

**Annexation Regulation Review
Ad-Hoc Committee
February 11, 2019
MINUTES**

A meeting of the **Annexation Regulation Review Ad-Hoc Committee** was held on **February 1, 2019 in Council Chambers in City Hall** with the following members present: Chairperson, Deputy Mayor Fred Beaufait; Councilperson Dennis Reardon, Robert Kennedy, Jim Berrigan and Bob Patterson. Also present was Richard Kirschner.

Ex-officio members present were: City Manager Ann Marie Townshend, City Planner Tom West, Building Official Henry Baynum, BPW Assistant Manager Austin Calaman and Recording Secretary Alice Erickson.

1. **Call to order:** *Chairperson Fred Beaufait* called the meeting to order at **10:00am**.
2. **Opening Remarks from Chair:** *Mr. Beaufait* welcomed everyone to the meeting. Last week they reviewed the Annexation Committee's activity in the development of the two new annexation zones. They are looking at potential amendments to the annexation zones in order to improve them. They will not be re-writing these ordinances but will work on identifying any issues that may need to be considered and then address them one at a time at future meetings. This doesn't mean they will approve everything considered. They will need to determine what is appropriate.

One of the reasons for going through this process is that the county has amended their density calculation in relation to wetlands. The county has established a wetlands committee and they will be meeting over then next several months before submitting a report. In the future, if city council determines further amendments are needed, the annexation committee will make those considerations also. They will move forward with what they know as of today and try to have a good sound basis for what is decided.

3. Identification of issues to be considered in revision of AX Zones:

Deputy Mayor Beaufait opened discussion to committee members. *Ms. Townshend* created a list of items for consideration to include the following:

- **Density formula/calculation**
- **Definitions:** *Mr. Reardon* stated there will be definitions that need to be created to define tidal vs. nontidal wetlands as the city's code does not address the differences.
- **Road Buffers:** *Mr. Reardon* stated they need to determine the buffers along the state highways to the property line, to include New Road, Savannah Road, Gills Neck Road and Kings Highway
- **Where to measure from:** This needs to be included in the definition of the buffer
- **Exclude cluster development:** *Deputy Mayor Beaufait* stated he received a letter from Maryanne Ennis regarding the exclusion of cluster developments in both districts.
- **Exclusion of tidal and non-tidal wetlands:** *Ms. Ennis* wants the exclusion of both wetlands in the density formula.
- **Buffers on Wetlands:** *Mr. West* stated the current wetland buffers are 50' for tidal wetland and 25' for others.
- **Permitted Housing Types:** *Mr. West* stated there was a concern at the public hearing about permitted housing types permitted whether to completely exclude any non-single-family housing type or make them a conditional use.
- **Reducing or eliminate density bonus in Cluster Option 2:** There is currently a 30% bonus in Cluster Option 2.
- **Wetlands be excluded from Open Space calculations, partially or in total.**

Chairperson Beaufait opened the discussion to the public.

Marta Namack, 128 New Road. Ms. Namack stated these are all good considerations to include in the discussion, especially the elimination of cluster development. She suggests a wetland buffer of 75-100' instead of 50' and would like to exclude the waiving of property taxes. *Mr. Beaufait* stated the property tax incentive would not be a part of their consideration as it is not related to the zoning issue.

Maryanne Ennis, 50 Harborview Road. Ms. Ennis spoke to the cost of annexation and development to the city's residents. The committee didn't consider the increase in county and state taxes to each resident as a result of development. *Ms. Townshend* explained a lot of analysis was in the Annexation Committee's report.

Mr. Reardon stated state and county taxes are not a part of the city's consideration. He questioned how that would impact the cost to the city?

Ms. Ennis agreed it is not a consideration to the city's government, but it should be a consideration to the city's residents. As additional schools are built and there are more students in the city, the residents will have to pay more school taxes.

Mr. Beaufait stated he feels this is a wrong assumption. This property will be developed whether it is the city or in the county. Schools will have to be built and the city doesn't regulate state or county taxes. The city's motives for annexation were not monetary, it is to maintain control over land adjacent to the city. The committee considered all the issues as they related to city services.

Ms. Ennis stated she doesn't feel the county would approve townhouses on this property.

Debra Evolds, 10 Harborview Road. Ms. Evolds questioned if there is a way to put in the record that the committee could reconvene to discuss wetlands and setbacks as they arise in the county. She would like to keep the door open for future changes.

Mr. Beaufait stated that would be a decision of council, but it is always an available option. Council is aware of what the county is doing but we are not trying to mirror the them. They have tried to keep in sync with the county and if it should be applied to the city of Lewes. These are two different issues. Within the city there is not much property to be developed, so primary development will be outside the city and there is no guarantee it would annex into city. They need to look at each situation.

Ms. Evolds stated the residents of Lewes expect our city government to do better than the county. It is a basic assumption of the privilege of living in Lewes. Would it be inclusion of wetlands in open space requirement or exclusion? *Ms. Townshend* clarified that it is currently included so they would need to evaluate exclusion.

Ms. Evolds questioned the types of housing in the transition zone. They mentioned the possibility of making attached dwellings as a conditional use. In the county code you must apply for a zoning change or a conditional use. In recent decisions from Sussex County Council, they have denied conditional uses east of Route 1 and are taking special consideration for the Great Marsh area and everything north of New Road. If the goal is to be a transition zone, she feels uncomfortable that the city is offering more than Sussex County would automatically grant.

Mr. Beaufait stated this is on the chart and at some point, they will address it.

Ms. Evolds stated as she understands, developers can still apply to FEMA to get a permit for wetland development. She feels they need to do everything they can to protect the wetlands. *Ms. Townshend* clarified it is for floodplain development.

Ms. Evolds stated her house was not in the floodplain when she purchased it and her neighborhood is now in a flood zone and they are all required to have flood insurance. It is concerning for people that live on the northside of town. In the county they are differentiating between tidal and non-tidal wetlands and that is an agenda point here. What percentage of nontidal wetlands are there in Lewes? It seems that most of the undeveloped land is adjacent to tidal wetlands.

Mr. Beaufait clarified that they have identified they will be looking at the buffers and the tidal and nontidal wetlands and if they would be included or not in the density calculation. The annexation zones do not apply to any property already in the city of Lewes. Also, looking at land adjacent to Lewes along Kings Highway and Gills Neck Road, it not necessarily in tidal wetlands or floodplain. They are looking at whether they will include or not include wetlands in the open space calculation and in the density formula.

Ms. Evolds urged them to remove wetlands from the open space calculation. She feels it is absurd that wetlands could be including in the open space when they cannot be built on anyway.

David Ennis, 50 Harborview Road. Mr. Ennis stated he has great concern about the historic significance on the outskirts of Lewes and the protection and preservation of those historic locations. There needs to be something on the application for annexation. Not everything that is historically significant is above the ground. In his experience, Lewes has great significance of Native American burial sites, particularly along New Road. Sussex County recently required the developers of the Groome Church property to have an extensive analysis of the archeological significance of that property.

Mr. Beaufait stated this issue is not a part of the annexation ordinance or part of this committee's charge. This is an issue that the planning commission would address as a part of a major subdivision review process.

Mr. Ennis stated that the planning commission can require a traffic impact study conducted by an outside agency at the expense of the applicant. He is suggesting that part of the planning commission's consideration should be the preservation of historically significant features and prior to annexation an applicant should be required to do an archeological study.

Though this is not a part of the committee's charge, it was determined to include it as a point for discussion.

- **Preservation of historically significant features and requiring an archeological study**

Doug Spelman, Samantha Drive, Canary Creek. Mr. Spelman questioned the goals for annexation in terms of the transition zone. What do they see as a transition? It seems they are going from single family to high density to single family and it doesn't seem like a transition.

Mr. Beaufait clarified that when they developed the two annexation zones, they considered what the county, in its totality, would provide. They made it possible for there to be townhouses, duplexes, single family homes, and cluster. They considered all the county's options, looked at other communities and tried to have some middle ground. In every case everything they did was less than what the county would allow. For example, the county allowed for townhouses to be double the number of conventional units. They are only allowing 30% more. They also tried to be creative allowing for the future and so with the idea of a transition zone they looked at the city's ordinances, and the county ordinances to create the annexation ordinances. At this point they are looking at the approved annexation ordinances to see if what they need to do to improve them.

Mr. Spelman stated he didn't feel the city did enough to let the residents know what they were doing in the initial Annexation Regulation Committee meetings and get the community involved. He knows the residents also dropped the ball in not paying attention. He has read the minutes and was shocked that the committee had approached the Townsends for a redo of Harbor Point.

Mr. Beaufait disagreed they did not do this. *Mr. Reardon* clarified they looked at areas that could be annexed into the city. *Ms. Townshend* clarified she and Tom West spoke with them, but it was about the process. They wanted to talk to people that had been through the annexation process where it fell apart to determine what the issues were so in developing an ordinance, they could address those specific issues. *Mr. Beaufait* stated none of the committee members had conversations about Harbor Point.

Mr. Spelman questioned if it would be appropriate for the city to freeze annexation until the county decided how they are going to define their buffers and wetlands.

Mr. Reardon stated he doesn't see it as realistic to put a hold on annexation. The city is not going to say no to any application for annexation. If there is an application and there are pending ordinances, it would have to be a part of the discussion.

Mr. Beaufait agreed. If someone wanted to annex into the city, they would have to be informed about the committee's review of the annexation ordinances and possible changes.

Mr. West stated it is more than just this committee's ideas coming together for the transition zone. There is also quite a bit in the comprehensive plan about annexation zones that discussed the idea of clustering. These ideas go back further than this committee's discussions. They are essentially implementing strategies that are in the comp plan which was adopted by city council.

Chairperson Beaufait added the following item to the list:

- **Cluster option 2, townhouses, impose an additional fee**
4. **Initial discussion with respect to defining maximum density within AX Zones**
 5. **Agenda items for next meeting:** The next meetings would be held on February 25 and March 5 1pm
 6. **Closing comments:** *Mr. Beaufait* stated *Mr. Kirschner* has stepped down from the committee and he thanked him for serving on the Annexation Regulation Review Ad-Hoc Committee.
 7. **Adjournment:** The meeting adjourned at **11:15am**

Minutes submitted by,

Alice Erickson
Recording Secretary