

MEMORANDUM

TO: City Council

FROM: David J. Deutsch
City Manager

SUBJECT: CB-16-2010 (DR-1)
Delegation of Powers to Municipal Corporations

DATE: April 7, 2010

Staff has reviewed CB-16-2010 which would allow the governing body of a municipal corporation to exercise certain powers of the District Council, subject to certain limitations. This bill would enact locally some of the enabling provisions approved by the State Legislature in the 2005 Session and allow the County to delegate specific authority to municipalities for the following: (1) certain Detailed Site Plans; (2) Certification, Revocation, and Revision of Nonconforming Uses; and, (3) Vacation of Municipal Rights-of-Way. The current draft does not include revisions to Special Exception site plans, which were also part of the package of additional land use authority approved by the Legislature. The County Council's Planning, Zoning and Economic Development (PZED) Committee, chaired by Council Member Samuel Dean, will review this bill in the next several weeks.

A separate County ordinance, in addition to CB-16-2010, would have to be approved to delegate any or all of the above powers to a municipal government. The City has already sent a copy of a draft ordinance to Council Members Turner, Dean, Dernoga and Olso indicating the City's interest in receiving authority to do all of the above.

Recommendation

Because CB-16-2010 will implement State law and provide the opportunity in County regulations for the District Council to delegate additional authority to municipal governments, it is recommended that the City send the attached letter to the County Council's PZED Committee requesting their FAVORABLE recommendation for the legislation and asking that revisions to Special Exception site plans be added to the bill.

Attachments

April 20, 2010

The Honorable Samuel H. Dean, Chairman
Planning, Zoning and Economic Development Committee
Prince George's County Council
County Administration Building, 2nd Floor
14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772

RE: CB-16-2010, Delegation of Powers to Municipal Corporations

Dear Council Member Dean:

The Bowie City Council supports CB-16-2010, as the legislation will implement provisions for additional municipal land use authority approved by the Maryland General Assembly in the 2005 Session. Please note that CB-16-2010 is entirely consistent with State enabling law and does not immediately result in the delegation of any land use authority currently retained by the District Council. A subsequent action of the District Council would be required to authorize a municipality in Prince George's County to exercise any of the powers identified in CB-16-2010, which include: (1) certain Detailed Site Plans; (2) Certification, Revocation, and Revision of Nonconforming Uses; and, (2) Vacation of Municipal Rights-of-Way. The bill does not include Minor Revisions to Special Exception Site Plans, the only other aspect of the approved State enabling law. The City respectfully asks for the inclusion of this provision in the bill before it leaves your Committee.

We appreciate your consideration of this request and urge you to vote the bill out of Committee with a FAVORABLE recommendation as soon as possible, with the above amendment. Thank you for the opportunity to comment on County legislation.

Sincerely,

Bowie City Council
G. Frederick Robinson
Mayor

**ADDITION TO THE AGENDA
COUNTY COUNCIL
OF
PRINCE GEORGE'S COUNTY, MARYLAND**

Tuesday, April 6, 2010
(Legislative Day No. 9)

1. **CONSENT AGENDA – (page 1)**

All items listed under the consent agenda have been distributed to each member of the Council for review, are considered to be routine and will be acted upon by motion in the form listed. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the consent agenda and considered separately.

(a) **First Reading of Bills (Presentation)**

CB-16-2010 - AN ORDINANCE CONCERNING MARYLAND –NATIONAL CAPITAL PARK AND PLANNING COMMISSION – PRINCE GEORGE’S COUNTY DISTRICT COUNCIL – DELEGATION OF POWERS for the purpose of allowing the governing body of a municipal corporation to exercise certain powers of the District Council, subject to certain limitations.

To be presented by Council Member Dernoga; referral to PZED

BACKGROUND INFORMATION/FISCAL IMPACT:

(Includes reason for proposal, as well as any unique statutory requirements)

This legislation amends the Zoning Ordinance to allow municipal zoning authority in certain cases and provides a process for District Council review upon appeal of a municipality's decision.

CODE INDEX TOPICS:

INCLUSION FILES/ZONING FIGURES:

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2010 Legislative Session**

Bill No. CB-16-2010

Chapter No. _____

Proposed and Presented by Council Members Dernoga and Turner

Introduced by _____

Co-Sponsors _____

Date of Introduction _____

ZONING BILL

1 AN ORDINANCE concerning
2 Maryland - National Capital Park and Planning Commission – Prince George’s County District
3 Council – Delegation of Powers

4 For the purpose of allowing the governing body of a municipal corporation to exercise certain
5 powers of the district council, subject to certain limitations.

6 BY repealing and reenacting with amendments:

7 Section 27-924,
8 The Zoning Ordinance of Prince George's County, Maryland,
9 being also
10 SUBTITLE 27. ZONING.
11 The Prince George's County Code
12 (2007 Edition, 2009 Supplement).

13 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
14 Maryland, sitting as the District Council for that part of the Maryland-Washington Regional
15 District in Prince George's County, Maryland, that Section 27-924 of the Zoning Ordinance of
16 Prince George's County, Maryland, being also Subtitle 27 of the Prince George's County Code,
17 be and the same is hereby repealed and reenacted with the following amendments:

SUBTITLE 27. ZONING.

PART 17. DELEGATION OF AUTHORITY.

DIVISION 2. MUNICIPAL CORPORATIONS.

1 **Sec. 27-924. Powers of Municipalities.**

2 (a) General.

3 (1) An incorporated municipality may enact an ordinance which sets forth procedural
4 regulations governing any or all of the following: departures from design and landscaping
5 standards, parking and loading standards, sign design standards, and variances for lot size,
6 setback, and similar requirements for land within the corporate boundaries of the municipality[.],
7 alternative compliance from landscaping requirements, certification, revocation, and revision of
8 nonconforming uses, and minor changes to approved special exceptions.

9 (2) The municipality may not impose any standard or requirement stricter than those
10 standards or requirements set forth in the Zoning Ordinance.

11 (3) The procedural regulations adopted by the municipality shall be set forth in a
12 municipal ordinance.

13 (4) (A) (i) The municipal ordinance shall provide that before exercising the right
14 of appeal under Subparagraph (B), a party of record shall first appeal an action of the governing
15 body of a municipal corporation under this section to the District Council for review on the
16 record.

17 (ii) On review, the district council may:

18 1. By majority vote of its members, approve the action of the
19 municipal corporation; or

20 2. By a vote of at least six of its members, approve with conditions
21 or overrule the action of the municipal corporation.

22 (iii) A person aggrieved by the action of the District Council under this
23 paragraph may appeal to the Circuit Court.

24 (iv) For purposes of an appeal to the circuit court under subparagraph (iii)
25 of this paragraph, the municipal corporation whose action is affected by the action of the District
26 Council shall be considered an aggrieved person.

27 (B) The municipal ordinance shall further provide that any person aggrieved by its
28 decision who was a party to the proceeding before it may appeal to the Circuit Court which shall
29 have the power to affirm the decision of the municipality or, if the decision is not in accordance
30 with law, to remand the matter or to modify or reverse the decision.

1 (5) The municipal ordinance shall not apply to any variance requests over which the
2 District Council has retained jurisdiction pursuant to Section 27-239.03 of the Code.

3 **(b) Procedures.**

4 (1) Prior to adopting the ordinance, the municipality shall hold a duly advertised
5 public hearing.

6 (2) The District Council shall hold a public hearing on the proposed municipal
7 ordinance within sixty (60) days of its receipt. Notice of the time, date and place of the hearing
8 shall be published at least one (1) time in the County newspapers of record, at least fourteen (14)
9 days prior to the hearing date.

10 (3) Failure of the District Council to adopt the municipal ordinance shall be
11 considered a disapproval thereof.

12 (4) The provisions of the Zoning Ordinance shall continue to apply within the
13 municipality unless and until the District Council approves the proposed municipal ordinance.

14 (c) After the municipal ordinance is approved by the District Council, the municipality
15 retains the right to elect not to exercise the power to approve variances and departures if it
16 provides 60 days' notice of its intent to do so to the Clerk of the County Council and to the
17 residents of the municipality. If the municipality chooses not to retain such powers, the
18 provisions of the Zoning Ordinance will automatically apply within the municipality.

19 SECTION 2. BE IT FURTHER ENACTED that this Ordinance shall take effect forty-five
20 (45) calendar days after its adoption.

Adopted this ____ day of _____, 2010.

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

BY: _____
Thomas E Dernoga
Chair

ATTEST:

Redis C. Floyd
Clerk of the Council

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.