefit of the public interest.

The moratorium ordinance which Hollins sponsored became the topic of the debate in the Land Use Committee hearing. Some attorneys for the developers apparently convinced landowners that the last 4 or 5 applications filed recently for Workforce Housing plans were going to be rejected by the Administration if the moratorium passed.

Council members were angrily lobbied by the applicant developers and landowners having contingency contracts for sale to them. Thus the hearing produced unexpected negative comments from some of the Council members. This put the strongest proponent of the law in a position to have to fight hard to put it

on hold. Hollins hung tough, arguing that his simple moratorium which had been approved by the Planning Board and Department of Land Use, did not take away any vested rights. (Vested rights come into existence when a legislative body enacts a law that reaches back to stop something already lawfully done. The common law protects the party harmed from such acts.) However, in my experience with hearings over the years, anxious landowners (including in this case the U.A.W.) do not calm down in the face of reason. Fiercely, but politely, holding his ground, Hollins responded to angry remarks and colleagues who seemed to be pulling away their support, with determination.

The hearing had to be ended on that note as another hearing was scheduled in the same room, but it continued at the regular Council meeting at 6:30 P.M. Civic League President Bill Dunn testified at the hearing in support of the moratorium. The final vote was 12-1 in favor of it. Only Councilman Smiley voted against it.

Congratulations to Chuck Mulholland for a great victory for improving our government. Bravo to Pennrose Hollins for statesmanlike action in the face of aggressive opposition to a measure that is decidedly in the public interest. The cooperation between most of the members and this County Executive marks a new beginning that should produce better government in this County.

Now the details must be worked out to insure a more meaningful affordable housing program.

by Christine Whitehead

Fogarty's Approach To Planning With Us For Future Land Use

The January Board Meeting of the Civic League had to be postponed, but our speaker, Eileen Fogarty found a date for us the next week at the County's Gilliam Building conference room. Since the public was invited, we tried to get word to all the members about the change and we had WDEL broadcast it, but the weather remained so awful that only a few braved the cold to come. For that reason, with the help of Dave Tancredi, we had the meeting videotaped so that her message could be widely shared. It will be on our website within a couple of weeks after she has spoken to a few more groups. She will also put it on the County website. Meanwhile, this summary may help you understand our new General Manager's approach to making this county a model of excellent planning.

In the four and a half months since she arrived, Ms Fogarty has been doing an assessment of the Department of Land Use and the application processes. She has listened to civic leaders, members of Council, developers, and nonprofit leaders. She has heard similar things from most people, so she believes there are areas on which to build a consensus going forward. Many want well-designed communities throughout, and that includes commercial as well as residential design. Her best example of that was the Wawa near Claymont which is heavily treed and has a low brick wall on two sides. (Another design she liked was Bayberry, but no one spoke up and told her that it took 15 years of protests on the part of the SNCCA and some favoritism from DeIDOT to make that happen.) She emphasizes that good design always keeps trees, so we can expect that the Riparian Buffer regulations that predated even the UDC will once again be emphasized, and the requirement of shielding between unlike uses with vegetation will return "Opacity" in UDC terms.

The challenges she sees include the lack of an implementation strategy in our latest Comprehensive Plan. It is too general for anyone to know what it means without enacting specific ordinances to explain the "great statements" that say something for everyone. One can expect her improvements to trim it to basic principles, then add a great deal of guidance with specifics. She mentioned the recent shopping

centers we have approved that look like those from the Sixties. They have no walkability or amenities and the Mall looks like a moonscape. (We failed to point out what CCOBH accomplished with the Brandywine Town Center back in the late Nineties. Does anyone have pictures of that?) She sees the need for an action strategy to clean up and revitalize our neglected corridors, and the one she noted as the worst is Route 9.

She feels that the problem lies in the fact our process and our planning has been reactive rather than proactive, and that is true in most places around the country. What that means is we go with piecemeal development without a coordinated approach. Proactive zoning establishes what we want to tie together. Allowing so many reactive rezonings forecloses future possibilities. Highways are being put in without any planning ahead. She sees our transportation responses as fragmented and not integrated with land use. Real planning asks what we want in an area. If we want jobs there, we should be planning how to prepare for more than single worker vehicles being used.

Her assessment is that we do not have any identified transportation vision for new centers. (Bhatt is a transportation planner who has not been allowed to plan. Back in the 90s, Canby did a Route 40 Plan that won an award.) She thinks it is not that difficult to reduce congestion. One incentive is to charge so much for parking that rail service is a bargain by comparison. She cited places where she has helped cities realize the goal of reducing the use of vehicles. Her resume includes having headed planning offices in Alexandria, Virginia and Santa Monica, Calif. The use of buses and other forms of alternative transportation is more likely to work in Delaware; however, as new rail transit is too expensive for us to build in her opinion.

The Unified Development Code (UDC) today is too prescriptive and specific, she thinks, and that has unintended consequences. If a plan meets the standards, it can go through the DLU to approval quickly, but there are disincentives for new ideas and styles. Projects without innovations can be unattractive. She suggests we want centers on a human scale with amenities including keeping trees-not just planting them. We need to incentivize better design. There are no clear standards for enhancing neighborhoods, so developers go for the minimum. This is a process that is rule driven rather than outcome driven. "Together we really need urgent change. We need sustainability. That means convenient, healthy, vital communities. It happens by design." She hopes to stop the degradation of existing neighborhoods, and help us start to define where we want to go. She thinks it is unfair to turn down plans when we cannot tell developers what we want instead. Some of the changes will take investment in redeveloping other uses into commercial centers. People should not have to drive a half hour to shop. Redevelopment done with a vision can create interesting spaces where many different activities will take place.

The following immediate actions are needed to reach her goals:

1. Changes need to be made in the Department of Land Use. She has run into reluctance by the staff to adopt a new message.

A. A strategic division needs to be created to actually do planning. The comprehensive planning group is gone and only a couple of people do planning. Most planners oversee applications for approval.

(1) Planners will have to transition to a system that makes investment easy. The County must incentivize what it wants to see produced. It must avoid the Middletown solution-whatever anyone wants to build will be approved. Projects will need to contribute to the community in a visual and social way.

(2) Creating a sustainable environment will shape the outcome. Gathering places are needed. Beauty must be present. Activity must be encouraged, and businesses developed that add life to the community. Walking areas should be shorter and possible without so many vehicle trips.

2. We must protect the environment. The County has done a good job on the physical and

environmental benefits of parks. There is no reason our commercial centers should destroy neighborhood character. We can protect it if we set parameters.

3. We must streamline the development process for certain kinds of projects. Early community input should be sought right after the conceptual plan is formulated for a new project. The staff is not oriented to working with communities. She wants developers to come to the Department first and all work together to create the best possible plans.

4. DeIDOT is a big issue. She is going to have some of their people move into the DLU offices so they can work more closely. She supports more TISs, but done more efficiently. The planners need to know what is going on with the roads.

5. She wants the Planning Board to help her to find more areas of agreement between the public and the developers.

Note: *The session went on for another hour due to all the questions asked. It was interesting and I suggest you watch when we put the entire presentation on our website. If anyone can get our DLU to function in a way that benefits the public, it is Ms Fogarty! Thank you, Tom Gordon, for bringing her here.*

Christine Whitehead