

[https://wilmingtonnewsjournal-de.newsmemory.com/?token=ce3c29610d0f0bd792f4013388bb94fe&cnum=4d07fd2a-5396-e311-a3e7-d067e5fdcf96&fod=111111STD-0&selDate=20211008&licenseType=paid\\_subscriber&](https://wilmingtonnewsjournal-de.newsmemory.com/?token=ce3c29610d0f0bd792f4013388bb94fe&cnum=4d07fd2a-5396-e311-a3e7-d067e5fdcf96&fod=111111STD-0&selDate=20211008&licenseType=paid_subscriber&)

## **Wetlands buffer ordinance discussed**

**Shannon Marvel McNaught**

Delaware News Journal USA TODAY NETWORK; October 8, 2021

After a two-year hiatus, fresh efforts to update Sussex County's wetlands and buffers ordinances are underway.

Though the working group that endeavored to shape a potential ordinance hasn't met since March 2020, County Council President Michael Vincent revived their recommendations when he asked for an update at an Aug. 31 council meeting.

"A lot of work done by that group. We never saw the end product," Vincent said.

He pointed to a state resolution calling for the Department of Natural Resources and Environmental Control to determine how to establish a stateregulated nontidal wetlands program, which would effectively shift authority over nontidal wetlands from the U.S. Army Corps of Engineers to the state.

"It really concerns me. I'm convinced we'd rather have rules made here in Georgetown by local people than in Dover," Vincent said.

The last time the recommendations were presented to the council was in September 2019. The wetlands and buffers working group, consisting of 13 volunteers from various backgrounds and four county staff members, met a few more times after that, until COVID-19 arrived in the U.S.

It was September 2020, a few days after former Councilman I.G. Burton lost his bid for reelection when County Administrator Todd Lawson emailed the members of the working group to say, among other things, "These efforts for a buffer recommendation are officially over."

On Sept. 21, 2021, Lawson presented Vincent's requested update at the council's regular meeting, introducing the recommendations as "a great compromise."

"As long as everyone in the working group wasn't ragingly upset about an initiative, it stayed in," he said. "Our goal was to bring a product forward that council would endorse."

### **Drainage initiatives**

Perhaps the most notable change in the recommendations since they were last presented is the addition of drainage initiatives, formed "near the fourth quarter" of the working group's efforts and mainly by the group's agricultural stakeholders, according to Lawson.

"When a subdivision gets built and is next to a resource, for instance a ditch, and it's used to drain that property. ... Once everything's in there, there's absolutely no way you're going to be able to get into that ditch and clean it and clear it so that it conveys water," Lawson said.

The working group recommends developers analyze any water resources on the property and improve flow where necessary, such as removing a downed tree or a dam. These efforts would help upstream farmers that struggle with draining their land, according to Lawson.

“It’s something we should be proud of, that we’re attempting to tackle this issue,” he said.

### **Buffers**

Buffers are defined as a “managed area between land uses, natural resources, or other features.” They perform a variety of important functions, to include filtering and reducing certain pollutants, reducing flood velocities, preventing erosion and providing habitat for wildlife, according to Lawson’s presentation.

As the housing boom continues in Sussex and subdivisions are built along the inland bays, they’re a source of contention at planning and zoning meetings.

“Each time we see different recommendations for volunteer buffers,” Vincent said. “Sometimes 20 feet, some times 30 feet, sometimes 50 feet.”

The working group’s recommendations increase the minimum size of buffers around four different types of natural resources.

They also split buffers into two zones, “A,” or closest to the resource, and “B.” Buffer averaging and incentives may reduce the width of zone “B.” For example, zone “B” may be reduced in one area and increased in another to retain an oldgrowth forest. “A one size fits all buffer ... doesn’t make sense because the property and the characteristics are going to all be unique, property by property,” Lawson said. “(Averaging) gives you the ability to zig-zag zone ‘B’ for flexibility, but in the end, you’ve protected the same amount of square footage.”

### **Permitted activities**

Twenty-three specific, defined activities are recommended to be permitted within the buffers.

“If it’s not identified in this list, it’s not permitted,” Lawson said. “That will probably get some attention if we get to the ordinance stage.”

Many of the permitted activities are already allowed by state or federal government, such as kayak launches and docks. You can view the full list on the Sussex County government’s website at [bit.ly/3lglN15](http://bit.ly/3lglN15). Non-permitted activities include sewage facilities, storage of hazardous materials and community-related facilities such as swimming pools and clubhouses.

### **Other notables**

- The recommendations cover only new residential subdivisions.
- “Selective cutting” of trees within the buffer is recommended to be defined and allowed, such as trimming for the sake of a viewshed.
- The recommendations give the county planning and zoning commission authority to waive certain requirements for “qualified hardships” that will be defined in the proposed ordinance.

After Lawson’s presentation, Vincent asked for the recommendations to be put together as an ordinance, to be reviewed by the council and go through various public meetings before being brought to a possible vote.

“We spent a lot of time doing this,” Vincent said. “I would hope the rest of the council would agree we need to move this thing forward.”

A “discussion and possible introduction” of the proposed ordinance is on the agenda for the council’s Tuesday meeting.

---

[Copyright © 2021, The News Journal. All rights reserved. Users of this site agree to the Terms of Service](#) and [Privacy Policy/Your California Privacy Rights](#) (Terms updated March 2007).

10/8/2021

[Powered by TECNAVIA](#)

-

o