

**PRINCE GEORGE'S COUNTY COUNCIL
AGENDA ITEM SUMMARY**

Meeting Date: 9/30/2003

Reference No.: CB-8-2003

Proposer: Dean

Draft No.: 3

Sponsors: Dean, Shapiro, Exum, Harrington

Item Title: An Ordinance defining Class 3 fills requiring a special exception for Class 3 fills in all zones where they are permitted and providing a limitation on grading permit renewals for Class 3 fills

Drafter: Jackie Brown, Director
PZED Committee

Resource Nell W. Johnson
Personnel: Legislative Aide

LEGISLATIVE HISTORY:

Date Presented: 1/28/2003

Executive Action: __/__/____ __

Committee Referral: 1/28/2003 PZED

Effective Date: 9/30/2003

Committee Action: 1 2/26/2003 HELD

Committee Action: 2 3/12/2003 HELD

Committee Action: 3 3/19/2003 HELD

Committee Action: 4 3/26/2003 FAV(A)

Committee Action: 5 7/1/2003 HELD

Committee Action: 6 9/24/2003 FAV

Date Introduced: 4/8/2003

Public Hearing: 5/20/2003 10:00 A.M.

Council Action:1 5/20/2003 RECOMMIT

Council Votes: PS:A, MB:A, SHD:A, TD:A, CE:N, DCH:A; TH:A, TK:A, DP:A

Pass/Fail: P

Council Action:2 9/30/2003 ENACTED

Council Votes: PS:A, MB:A, SHD:A, TD:A, CE:A, DCH:A; TH:-, TK:A, DP:A

Pass/Fail: P

Remarks: _____

9/30/2003 – CB-8-2003 (DR-2) was amended on the floor prior to enactment; DR-3 enacted

PLANNING, ZONING & ECON. DEV. COMMITTEE REPORT

DATE: 9/24/2003

Committee Vote: Favorable on Draft-2, 4-0 (In favor: Council Members Harrington, Dernoga, Dean and Exum)

Staff explained that subsequent to the public hearing on Draft-2 of the bill, the Council recommitted the bill to the Planning, Zoning and Economic Development Committee for further consideration. The Committee Chairman requested that staff provide an overview of Draft-2.

The Committee voted favorably on Draft-2 with an understanding that prior to enactment of the bill, which would be scheduled for the Council's next legislative session, the legislation would be amended to include a sunset clause. Staff was instructed to prepare the appropriate amendment.

Council Member Dean noted that CB-8-2003 (DR-2) is intended as an interim measure to address concerns raised by those living in communities most affected by Class 3 fill operations and that he intends to introduce a new bill that will meet the needs of the industry without taking away provisions intended to protect the affected communities.

PLANNING, ZONING & ECON. DEV. COMMITTEE REPORT

DATE: 3/26/2003

Committee Vote: Favorable with amendments, 4-1 (In favor: Council Members Harrington, Dernoga, Dean and Exum. Opposed: Council Member Knotts)

Staff informed the Committee that the only additional information received since the March 19 meeting was a letter dated March 25, 2003 to PZED Chairman David Harrington from the Little Washington Civic Association reiterating their objections to a Detailed Site Plan process for Class 3 fills and requesting that the committee hold the bill until a later time.

At a suggestion by Council Member Harrington, the Committee discussed a possible moratorium on the issuance of grading permits for new Class 3 fill operations until such time as the industry representatives and the civic groups could agree on provisions for this use in CB-8. It was suggested that a resolution be introduced and adopted on the Tuesday following the Committee meeting (April 1) instructing the Department of Environmental Resources not to issuance permits for these operations.

The Legislative Officer advised the Committee that adoption of a resolution directing the Department of Environmental Resources to cease issuing permits for Class 3 fills could result in an unintended effect on other uses.

A motion was made for a favorable report on the legislation with amendments as contained in Proposed Draft-2 which was previously considered by the Committee on February 26, 2003.

PLANNING, ZONING & ECON. DEV. COMMITTEE REPORT**DATE: 3/19/2003**

Held in committee.

Staff presented a list of proposed amendments to Draft 2-A, prepared at the request of the bill's sponsor, to address various comments that were received concerning that draft. Comments concerning Draft 2-A were received from Council Member Dernoga; Charles Renninger and John Baker, Environmental Justice Task Force members; Leo Bruso, President, Prince George's County Association of Realtors, Inc.; Thomas Milbourne of the Michael Companies, Inc.; Darryl E. Harris, President, Little Washington Civic Association; Larry Cartano of Pleasants Development, Inc.; and the Prince George's Chamber of Commerce Legislative Committee.

Council Member Dean, the bill's sponsor, explained that the list of proposed amendments was prepared in an attempt to incorporate as many of the suggestions as possible offered by the community and the industry representatives.

Darryl Harris addressed the Committee indicating that the Little Washington Civic Association was not in support of Draft 2-A because it did not address the concerns of the community and the requirement for a Detailed Site Plan does very little to protect the interests of the surrounding community. Mr. Harris expressed the Association's support for the draft requiring a special exception for Class 3 fill operations. John Baker spoke in support of additional requirements such as berms, setbacks, trip limitation and limits on vehicle capacity on access and entry roads. Larry Taub spoke generally in support of the Detailed Site Plan requirement contained in Draft 2-A with some concerns regarding grandfathering and screening. Other individuals who spoke regarding concerns with Draft 2-A were: Leo Bruso, Carmen Anderson and Councilman Darrell Miller of the Town of Capitol Heights.

A motion was made for a favorable report on Draft 2-A by Council Member Dean and seconded by Council Member Knotts. The motion failed 2-3. An additional motion was made by Council Member Dernoga and seconded by Council Member Exum to review the bill further at the next committee meeting. That motion passed 4-1.

PLANNING, ZONING & ECON. DEV. COMMITTEE REPORT**DATE: 3/12/03**

Held by request of sponsor to allow additional time for review of Draft 2-A, which was prepared as a result of comments received on Proposed Draft 2.

PLANNING, ZONING & ECON. DEV. COMMITTEE REPORT**DATE: 2/26/03**

Committee vote: Hold until March 12, 5-0 (In favor: Council Members Harrington, Dernoga, Dean, Exum and Knotts)

Staff gave an overview of the legislation and presented a Proposed Draft-2 (DR-2) of the bill prepared at the request of the bill's sponsor. DR-2 eliminated all references to sanitary landfills

and rubble fills as well as the additional substantive standards and requirements that were contained in Draft-1. Also in Proposed DR-2, an amendment was made to Section 27-406(h) to delete language included in Draft-1 requiring that the District Council find that the proposed use is necessary to “the public”. In Proposed

DR-2, the following language that was originally in place in this section was restored: “the District Council shall find that the proposed use is necessary to serve the projected growth in Prince George’s County.” The language was restored based on comments from the Principal Counsel that the requirement as proposed in Draft-1 of the bill, “necessary to the public,” would be very easy to meet and no application would be denied on the basis of that requirement.

The bill’s sponsor informed the Committee that this legislation is an effort to provide some mechanism for denial of Class 3 fill operations since the current process for grading permit issuance provides no control over the proliferation of these uses, especially in Councilmanic District 6. Council Member Dean requested the committee’s support for CB-8 to provide the residents who are affected by the traffic, noise and other nuisances associated with Class 3 fills an opportunity for public input during the review process.

The following referral comments were received on Draft-1. The Legislative Officer finds the bill to be in proper legislative form. The Office of Audits and Investigations determined there should be no negative fiscal impact on the County as a result of enacting CB-8. The Planning Board supports the bill indicating that it will close a gap that currently exists for Class 3 fills and set forth clearer standards for the approval of this use.

Aisha Braveboy, representing the County Executive’s Office, indicated that the Executive is not opposed to the bill. Leslie Jackson-Jenkins, Deputy Director of the Department of Environmental Resources (DER), addressed the committee explaining the Department’s concern about adequate disposal locations, especially the County’s Brown Station Road facility, if it will be more difficult for Class 3 fill operators to obtain permit renewals. Ms. Jackson-Jenkins also commented about the potential need for future legislation to increase the bonds held by DER for clean up of the Class 3 sites that must close as a result of this bill.

The following individuals spoke regarding CB-8, Proposed DR-2: Larry Taub with concerns about the special exception process required in the bill; William Evans of the Westphalia Civic Association in support; Hamer Campbell of Maryland National Capital Building Industry Association, indicating no formal position was taken by the Association, but expressing concerns about the special exception process due to the additional costs involved that will be passed on to homebuyers; and Stan Fetter of Accokeek in support.

A motion was made by Council Member Dean and seconded by Council Member Knotts to hold the bill for two weeks, until March 12, to give the business community an opportunity to come up with an alternative process that would still provide public input and traffic analysis.

BACKGROUND INFORMATION/FISCAL IMPACT**(Includes reason for proposal, as well as any unique statutory requirements)**

Sanitary landfills and rubble fills are permitted by special exception in the R-O-S, O-S, R-A, R-E, R-R, C-O, C-A, C-S-C, C-M, I-1 and I-2 Zones in accordance with certain requirements in Section 27-406 of the Zoning Ordinance. Class 3 fills, which create some of the same land use problems and concerns as sanitary landfills and rubble fills, are not currently regulated by special exception in the Zoning Ordinance. The bill amends the Ordinance and use tables to define Class 3 fills and to require special exceptions for Class 3 fills in all zones where they are permitted.

CODE INDEX TOPICS: