County of Surry, Virginia
Planning Commission Meeting Minutes
January 27, 2025

MEETING CONVENED: The meeting of the Surry County Planning Commission was called to order at 7 PM on Monday, January 27, 2025, in the Surry County General District Court, 45 School Street, Surry, VA, by Mr. Horace Wade, III, Director of Planning and Community Development.

ATTENDANCE: The following members responded present to Roll Call:
Mr. Giron Wooden, Jr., Chair
Mr. Thomas Hardy, Vice-Chair
Mr. Theodore Lunsford
Mr. Earl Newby, Sr.
Mr. Stephen Berryman
Mr. William Seward, IV
Ms. Dianne Cheek

Absent:
Ms. Carmen D. Judkins
Mr. Eddie Brock
Mr. David Coggin
Mr. Breyon Pierce

Staff Presents
Mr. Horace Wade, III, Director of Planning and Community Development
Ms. Regina Hilton, Administrative Assistant
Mr. Lorenzo Turner, Planner
Mrs. Lola Perkins. County Attorney

Others Present:
Mr. Scott Foster, Legal Representative of AES

PLEDGE OF ALLEGIANCE: All

ADOPTING OF AGENDA: Mr. Horace Wade, III, Director of Planning and Community Development, entertained a motion to adopt the meeting's agenda. Ms. Cheek asked if tonight's meeting was a work session. Mr. Wade said that the battery storage item would be treated as a work session and that we would have regular meetings. It was moved by Mr. Berryman and seconded by Mr. Newby to adopt the meeting's agenda.

In favor: (7) Wooden, Newby, Hardy, Berryman, Lunsford, Cheek, Seward
Opposed: 0
Abstain: 0

Election of Chair and Vice-Chair:

Mr. Wade asked for the nomination for Chair. Ms. Cheek nominated Mr. Brock. Mr. Hardy nominated Mr. Giron Wooden, Jr. Mr. Wade said that when he spoke with Mr. Brock, he stated that he did not want to be Chair. Ms. Cheek withdrew her nomination. Mr. Berryman seconded it for the nomination for Mr. Wooden to be Chair.

In favor: (7) Wooden, Newby, Hardy, Berryman, Lunsford, Cheek, Seward
Opposed: 0
Abstain: 0

Chair Wooden entertained a motion for the nomination of Vice-Chair. Ms. Cheek nominated Mr. Coggin. Chair Wooden nominated Mr. Thomas Hardy. Mr. Newby asked if an absent member be nominated. Mr. Wade said you could nominate them but did not know if they would accept. Mr. Wade made the call to Mr. Coggin. Mr. Wade said that after speaking with Mr. Coggin, he said that he needed more time to serve as a Planning Commissioner before taking on the role of Vice-Chair. Mr. Berryman seconded the nomination for Mr. Hardy as Vice-Chair.

In favor: (7) Wooden, Newby, Hardy, Berryman, Lunsford, Cheek, Seward
Opposed: 0
Abstain: 0

Adoption of Bylaws:

Mrs. Perkins said neither Mr. wade nor herself had recommended amendments to bring before the Commission tonight. And that Ms. Cheek did send proposed amendments for the bylaws. Mrs. Perkins said that to amend the bylaws, there should be a 24-hour notice. Because there wasn't a 24-hour notice, "We cannot proceed with voting on amendments tonight, but it could be discussed." She and Mr. Wade could compile the discussed items and provide a red-line document in advance of the February meeting to be voted on.

Ms. Cheek said that for Article Five, committees number two, she recommends striking the part that says, "No more than four commissioners." Her reasoning is to allow Commissioners to participate in a committee, and she agrees with three as a minimum. Chair Wooden said he didn't disagree with Ms. Cheek's proposal, but to be mindful when forming a committee, we would want a representation of the actual Planning Commission. When going above a certain number, a project could be coming before the Planning Commission and there would not be a need for a committee. Having three members was to have a representation of the actual Planning Commission and then to be able to discuss projects. Then, the committee would bring that information back to the Planning Commission.

Mrs. Perkins's recommendation was to cap it at no more than five because six would be a quorum of the Planning Commission. Mr. Berryman suggested five so that it may have a representation of each district on a subcommittee.

Ms. Cheek's second recommendation was Article Seven, "Order of Business," Number 11; the PC Secretary of Communications noticed that the docket is a working internal procedure for Mr. Wade. Ms. Cheek said that before the PC Secretary presents the meeting's docket, it could be reviewed by the Commission of what's on the docket and have a calendar review of upcoming projects. Ms. Cheek said it would also be helpful when citizens call and ask about the status of certain projects, upcoming projects, and active projects. Ms. Cheek asked if there could be a status update as part of the monthly meeting.

Mr. Hardy said that most updates are given during the Committee Updates or PC Secretary of Communications. Ms. Cheek said it would formalize that reporting for the Planning Commission from the PC Secretary. Mr. Wade said that when there is a docket, it is the listed items on the agenda. When looking at a court docket, it has a list of their name and the offense. Mr. Wade said to give clarifications on number 11, PC Secretary Communications; he does not know if there is a need to put specific things in the bylaws, which limits the items that are there, and there are no other areas in the order of business that has anything spelled out.

Mrs. Perkins said it has been established that Mr. Wade does a lot of updating, if not all. Looking at the section on officers and duties on page four. "The secretary shall have the following duties, and if needed, add periodic updates to the Commission and that the Planning Director be as forthcoming with sharing of information. That may be a better place to put it than in the call of order that outlines the different topics discussed during the meeting." Ms. Check said that she thought it would help the Board to have good documentation about how it operates to have it as part of the PC Secretary's duties. Mr. Wade said to address Ms. Cheek's point if the Commission wanted to add that the PC Secretary would provide regular updates and assist with subcommittee updates. Or to codify within the bylaws.

Ms. Cheek's third recommendation, Article 10, "Docket and Agenda," is, "The agenda of cases to be heard shall be posted in the Planning Office." She recommended that it be posted on the county website in the Agendas. Mrs. Perkins clarified some legal concerns and addressed the calendar that Planning has for an applicant. An applicant has a certain date to get their application to Planning to have it on the next agenda. As for advertising for public hearings, the requirement under the Virginia Code is that the item must be advertised in the newspaper, and when advertised, you must identify where it would be available and where you can find it at County Offices,

Mrs. Perkins said that according to state law, you are only required to have a physical copy somewhere in County Offices where members of the public can go. Mrs. Perkins said, "They try to post a physical copy on the same day the advertisement is in the paper or within. The paper usually advertises on Wednesday, and by Thursday morning, they try to have all the notices and associated materials posted to the public notices part of the County's website. This started at the end of last year, and she believes the October Board Meeting was the first." Mrs. Perkins said that it is not a legal requirement.

Mrs. Perkins said the agendas page is posted in accordance with Virginia State Code requirements. The agendas are posted and available to the public while the agenda simultaneously, and the agenda and packets go out to all the Commission, the same as that of all Boards and Supervisors. Mrs. Perkins said if the Commission wishes to put a timeframe in place, she recommends using five days, the same as the Board of Supervisors. Her concerns are that putting things in the bylaws would restrict timelines and requirements that aren't required by the Virginia State Code and would lose the potential flexibility required in certain situations. Ms. Cheek said at a minimum time because currently, it has agendas not less than four days before the meeting. Try making some of these consistent. If it is codifying the County website, maybe leaving it in the Planning Office and the County's website reflects what is being done. Mrs. Perkins said that she is comfortable with making the change to five days but not a hundred percent comfortable with adding it to the bylaws and that it must be on the website. The confusion is that the requirement to have it in the office of the Planning Department is a requirement for public hearings, not agendas.

Chair Wooden asked if there were any other recommendations from the Planning Commissioners related to the bylaws. He would like to bring up the meeting time . . . if the Commission could look at the time of the meeting for consistency with that of the Board of Supervisors at six o'clock. Last year, A comment was made about changing the time to 6 PM. Mr. Berryman said he would like to keep it at seven. Ms. Cheek also agreed with seven to allow citizens and those who work to attend. Mr. Hardy said he was okay with six. Mrs. Perkins said that it could be a proposed amendment that could be considered again and sent to the Commission in advance of February's meeting.

2025 Planning Commission Meeting Schedule:

Chair Wooden said the 2025 Planning Commission Meeting Schedule is in tonight's packet. He entertains a motion. It was moved by Mr. Newby and seconded by Mr. Berryman.

In favor: (7) Wooden, Newby, Hardy, Berryman, Lunsford, Cheek, Seward
Opposed: 0
Abstain: 0

APPROVAL OF CONSENT ITEMS:

Chair Wooden asked the Commissioners for the disposition of the minutes for November 25, 2024, and December 16, 2024. Ms. Cheek made a request. She said that via email to Mr. Wade in December, she had listed input about the CUP for Sycamore Cross. She could not finish each of the items during the meeting and would like to ask if her input could be included as part of the minutes to be documented.

Mrs. Perkins said the minutes summarize what occurs at the Planning Commission's meeting. Therefore, while her comments could have been used and contributed to the informed discussion, it would not be appropriate for the comments to be included as an attachment or as an addendum to the minutes of the Planning Commission. The comments she made are incorporated into the minutes, and she understood that she didn't go through each one, so it would not be appropriate to include that as an attachment. Mr. Hardy identified a correction on page eight, third paragraph down, "Ms. Check" instead of "Ms. Cheek."

A motion to adopt the minutes from November 25, 2024, and December 16, 2024, with the noted correction, was made by Mr. Newby and then seconded by Mr. Hardy.

In favor: (7) Wooden, Newby, Hardy, Berryman, Lunsford, Cheek, Seward

Opposed: 0
Abstain: 0

<u>OLD BUSINESS</u>:

PC ORDINANCE AMENDMENT 2024-04: The Planning Commission will consider and intends to take action on the adoption of an ordinance amendment initiated by Clenera, LLC and to the Surry County Zoning Ordinance amend Article II - Definitions and Uses, Article III – Zoning Districts and Boundaries, and Article IV – Supplementary Regulations to incorporate and add language including a new section 4-609, regarding definitions, use type descriptions, district requirements, application requirements, required plans, and performance standards for Battery Energy Storage Systems to allow this use by conditional use permit in Agricultural-Rural, M-1 and M-2 General Industrial

Mr. Wade said there was a public hearing for the Battery Energy Storage Ordinance at the last Planning Commission Meeting. Ms. Cheek noted on page 15, Section 4-609, “Battery Energy Storage Systems,” her first change is section A and number four, “The Additional Considerations.” It says, “That additional information may be required as determined.” Ms. Cheek said that from working with the solar activity, they found that additional information is required, and she uses it as her guide. She recommends we change that to be additional recommended information is required.

Also, moving the portion determined by the Planning Director down in the paragraph when it talked about other additional information. Historic resource impact analysis, environmental impact, and traffic are very important. Instead of making it may be required, she recommends that we consider making it a requirement. Mr. Wade said he had an additional note to add. Clenera and their staff looked at this section directly from the proposed solar ordinance. The way it reads initially is how it's spelled out in the current Solar Ordinance that is being presented to the Board of Supervisors after a recommendation from the Planning Commission.

Ms. Cheek said that in Section 4, the applicant shall inform the Planning Director. She added that it talks about the property owner informing the Planning Director and property owners in writing with the meeting date, time, and location within at least seven days, but not more than 14 days. She wants to ensure that the applicant is ensuring that they receive, but not more than 14 days. She wants to ensure that the applicant is ensuring that they receive the notice at least. She then recommended 15 days, giving the applicant reasonable time to have the information for a community meeting. Mr. Wade also said, in practice, that applicants should be asked to do a broader scale of the half to a mile radius of the site.

Mr. Scott Foster said the permit-by-rule process requires a community meeting, subject to more stringent regulations than most localities. You have a 60-day notice requirement, newspaper advertisements, and multiple notices. It's more of an all-call event. This provision allows an applicant to use the PBR public hearing, which is more than sufficient if held within 60 days of your public hearing. Instead of having multiple public hearings, you could piggyback off that one, and most people do not file their PBR application until they have their local permit in hand.

Ms. Cheek said in Section C, “Performance Requirements, and number two, “Configuration,” says, “Battery cell shall be placed. The facility shall have 24-7 automated fire detections and then say such design is unavailable.” Ms. Cheek asked are they not 24 7? Mr. Hardy asked Ms. Cheek to read further.

Ms. Cheek said, " If such device is not available, each container shall have, included, built-in fire suppression intended to mitigate the risk of spread of fire among container assembly."

Mr. Foster said that the battery storage units are monitored 24/7, which is called the brain. Essentially, they are loaded with sensors, and if one unit heats up, they will shut down. They are as big as a computer server in the interior components. They can shut down one and take it offline; containment is the key.

Mr. Foster said that certain models are liquid cools, and some models are air-cooled. The emergency response plan is at the final site plan approval in coordination with your fire department. The NFPA A855 is the best and most up-to-date code for this use. It has not yet been adopted in Virginia. Virginia is usually two or three years behind the national trend, and they are opting into that via this ordinance. All the components are being designed in conformance with NFPA A855.

Ms. Cheek said 4-609 C(3), number three, "the Battery Management System," "Shall be capable of shutting down and issuing an alarm in response to an unsafe condition." Ms. Cheek asked if Mr. Foster knew which type of alarm it would be. Or will it be presented to the Commission on a project-by-project basis? Mr. Foster said that the alarm relates to the remote control center. It goes up to a control center, and they can do what is needed to shut off certain components, and then from that control center, they would activate a local emergency response. It's not a buzzer.

Ms. Cheek's concern was the warning signage. She said it states that it shall be placed on the building entrances. "Should we also add at the entry of the facility?" Mr. Foster said that was a good catch and to make a change to say that it's at the entrance to the facility and as needed on the individual containers. He said that they aren't necessarily buildings habitable structures, "You can't get in them." Ms. Cheek said to number six, the same section (4-609 C(3)), which says it is in the AR district. Ms. Cheek said that Surry's solar areas are switched from AR to M1 or M2. "Would that be done for the Battery Storage System parcels?"

Mr. Wade said that for battery storage, the ordinance says, "We're permitting it as an AR district use as a conditional use permit, as well as a conditional use in the M1 and M2 districts. Mr. Berryman asked why the projects, which seem like they will be as involved as a solar project, are in an AR district. Mr. Wade said it would be AR with a conditional use permit. "These types of projects don't use the same amount of landmass as a solar project, which takes up thousands of acres. These projects take up less than 50 acres. Changing the zoning maps to allow Industrial Use in the middle of mostly probably agricultural uses. If they are in an AR district, you would have spot zoning.

Mr. Foster said his take was, "If you had to pick a use that is most akin in the County, it's essentially as close to, from a foreman function perspective, as a big substation permitted in your AR district. Footprint, intensity, and impact aesthetics are what you would get." Mr. Berryman said that it seems they are not keeping the rural character of the AR District by allowing this type of project there.

Chair Wooden said, following up on Mr. Berryman's question, "If the Commission were to allow a battery storage project in the district, could we limit the size of the project?" Mr. Foster said his interpretation would be "That you could put an acreage limitation. Be careful in what you define as the site. You could put what you want and don't want and be careful in defining what constitutes the project. You would include your buffers, setbacks, acreage, et cetera."

Ms. Cheek said she believes that we would need more setbacks. She reasoned that there was a daycare in one of the M1 and M2 districts, and now there is a Registrar's Office. "Should we somehow consider setting the setbacks to reflect the surroundings?" She knows that the battery storage is self-contained. Hopefully, the fire will be suppressed, but if, for some reason, "It's a bad day and it ruptures, and chemicals are released, then maybe bring an independent opinion about the right distance. "

Ms. Cheek said on number 9C, "Noise." It is recommended to be no louder than 72 dBA. She thought she would lower that because there have been so many complaints about the noise from the solar projects. Ms. Cheek recommends a limit of 40 dBA, which is more comparable to our normal noise level nature than a dishwasher running constantly. Mr. Foster said that he modified the language and a noise chart.

Mr. Foster has an app on his phone and has been running this dBA meter since the meeting started. "The average dBA is 59.4 in this room with all this noise is baffling. Mrs. Perkins clocked in at 70 dBA, and she was the highest. His conversation, amplified by the microphone, is between 70 and 75. Noise is hard to legislate because it's an attribution issue. They can model that a project won't exceed based on the selected equipment and the rated noise produced from that equipment. You can build a model that says the noise from this project will be X at Y distance. They proposed this property line value, so before final site plan approval, we must demonstrate using a sound engineer that they can comply with the noise ordinance at the property line. They can comply with 65 dba at a property line, between being in an office or having background music on." Mr. Foster said under nine, subsection two, allows the Zoning Administrator, if they go above 40, there is a provision where they can enable minor structures to assist in noise abatement.

Ms. Cheek said that number 13, section 4-609 D, talks about de-energizing, which could be more of a case-by-case basis. Ms. Cheek asked how long it takes to de-energize.

Mr. Wade stated that he did have a concern from Mr. Coggin. He wanted to look at the portion about landscape screening and landscaping buffering on page 18 of 22; Mr. Coggin said the areas around the exterior of the fencing should extend 25 feet.

Mr. Berryman asked if anyone in the county had visited a battery storage site. Mr. Wade said not yet. Mr. Berryman asked whether that could be possible. Mr. Wade said that Mr. Foster said it could be possible. Mr. Wade said at the subcommittee meeting that we could arrange it. It would be a joint trip with the Board of Supervisors.

Mr. Seward asked if we were trying to meet the NFPA standards. Is there any equipment in the battery storage facility that does not meet the standards? Mr. Foster said that the final site plan and the selected components must demonstrate that NFPA A855 is in compliance. Clarify That would be the County's hook to say, this is what we've done. The older technology, which are actual buildings, would not be NFPA A855 compliant today.

Chair Wooden asked for a motion to either approve, deny, or table PC Ordinance Amendment 2024-04. Ms. Cheek made a motion to table PC Ordinance 2024-04 so that Mr. Wade could present a new version, giving input from the Commission. It was seconded by Mr. Newby. , given the input.

Chair Wooden said that it has been properly moved and seconded that Ordinance Amendment 2024-04 be tabled until the next meeting.
In favor: (7) Wooden, Newby, Hardy, Berryman, Lunsford, Cheek, Seward
Opposed: 0
Abstain: 0

NEW BUSINESS:

1. Emerging Technologies Zoning District Amendment

a. Motion to bring forth an ordinance

Mr. Wade said that this item would improve The Emergency Technology Zoning District. It is being brought to the Commission before scheduling a public hearing. They are working with our consultants and outside counsel to bring things forward.

Mrs. Perkins said that pursuant to Virginia's Code, there are certain ways that ordinances and amendments to ordinances can be initiated.

- One, through a motion to bring forth an Ordinance Amendment.
- There currently isn't language.
- Amendments are needed, and we would like the Commission's authorization to begin formulating language.
- It will go through our customary process of putting together an amendment. If it needs to go to the zoning subcommittee, advertise it for a public hearing.
- Whether there would be a need for a work session.
- The ordinance amendments will be coming before the Commission in February, which isn't a realistic timeframe

Chair Wooden asked for a motion. Ms. Cheek made the motion for The Emerging Technology Zoning District amendment, "In accordance with the Virginia code section 15.2-2286 (A)(7), I make a motion that public necessity, convenience, general welfare, and good zoning practice required that amendments to the Surry County Zoning Ordinance, specifically the emerging technologies district, be brought forth to the Planning Commission for public hearing, consideration and action on such amendments following the public hearing." It was seconded by Mr. Berryman.

Chair Wooden said it has been properly moved and seconded for a motion to bring forth the Emerging Technology Zoning District Amendment.

In favor: (7) Wooden, Newby, Hardy, Berryman, Lunsford, Cheek, Seward
Opposed: 0
Abstain: 0

2. Exceptions to Lot Size Requirements of Utility Service/Minor

b. Motion to bring forth ordinance

Chair Wooden said number two, The Exceptions to The Lot Size Requirements of Utility Service Minor Amendment.

Mr. Wade said this amendment is brand new to you all. They are currently working with HRSD. HRSD has expanded some things throughout Surry County. The current zoning warrant requires each minimum lot size in the AR District to be an acre. HRSD does not need an acre to do what it needs to do. They probably need a thousand square feet, 43 more times than needed. This Amendment will allow the project to have some exceptions for minor things like a pump station, which doesn't need a full acre. An example is that there is a lot at the high school. They subdivided an acre off the school's site to meet the ordinance requirements. Mr. Wade said that they are asking for the ability to make amendments to allow smaller lot sizes for that type of use. An amendment to the ordinance would address small projects that would not have to go before The BZA each time. Mr. Wade said it is a good solution for the County and the applicant. Ms. Cheek asked if the applicant owned the property. Mr. Wade said that they do purchase the property.

Ms. Cheek said, "For The Exceptions to Lot Size Requirement of Utility Service/Minor Amendment and in accordance with the Virginia code section 15.2-2286 (A) (7), I make a motion that public necessity, convenience, general welfare and good zoning practice require that amendments to Surry County Zoning Ordinance, specifically relating to the exemptions for a lot size requirements of utility service/minor be brought forth to the Planning Commission for public hearing, consideration and action when such amendments following the public hearing." It was seconded by Mr. Newby.

Chair Wooden said a motion to bring forth Exemptions to Lot Size Requirements for Utility Service/Minor Amendment has been brought forth and seconded.

In favor: (7) Wooden, Newby, Hardy, Berryman, Lunsford, Cheek, Seward
Opposed: 0
Abstain: 0

PUBLIC COMMENTS: None

COMMITTEE UPDATES:

Mr. Wade said he knows of a few updates and that it will be a busy year. Ms. Cheek asked how Cavalier was and what the road condition was like. Mr. Wade said that they were supposed to be operational by October 31st. Mrs. Perkins received information from Mr. Creswell on the condition of the roads. It read, "Beechland Road, the scope of work to be completed includes milling of existing asphalt patching areas of need, application of tack coating, and installation of 2.5 centimeters of SB 9.5 hot mix asphalt roll to finish. The scope will include flagging operations. It will not require road closure but will require lane closure. The area to be paved will include the intersection of Jones Drive and Burwell Bay Road in Isle of

White north to the intersection of Beechland Road and White Marsh Road in Surry. The work was delayed in getting scheduled and asphalt plants are closed because of lower temperatures to meet with VDOT. Preferred specs for temperatures and weather conditions delay asphalt. They plan to complete the repaving when plants reopen. Their understanding is that it is typically the end of March or early April. They will maintain updates with the Planning Department on our weekly calls with respect to Bellevue Road repairs to the shoulders and spot repairs to drainage ditches, which were completed several months ago. Third, White Marsh Road. A review of White Marsh Road is currently being discussed with VDOT." Mrs. Perkins said correspondence between Paul Anderson and Rossie Carroll with VDOT and our site team has been underway.

PC Secretary Communication:

Mr. Wade said that he wanted to make sure that there is overall training for the Planning Commissioners. He has worked with a person who is the land use guru for Virginia. The director of the VCU land use education program. The person could come and do a presentation at one of the work sessions. Mr. Wade said the Commission would also seek Roberts Rules of Order training.

Mr. Hardy thanked the public and three elected Board members for coming out tonight. Chair Wooden reiterated Mr. Hardy's statement, thanking everyone for supporting tonight's meeting and remembering our former County Administrator, Mr. Terry Lewis, who passed, and his family. Just keep his family in your prayers as well.

ADJOURNMENT:

Chair Wooden entertained a motion to adjourn at 8:55 PM until the February 24, 2025, meeting. It was moved by Mr. Newby and seconded by Mr. Berryman. It was moved and properly seconded that the meeting be adjourned. All those in favor signify by saying, Aye.

Commissioners: Aye