

TO REGULATE OR NOT? THAT IS THE QUESTION!

Last time I reported to you about the activities of the Sussex County Economic Development Action Committee, I pointed out four areas in which Sussex County must improve if we are to sustain Sussex County as a “Place To Be”. Those areas included Training, Salary Improvements, Affordable Housing and Job Opportunities. Two other areas remain problems and they include infrastructure and regulations. With this column, I would like to focus on problems that delay and often end a company’s interest to relocate to Sussex County, that being the problem with regulations.

Now, before we go off on the wrong tangent, let me point out that most regulations do, in fact, protect the public from harm. As both an elected and appointed official at the local, County and State level, I have proposed some of these regulations. To be completely self-serving. I believe that the regulations that I was part of creating are all good. However, like all regulations that become law, they should be reviewed with an eye to improving them or doing away with them altogether. The problem with the Affordable Healthcare Act is not in its intention to provide health care for all – it is in the regulations that followed the Act’s passage. Given seven years, both the Republican and Democratic Parties should have been ready to make this Act truly effective. Simply repealing the Act was, and is not, the solution. I mention this Act, not to debate its merits, although health care for all Americans seems like a no-brainer to me, but to point out how things that start with all good intentions often end up as a major controversy. My point is this: all regulations should be reviewed for effectiveness and, yes, even the need for such rules. The State of Delaware has a Sunset Committee to review whether a State agency or bureau should continue, why not consider regulations that have lost their effectiveness, are overkill, or simply should be eliminated?

When Ruth Ann Minner was Governor, she proposed a land use solution for our State known as “Livable Delaware”. One of the requirements of this law, which I supported, was the creation of the PLUS Committee (Preliminary Land Use Service). This committee, made up of representatives of all state agencies that have any involvement in growth in Delaware meets once a month to review any major change of zone, conditional land use proposal or subdivision application. The model for this committee was developed when both Bayside Americana and The Peninsula took their application through this process voluntarily. This committee was supposed to be made up of the people who would ultimately sign off on the State permits that would allow the development to take place. From the State’s perspective, it would allow each agency the opportunity to tell the developer what was right and what was wrong with the proposal. From the developer’s perspective, he would know what he had to do to meet all the regulations, what should be changed in his application and whether the application was so bad that its’ chances of success were non-existent. When the Committee was created by law, it met its responsibilities. The real State decision makers sat across the table from the development community and shared their comments. But as time progressed, the Committee began to see second, third, and even fourth level bureaucrats sit at the table. The report issued by PLUS began to be nothing more than a carbon copy of previous letters. The “give and take” that led to such great developments like Heritage Shores disappeared. A complete review of the makeup of this committee is well past due. If the public is to expect Smart Growth in Delaware, then a complete review must be undertaken.

If a review of all regulations is to take place, one of the issues that will quickly surface is the amount of time that it takes to get anything approved. An agency may have 30, 60 or 90 days to review an application. It is the exception to the rule when this happens. In addition, this review period may occur several times before a permit is actually issued. People who are trying to bring jobs to Sussex County and to Delaware should expect that if a state or county agency has a time deadline, they should meet it.

Many times, when the timeline is not met, the applicant is the last to know, if in fact they are informed at all. Moreover, if an applicant fails to follow any of the requirements of the permit, the State is quick to move to shut the job down or pursue civil penalties. It is correct for the State to insist that permit requirements be met but shouldn't it be similarly correct that there should be a penalty if the bureaucracy fails to meet the same permit requirements? The regulatory process in Delaware takes time and, unfortunately, when the land development climate favors investment, the process and calendar get bogged down even more. It seems counterintuitive economically for the process to get slower when investors want to create jobs. This is why the approval process must be streamlined.

To bring jobs to Sussex it will take a new philosophy among the bureaucracy at all levels of government. Protective and useful regulations should be enforced but the bureaucracy must be held accountable for its actions as well. Predictable and timely regulatory action is demanded by those looking to invest in new jobs and these businesses will seek out cities, counties and state that provide it.