



SUSSEX COUNTY
D E L A W A R E

Eyes on County Council – July 28, 2026

Highlight Events:

- Todd Lawson and Vince Robertson presented information on SB23, a recently passed Delaware bill that changes county land use rules and removes public hearings for 'by-right' development applications. Public hearings for development applications are suspended until the county can assess the impacts of the new law and change the county's processes to conform with it.
- Sharply divergent views were expressed in the Council's discussion of possible amendments to Ordinance 26-05 "Forest Preservation". Council members delayed the vote; the County Administrator stated that "This may take more time than I originally thought".

Council discussion on the proposed amendments to the Forest Preservation ordinance begins at **1:48:39** in the Council chambers broadcast: [County Council Meeting - July 28, 2026](#)

Public Comments:

Six residents spoke in the public comment period:

Rich Borasso spoke on behalf of the Sussex Preservation Coalition, on two topics: the increased importance of the Open Space Amendment ordinance, and deficiencies in County code brought about by the passage of Ordinance 26-03 "Chapter 99-9(c) and Street Layout Ordinance".

First, he noted the increased importance of the Open Space Amendment Ordinance, and said that the recent passage of SB23 increases development pressure, making open space protections more important in managing growth and limiting sprawl. He stated that there are workable measures in the Open Space Ordinance that can bring stakeholders together to combat the impacts and negative consequences of SB23.

Secondly, he noted that Ordinance 26-03 removed 15 provisions of County code Section 115 and moved them to the Open Space Ordinance. One of those requirements governed open space in cluster developments. Since Ordinance 26-03 didn't pass, the requirement for 30% open space in cluster developments is now missing from county code.

In closing, he asked the Council to place the Open Space ordinance back on the agenda for discussion and a vote.

Kevin Goldsboro spoke about solar arrays in Sussex County; he opposes them, stating that they will take up land that should be used for housing and farming operations. He feels that anyone who yields their land to solar arrays is ‘playing into the hands of the Delaware state legislature’, which he said has shown aggressive posture toward all forms of energy except for wind and solar and anything they deem as renewable. He postulated that putting solar arrays in farmland will cause the need for high voltage lines that will cross many properties.

Don Goldsboro spoke about the impact that land used for solar arrays has on neighboring farmland. He said that the solar array fields are not maintained, and this allows invasive plants and grasses to grow. When the wind blows, the seeds from these plants end up in neighboring fields. He asked that Council to add a maintenance requirement as a condition on all future solar arrays.

(The council did follow up and required this condition in the five solar arrays being discussed at this meeting.)

Gary Vorsheim spoke about the upcoming 2028 Sussex County Comprehensive Plan. He said that while reading comprehensive plans from several jurisdictions, he noted two different philosophies. One focuses primarily on describing today’s conditions and expressing good intentions. The other focuses on implementation, establishing clear policies, measurable expectations, and accountability so that the community’s vision actually becomes reality.

He argued the plan should include clear policies, measurable goals, accountability, and timelines, not just broad intentions, and emphasized that successful planning requires collaboration among residents, planners, and county officials. He said that Sussex residents are ready to engage in the Comprehensive Plan process.

Alison White spoke on behalf of the Sussex Preservation Coalition. She said that SPC wants to stress the importance of meaningful public participation in the Comprehensive Plan update process, which is especially important given that passage of SB23 eliminates public hearings for ‘by right’ development applications and instead allows such input only during the 10-year Comp Plan update process.

She said that SPC urges the county to include a Responsiveness Summary as part of the Comprehensive Plan. A Responsiveness Summary lists the public comments received and explains how the county considered them in making decisions. It provides transparency by gathering public views, concerns, and questions and the government’s responses in one place and including them in the published document for which the comments were collected.

Joe Pika spoke on behalf of the Sussex Preservation Coalition. He began by asking whether the Council plans to do an evaluation of the current plan and how whether the county has made progress on accomplishing the goals set out in the last Comp Plan. He said that the question is especially relevant in light of recently released U.S. Census Bureau data covering 2020 to 2025.

He noted that the new Census Bureau numbers are remarkable: during those five years, Sussex County had the fastest population growth and the fastest housing growth of any county in the Northeast and Mid-Atlantic region—350 counties across 13 states. Our population grew by nearly 40,000 people, an increase of 16.8%, while housing grew by approximately 18,000 units, or 13.5%.

He said that the data highlights the fact that growth in Sussex has outpaced our ability to provide the roads, schools, emergency services, healthcare, and other infrastructure needed to support it.

He said that the lesson is clear: Sussex County grew faster than anyone anticipated, and our infrastructure has been trying to catch up. Our planning must catch up as well, to avoid repeating the same mistakes over the next decade.

Discussion related to SB23, the “Housing for Every Delawarean Act”:

Todd Lawson and **Vince Robertson** presented a discussion related to the implementation of SB23, a bill sponsored by Russ Huxtable.

At the beginning of the presentation, Mr. Lawson and Mr. Robertson emphasized that the focus of the presentation would be on the law’s practical impacts – specifically, the section on **“By Right Residential Uses”**. Other sections of the law affect comprehensive planning, automatic land-use rezoning, and affordable housing planning requirements, but the By Right section has immediate consequences: it substantially changes the land-use approval process. They noted that the County has already had to remove pending residential applications from the P&Z agenda.

Mr. Lawson said that the bill was presented as an affordable housing bill but that he does not believe it is actually an affordable housing solution. He noted that it changes land-use processes, more than creating affordable housing.

He also noted that even though the bill substantially affects all three Delaware counties as well as many cities and towns, Sussex County only learned about the legislation when it was circulated for signatures in the legislature. Sussex County officials prepared white papers outlining their concerns, but the most concerning provisions remained in the bill. He said that the Delaware Association of Counties and the Delaware League of Local Governments joined Sussex in opposing the bill.

Mr. Lawson and Mr. Robertson started by explaining two key definitions provided by the new law:

1. **“By-Right Residential”** means a residential development that is already permitted under the existing zoning ordinance. It is a permanent use allowed in that zoning district that meets all objective zoning standards and does not require rezoning, a conditional use permit, or a variance.
2. **“Objective Standards”** are rules that are measurable, apply uniformly to everyone, and do not depend on subjective or discretionary judgement.

They then explained two problematic provisions of the law, whose effect is to **remove public hearings for all -by-right applications**.

1. Residential developments that qualify as by-right must go through an administrative review and approval process rather than a discretionary approval process. P&Z may still review the application, but only to determine whether it complies with objective standards.
2. A local government may hold a public meeting for a by-right residential application, but it is not a public hearing. Public comments may be accepted only through written submissions.

Mr. Lawson and Mr. Robertson made many additional points during their presentation:

- SB23 took effect immediately, and it requires county officials to develop a new process for by-right applications.
- They pointed out that the idea of having a public meeting for a development application, but having a roomful of people who aren't allowed to speak, will only anger the public.
- There are many (unintended?) consequences that result from having major subdivisions permitted by administrative approval, with no public hearing.
- The main effect of the bill is to streamline all by-right development in the county.
- The bill does not define 'affordable housing' as it relates to by-right residential. The by-right provisions don't require an affordable element, so cluster subdivisions will be approved without having an affordability provision attached.
- County code is now inconsistent with SB23, so the county will need to take time to create a new process for approving by-right applications. A new ordinance must be created to change county law. Creating such an ordinance will take months, during which time residential applications cannot be processed. This may jeopardize landowners who have land under contract to developers.
- One problem with not having public hearings is that no one will get to speak – not the developer, the public, DeIDOT, or other experts who testify at public hearings today. Valuable input will be lost.
- Another problem with not having public hearings is that no public record is created. Today, a by-right application that is approved by P&Z can be appealed to Sussex County Council. The public record is used in the appeals process, so does this mean that there can be no appeal?
- Currently, Sussex code requires that adjacent property owners be notified. Does that still apply? And to what purpose?
- Sussex code provides for expansions of existing subdivisions, where additional lots are added. Today, a public hearing is required because existing homeowners have a right to weigh in concerning the added burden on community amenities. With by-right approvals, these homeowners concerns may be removed from the process.
- They gave many examples of development applications where neighbors provided valuable information during the public hearing, pointing out deficiencies in the

information presented with the application, that substantially aided in creating conditions on the approval. In one case, an application was denied because neighbors pointed out that the parcel became inaccessible due to flooding during heavy rains, so first responders would not be able to get to those properties during a flood event.

- The bill removes the incentive for developers to build developments under the Sussex County Rental Program. Why would developers build an SCRP development, which provides less return on investment, when they can build a by-right development with no affordability requirements?
- Sussex will work with the other Delaware counties, and with the Delaware League of Local Governments on a framework for meeting the bill's requirements.
- An additional concern for Sussex County is the bills requirements related to the Comprehensive Plan. Sussex has already begun working on its Comp Plan updates for 2028.
- The ordinance created to implement the changes required by SB23 will have a public hearing.

Mr. Lawson and Mr. Robertson noted the possibility of trying to get the legislation changed, but said that it could only happen in the next legislative session, which starts in January.

Council member discussion:

Jane Gruenebaum said that based on a conversation with a state legislator, she believes there is room for changing the bill, because there were misleading statements made during testimony on the floor of the legislature. When a question was asked as to whether or not the bill prohibited hearings; the person testifying stated that it does not prohibit hearings. The legislator in question voted for the bill based on this misleading testimony.

Steve McCarron spoke about several concerns with the bill:

1. 'public meetings' as opposed to public hearings – he said that he opposes requiring county staff to hold public meetings in which no public comment is allowed because a) staff have little or no discretion to change the outcome if an application meets the objective standards, and b) staff will become the focus of residents' frustration even though they lack authority to deny or significantly alter qualifying projects.
2. He questioned whether the legislation will actually improve housing affordability: recent market data shows the average home sale price in Sussex is \$705,000; given that current construction costs are \$310 per square foot, a 1,500-square-foot home would cost roughly \$465,000 to build. Based on these figures, he said that simply making it easier to approve by-right developments is unlikely to produce affordable housing. He noted also that the bill contains no specific affordable housing provisions.
3. He criticized how quickly the law took effect. Updating the county's zoning ordinances will likely take three months, and because the state law became effective immediately, existing local ordinances instantly conflicted with state law. He said the legislation

should have included a transition period to allow local governments to revise their ordinances.

4. He said that Sussex County will need to change its regulatory approach: P&Z officials often attached project-specific conditions during public meetings. The same conditions get attached to many applications; many of those commonly imposed conditions can no longer be added on a case-by-case basis for by-right projects. So the county should incorporate those conditions into the county code as objective, generally applicable standards.

Matt Lloyd asked whether it would be necessary to hire more staff for planning and zoning or the permitting office, and whether there would be a lengthening or shortening of the time it would take for cluster subdivisions to get through P&Z and permitting.

Vince Robertson responded that the new law could significantly accelerate the subdivision approval process in Sussex County. The subdivision approval process will become much faster; he is concerned it will create a much heavier workload for county staff. Currently, public hearings are scheduled on a calendar, which naturally spreads applications over time: staff have predictable deadlines and hearing dates. Under the new system, applications could arrive more continuously, and more projects could be processed simultaneously. Staff, rather than elected officials, would handle nearly all of the review work. Additional staff will likely be required if applications are processed as quickly as they arrive. Mr. Robertson also expressed uncertainty about how an administrative review ends. Under current rules, the County has a defined period to make a decision, after the public hearing has been held. It's not clear, under the new law, what establishes the final decision and when the review officially concludes.

Matt Lloyd said it's a shame that there is now no chance to impose conditions at the P&Z level, because each P&Z commissioner and each Council member knows their district best and understands local conditions. He said that although the stated purpose of SB23 is to increase housing supply in the hope of reducing prices, he questions whether that approach will work in Sussex County. He noted that the county continues to experience strong demand from buyers relocating from neighboring states; that the steady influx means demand remains high regardless of additional housing supply; as a result, simply building more homes will not significantly reduce prices in the local market. Lastly, he said that the legislation doesn't address the shortage of the "missing middle" housing types (duplexes, townhomes, and other multifamily buildings) that are generally more affordable than large single-family homes; he believes the law is more likely to increase the production of conventional subdivisions than the kinds of housing that are in shortest supply.

Todd Lawson noted that SB23 undermines the county's Sussex County Rental Program (SCRIP), which was changed a few years ago to eliminate public hearings in order to make SCRIP more attractive to developers. He said that the legislation removes one of the SCRIP program's main competitive advantages: because standard by-right subdivisions now receive a streamlined approval process, developers have little incentive to participate in SCRIP, weakening its effectiveness as a planning tool.

Jane Gruenebaum strongly defended public hearings, arguing that they are much more than opportunities for people to oppose development. She stated that public hearings are informative, providing local knowledge that planners and officials may not otherwise have. Residents who live near proposed developments often understand site-specific conditions better than anyone else.

She expressed concern that, when combined with House Bill 450, developments that previously would have received careful scrutiny could now be approved administratively, avoid public hearings, and be built at greater density. This combination could increase the risk of developments being approved in locations with significant issues, such as flooding, airport safety concerns, or inadequate road infrastructure.

She noted that one of the county's biggest challenges will be creating sufficiently comprehensive objective standards. Must the county's ordinances must now explicitly address situations such as avoiding construction in airport flight paths, preventing development in areas with severe flooding, accounting for road safety and access issues, and anticipating other site-specific concerns that have traditionally emerged through public hearings? She expressed concern that every important issue may now need to be codified in advance because officials no longer have discretion to address unforeseen problems during the approval process. She said that revising the county's ordinances will be a Herculean task, that the work will be complex and technically demanding, and the county should be willing to hire outside experts or commission studies if necessary to develop objective standards that adequately protect public safety and address local conditions.

John Rieley said he sees the need for consultants. He noted that everything is on hold until further notice. He reiterated his stance on local versus state control - that the trend of the General Assembly taking power and control away from local government is troubling, and that having people in basement offices in Dover determining planning and zoning questions for the rest of the state is not a formula for success.

Doug Hudson said he thinks it's a very poorly written bill: it was done without much thought or thought about the unintended consequences.

Vince Robertson noted that SB23 will affect the upcoming Comprehensive Plan update. He said that the Future Land Use Map (FLUM) of the Comprehensive Plan serves as a long-term planning guide for growth and development; it is generally broader and more strategic than a zoning map. He believes SB23 changes the practical effect of the FLUM, and that the FLUM could effectively function as a zoning map because the state would have significant authority over whether the county's proposed land use designations are accepted. This would reduce Sussex County's flexibility in making local land-use decisions. He expressed concern that the county will have little leverage in negotiating with the state over its Comprehensive Plan, and that the state would effectively have the ability to approve or reject the county's proposed land use framework, limiting the county's control over future zoning and development policies.

The Sewer Report:

- \$1,135,600 was awarded to M.F. Ronca for construction of the Headworks Electrical Building, the HVAC for it, a generator pad, and an allowance for the wastewater influent trans-pactor with controls and screening panels, at the Sussex County Regional Wastewater Treatment Facility.
- \$2,099,500 was awarded to BW Electric for electrical construction of the proposed Headworks Electrical Building, which includes significant power components at both the new Headworks and distribution structure and the aeration lagoon areas, and for electrical work as needed at the meter and control vaults, also at the Sussex County Regional Wastewater Treatment Facility.
- \$349,000 was awarded to Arcadis to investigate the sources of inflow and infiltration within portions of the county sewer system to assess the best course of action. The assessment is needed because various portions of the county's gravity sewer experience flow impacts from excessive rainfall and high-level tidal influences. The infiltration leakages cause issues with conveyance, treatment, and discharge.
- \$394,040 was awarded to the engineering firm IMT, to develop a Sussex County wastewater long-range planning study to ensure the existing system is well maintained and future accommodations for growth are accounted for. IMT will document the collection, pumping, conveyance, treatment, and disposal elements function across the regional services territories and determine flow projections, evaluation of hydraulics, regionalization opportunities, and implementation.

Old Business:

Ordinance 26-05 Forest Preservation

Vince Robertson presented a list of possible amendments to the Forest Preservation ordinance that were based on feedback from the public hearing:

1. Add new "Whereas" clauses
2. Add new Purpose statement
3. Amend definition of 'forest'
4. Remove the term 'licensed landscape architect' from the Forest Stand Delineation description
5. Only allow mitigation on a hardship basis (P&Z to have review authority to determine hardship)
6. Require mitigation planting to be native species
7. Require a detailed landscape plan
8. Add a reference to the methodology used for the Forest Stand Delineation.
9. Add 5-year lookback period for clear cutting
10. Amend the perimeter buffer calculation to include perimeter buffers in the forest preservation calculation for the growth area, and exclude them for rural areas
11. Change the effective date – make the ordinance effective upon adoption except for applications that have been submitted to P&Z and paid the required fee

Next, there was discussion:

County staff (**Todd Lawson, Vince Robertson**) recommended not moving forward with an amendment to allow payment in lieu of forest preservation because they understood that there is insufficient support for it. **John Rieley** and **Matt Lloyd** spoke up and said no, it's worth exploring, and proposed "preservation in lieu", that is, forest preserved elsewhere in Sussex to make up for forest cut down to accommodate development.

John Rieley and **Matt Lloyd** questioned 10,000 square foot (about ¼ acre) being classified as a 'forest'. **Vince Robertson** explained that the 10,000-square-foot threshold was chosen primarily for consistency with existing county resource buffer regulations.

John Rieley and **Steve McCarron** argued that strong forest preservation requirements inside designated growth zones could make development there more difficult, and if development becomes harder in growth areas, builders may instead develop rural farmland, increasing sprawl. **Jane Gruenebaum** responded that AR-1 zoning is what creates pressure on sprawl. Later, she said that putting all the weight of stopping sprawl on forest preservation by eliminating it in the growth zone and moving it to the rural areas is faulty reasoning; weakening environmental protections in growth areas will simply result in fewer forests being preserved.

Steve McCarron questioned the proposal to include perimeter buffers in the forest preservation calculation for the growth area, and exclude them for rural areas, saying that it creates inconsistent standards.

John Rieley repeatedly questioned the proposal to preserve 50% of existing forest in rural lands, asking where the figure came from and what analysis supports it. **Vince Robertson** reminded him several times that the recommendations came from the Land Use Reform Working Group that County Council established.

John Rieley raised the concern that forest preservation will reduce the number of homes that can be built on a parcel, making land values decline. **Jane Gruenebaum** responded that agricultural interests used similar arguments to oppose the Open Space amendment, and now the same argument is being used against the Forest Preservation amendment. **Vince Robertson** pointed out that a farm that is completely tilled is unaffected by the Forest Preservation ordinance.

Jane Gruenebaum protested that a circular argument was being used: If there are fees in lieu of preservation in the growth zone, they will be replaced by planting trees elsewhere in the county. But if having more trees on agricultural land decreases the value of that land, then where should the trees be planted?

Matt Lloyd noted that there is a middle ground between unrestricted development and strict preservation.

Public Hearings:

1. The County Engineering Department presented a proposal to annex the Lilyvale Development (174 housing units off of Central Avenue in Millville) into the county sewer system. The Council unanimously approved the annexation.
2. **Conditional Use #2631, filed on behalf of Zion Church Ventures, LLC**, to grant a C/U in an AR-1 Agricultural Residential district for a storage, warehouse and car wash on 29.55 acres in Frankford, was deferred.
3. **Conditional Use #2576 filed on behalf of Patricia and Frank DiNatale**, to grant a C/U in an AR-1 Agricultural Residential district for a coin retail shop on 34 acres, on the northwest side of Rt 24 near the junction of Mulberry Knoll Road, was approved.
4. **Five Conditional Uses filed on behalf of Turning Point Energy DE** were presented by Mike Riemann of Becker Morgan Group, who provided specifics of each installation. Jordan Belknap, Managing Director of Development with Turning Point Energy, testified, stating that TPE has other solar arrays in Sussex County. He said that in 2023 TPE was permitted six projects; five are completed and one is now operational.

For each proposal the County Council added two conditions: 1) a maintenance plan that includes identification and eradication of noxious weeds and grasses as set forth in the Delaware Department of Agriculture must be included, and 2), the duration for the required fabric fence was reduced from ten to five years, anticipating that the deciduous and evergreen tree buffer will screen the solar array after five years.

Judson Malone, Executive Director of Springboard Delaware, a nonprofit dedicated to housing stability, spoke in favor of the application. He noted that housing affordability includes utility costs, and electricity is a significant part of the equation.

He said that community solar is both an energy policy and a housing affordability tool: by reducing electric bills by up to 20% without requiring rooftop panels or upfront costs, it can help renters, condominium residents, and homeowners with unsuitable roofs. It lowers monthly housing costs, helping families avoid utility debt and freeing up money for necessities like food, healthcare, transportation, and savings.

A **state senator**, who did not give his name, spoke, saying he was not in support nor opposition to the solar farm applications. He stated that he supports private property rights but believes Sussex County needs a broader discussion about the long-term impacts of large-scale solar development. He raised concerns about loss of prime farmland and agricultural production, impacts on wildlife, pollinators, and natural

habitats, changes to the rural landscape and community character, and impacts on nearby property values.

He also asked about decommissioning and land restoration, as well as what oversight and accountability measures are in place to ensure safe operation, as well as proper restoration after projects end. He argued that solar facilities are commercial energy facilities, not farms, and should be taxed at commercial rates rather than agricultural rates, and concluded by urging the County to consider the long-term consequences of these policy changes while balancing property rights.

Mr. Hudson responded that if approved, the property would be reassessed at the commercial tax rate, not the agricultural rate; he noted that Sussex County now refers to these projects as "solar arrays" rather than "solar farms."

All five C/Us were unanimously approved.

Council Meeting Upcoming Schedule: Tuesdays – check agenda for timing and location

- Future meetings for August: 8/11 and 8/25

Council Meeting Broadcast

[County Council Meeting - July 28, 2026](#)

Related Articles:

[Sussex tries to balance forest preservation, development rights | Cape Gazette](#)

['Insidious': Sussex County says new affordable housing law could trample transparency - Spotlight Delaware](#)

[Sussex County leaders weigh impact of new Senate Bill 23 | News | coasttv.com](#)

[County hires consultant to study independent library funding system | Cape Gazette](#)

[Should Sussex County prevent developers from cutting down trees? - Spotlight Delaware](#)

[Sussex County pauses subdivision hearings in wake of SB 23](#)

[Preservation coalition urges participation in comp plan update | Cape Gazette](#)

[Debate continues on forest preservation regs | Cape Gazette](#)

[Cool Spring Crossing among first projects on state job creation website | Cape Gazette](#)

[Law ends public hearings for subdivisions | Cape Gazette](#)

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