



County of Surry Virginia
Planning Commission Meeting Minutes
August 26, 2024

MEETING CONVENED: The meeting of the Surry County Planning Commission was called to order at 7 PM on Monday, August 26, 2024, in the Surry County General District Court, 45 School Street, Surry, VA by Mr. Eddie Brock, Chair.

ATTENDANCE: The following members responded present to Roll Call:

Mr. Eddie Brock, Chair
Mr. Giron Wooden, Jr., Vice Chair
Mr. Theodore Lunsford
Mr. Earl Newby, Sr.
Mr. Breyon Pierce
Mr. Thomas Hardy
Mr. William Seward, IV
Ms. Dianne Cheek
Ms. Carmen D. Judkins

Absent:

Mr. David Coggin
Mr. Stephen Berryman

Staff Present

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

PLEDGE OF ALLEGIANCE: All

ADOPTION OF AGENDA: Chair Brock entertained a motion to adopt the meeting agenda. It was moved by Mr. Newby and seconded by Mr. Wooden.

In favor: (9) Brock, Wooden, Newby, Hardy, Lunsford, Cheek, Judkins, Seward, Pierce.

Opposed: 0

Abstain: 0

APPROVAL OF CONSENT ITEMS: Chair Brock asked the Commissioners for the disposition of the consent items and the minutes. Mr. Wade said that the January 29th minutes have not been completely edited and Commissioner Cheek suggested additional changes for the May 20th minutes, which are currently being reviewed. Mr. Wade suggested that the January 29th and May 20th minutes be table at this time. Chair Brock then entertained a motion to accept the June 24th minutes. A motion was made by Mr. Hardy to table the disposition of the minutes for the January 29, 2024, and May 20, 2024, meetings, and to approve the June 24, 2024, minutes. It was seconded by Mr. Newby.

In favor: (9) Brock, Wooden, Newby, Hardy, Lunsford, Cheek, Judkins, Seward, Pierce.

Opposed: 0

Abstain: 0

OLD BUSINESS:

1. Draft Solar Ordinance Amendment.

Mr. Wade said that the zoning subcommittee met last Thursday to review the draft ordinance and to discuss reviewing the entire ordinance. There were key points on the table. Ms. Cheek drafted the points that the Commission should weigh. Mr. Wade also stated that the draft ordinance is currently for utility and community scale. The next meeting discussion will be on distributed solar, which is for residential or businesses as an ancillary use for consumption on that property. Currently, we are looking at the utility and community scale of a one-megawatt project or more. The five megawatts is the utility-scale, and the community scale is one to five megawatts.

Chair Brock read to the Commission that there is a proposed change for the first statement, which says, "shall not exceed blank percentage of the total County acreage "to "shall and be more than 7% of the developed land within the County. That would be 10,000 from 600 or 10,694 acres in total." Chair Brock said the committee was looking at that because they had just returned from a conference for all of the Planning Departments in the state of Virginia. Other Counties in the state were two to three percent of their total land; Surry County is 10%.

Chair Brock said that he felt it was a lot of land for solar projects and green energy. The subcommittee is recommending 7%, but it would be up to the Commission and the approval of the Board of Supervisors. Chair Brock believes that we are at 15,000 acres of usable land for solar, and that would drop us back to 10,000 acres with the land that we have available. Ms. Cheek said that it allows the County to realize the benefits of not having solar projects one right after another. Most Counties are trying to pace projects better. Mr. Newby said that counties are trying to develop things that can benefit all the citizens in the County, and that's what we are trying to do here in Surry.

Mr. Wade said that one of the things he and the subcommittee discussed was keeping our Ordinances consistent with the Comprehensive Plan by ensuring that there isn't a different number than what's in the Comprehensive Plan and updating our Comprehensive Plan to reflect the new numbers.

Question: Mr. Wooden said that he didn't have an issue with the recommendation, but asked if it was strictly solar or energy projects. Looking at the reasoning, it says and talks of the methane gas plant as well as the proposed data center. Is it strictly just solar within that 7% or energy projects in general? Mr.

Wade said that he thought the general focus of that comprehensive update was generally for energy projects, but our primary focus was on utility-scale solar. Generally, the whole plan was energy-based, and we may need to identify what percentage we're seeking for utility-scale.

Question: Mr. Hardy asked Mr. Wade, "What is the current percentage of solar in Surry County?" Mr. Wade said that he thought maybe 5.41% or 5.4%. It could be more because the previous GIS maps were off and are now being fixed. Mr. Hardy said he isn't saying the number is good or bad, but if a number is in place, there will be a race to the finish line for incoming projects to try to get to Surry County's 7%. In his opinion, Mr. Hardy thought that the number was kind of dangerous. If we're saying we don't want solar farms, but will give you up to 7%, that would be how the new projects will read it. He thinks it's a great definition to try to put something in place, but we don't want to hurt ourselves in the beginning. There will be a public hearing for the citizens again, saying, "Hey guys, you just opened the community up again for solar farms."

Mr. Wade said it was up to the Commission to recommend to the Board of Supervisors what to put in the ordinance and what they felt to be a good number. You would codify and say in the ordinance when a project comes before us if it is going to exceed what the ordinance allows. Mr. Wade said if you look at the GIS now, the parcels are lining up the way they should, and before, they were discombobulated. At this point, he felt that the same parcels and maps would line up much cleaner to give us the map we needed. Give us a little more time to see the real numbers and see if it is still 5.41, but it also could be 6.41.

Chair Brock said that we have less land than other counties, and they have a smaller percentage. Surry County is allowing more projects per acre on less land than is available. We would end up having bigger solar facilities. Other counties had 2% and 3%, and we were above and beyond. Chair Brock thought that the committee considered the land for the nuclear power plant to be 1,000 acres, two solar projects, and 600 or more for the data center, which was approved. Then Spring Grove, which was approved across from VDOT, and we looked at all types of green energy.

Mr. Wade said for clarification, one of the things we would want to do, which is not in our comprehensive plan, is to define the project size by the total acreage of the parcel, not just project size. Other localities go by the project size of the area that's within the fence. Mr. Wade thought the Commission would want to look at special or conditional use for projects. We are going by your total parcel size, which includes all vegetative, buffers, and if there's a house. Mr. Wade thought that we had said 10% because it was more palatable. There would be different standards if it was two or three percent. Most localities go by the projects that are within the fenced area. In the ordinance, we should clarify that it is based on parcel size because it is not in our comprehensive plan.

Mr. Wade said the next topic of discussion was ***rendering for glint, glare, and noise***, found on page 2, 503.1, A, item 7. Ms. Cheek said that the committee added noise to better handle glint, glare, and noise and get 3D images for noise audio files. An example would be 19 decibels of sound. Citizens hearing that decibels of sounds, 24 hours a day every day, becomes part of your everyday life, all day, all the time. Panels rotate and may not have glint and glare, but sometimes they do. Ms. Cheek said that having site visits where you could hear sounds from the panels and maybe the Commission and the Board of Supervisors should make better decisions about tolerable noise at a certain distance.

Mr. Wade said the next item, on page 3, 503.1, B item 8, is **vegetative planning**. Mr. Wade said the applicant must provide this information to approve an application. First would be the project narrative, vegetative planting, and concept development plan.

Ms. Cheek said that the committee's recommendation on vegetative planting is that all planting should be performed as part of the fencing installation, performed early, and become part of the dust, noise, and visual mitigation. This is in contrast to waiting until the end of the project when all panels are installed, and operation is going. Moving up the project timeline would be beneficial, and she and Mr. Wade recommended having an engineer look to see if this is a good approach.

MR. WADE:

- During a project, you would want to see a buffer as soon as possible. To have a third-party person give the pros and cons of having it and have the Planning Commission make a recommendation to the Board of Supervisors based on a third-party review of what is being presented.
- To see the visibility of buffers improve, have no visibility, or close to zero visibility of a project site.
- To mitigate some of the noise and dust.
- Have an Engineer look at multiple timelines throughout the projects, including timelines for fencing and when it would be feasible to plant.
- The way the document is organized and how we look at this compared to the previous solar ordinance is that this solar ordinance would not be all in one chapter. It will be broken apart, like the rest of the ordinance.
- The application requirements are at the beginning of the zoning ordinance. The same is done when addressing conditional use permits for community and utility-scale solar.
- All the application requirements in tonight's packet, from page six to page 13, have not changed.
- On page 13, our next review will define a new use, which are the definitions or use descriptions.
- To create a new section 4-608, which will be all the performance standards for your community and utility-scale solar. The project liaison, the independent engineer, and the construction bond are after the approval of the Planning Commission and Board of Supervisors.
- All projects will have to follow all standards, no matter which ordinances and/or conditional use permits are already in place.
- Page 16 is about setbacks. The project setbacks should be 300 feet from a budding right-of-way. The industrial zone and some of the other zones have significantly smaller setbacks.
- The quality developments that provide enough vegetative screening for the site, will be proposed for every project that comes before us.
- The last topic on page 16E, was that of decommissioning. Where three feet or more of the pole in the ground, may break and be abandoned. The subcommittee is recommending that we say everything must go both above and below ground if it is a part of the facility. That way, there aren't safety issues left, and no surprises are left behind. Some localities have put this in place.

Ms. Cheek said that the Committee had also discussed broken solar panels, which become inoperable, are laid aside, and need to be replaced, leaving a stockpile of equipment. We need to make sure that we have regular maintenance. When it approaches 30 years, the project will have to decommission not only what's working, but also any stockpile of equipment. Ms. Cheek said that maybe every six months, the project routinely removes stockpiles from the site to be disposed of.

Ms. Cheek said that number two, under E, about the site development plan should include a detailed decommissioning plan. Mr. Wade said that the detailed decommissioning plan usually doesn't come up until later in the project. That is the typical time that you have a decommissioning plan.

Ms. Cheek said when reading number two, it says, "a site development plan for community-scale or utility-scale solar energy facility, shall include a detailed decommissioning plan that provides procedures and requirements and the removal of parts of the solar facility." Ms. Cheek said to also add where I say the plan shall include the anticipated life of the facility, and the second sentence in number two, include," it would also have the decommissioning plan have the definitions of future land used, traffic management plans, and disposable locations. Mr. Wade said more specifically, this is listed in the ordinance, as opposed to having the developer guess that we're asking for that information.

Question: Mr. Hardy asked, "How does it work if we are at the end of the 30-year decommission mark, and before that time, the company sells to another company? He knows the deed must change, but do they automatically get the decommissioning plan from the other company?" Mr. Wade said to his assumption, that if you're handing everything over, they would provide the new company with all the legal documents. There are certain documents that we keep on file. Any project that has come before us in the past, based on the ordinances in place, could go by the salvage value for decommissioning.

Mr. Wade said that they wouldn't require a bonus and show a net gain and that no surety was required because we have net value. But we're now saying we will have a surety bond in place, and in those 30 years, if something did happen where they were decommissioning and not doing anything, we have a bond in place. The County Attorney will pull that bond to ensure that we have the right resources to decommission. We will also add a 20% administrative cost to it.

Mrs. Perkins said that calling a bond is not an easy feat. It is a very complicated process depending on who the holder is. Some insurance companies are easier to work with than others. Ms. Cheek asked Mrs. Perkins what would happen if, in 15 years, the company sold to another solar company. There is now a new ownership, what responsibilities do the new owners have? Do they have to uphold everything in the agreements, or would they have new negotiations? "

Mrs. Perkins said the surety bond would be carried essentially with the land. It would be the work that was bonded or the decommissioning process. Even if there is another owner, the insurance company would still hold the bond.

Question: Ms. Cheek asked would the conditional use permit requirements transfer, and the company would have to uphold all the agreements, not just the decommissions, but everything that the previous company has agreed upon. Mrs. Perkins said absolutely because the conditional use permit runs with the land. If there are any future owners, they are tied to what was agreed by the original owner and the conditions of that use, if they are using the same use. "If maybe it was originally a solar facility and a new buyer buys it and suddenly, wants to run a farm or do any sort of buy right use, then those conditions wouldn't carry forward for that use."

Ms. Cheek said that the last item was 3A, which talks about "if the facility ceases to generate electricity for more than 12 consecutive months, the responsible party will provide for its decommissioning." Ms. Cheek thought it meant that this site would lay dormant for 12 months. Ms. Cheek asked if it would be better to look at this possibly if the facility ceases to generate at least 10% of its proposed amount of electricity. It would be a good indication for three months, that it is going out of business. This could be

a business decision because the County isn't receiving the money that it thought it would get. Money is based on the amount of electricity generated.

Ms. Check thought instead of saying, "If you're not running for 12 months, say if you're not generating electricity for more than 10% of what you propose for three months, then we would say, okay, this is coming to an end, and then begin decommissioning at that point."

Question: Mr. Hardy asked. Because they're not generating power, doesn't that mean they wouldn't have to maintain the site? Mr. Wade said they would still have to maintain the site and have not generated electricity for over 12 months. Ms. Cheek asked Mr. Hardy to clarify how to maintain the site. Mr. Hardy said the appearance of grass cutting, maintaining trees, etc. Ms. Cheek asked what about idling equipment, and Mr. Hardy said, looking at the big picture, they would still have to maintain the facility yes. Working on the decommissioning process if they are not getting to the megawatts.

Mr. Wade said he had a legal question regarding how it would be done. It is different than most ordinances. If you have a fire and must stop power for three to four months, does that portion just consider certain legal considerations? Mrs. Perkins said she would say for a global pandemic or if a company suddenly goes bankrupt and pulls out because they no longer have resources as opposed to maybe an act of God or something unforeseen that halts operations. Even a fire would be considered an act of God that halts operations as opposed to a fire in the middle of the night when the company leaves because it is bankrupt or some other situation has occurred where it is no longer solvent. She and Mr. Wade can work on that and maybe formulate a happy median with some language that would allow for unforeseen situations. Also, address situations where the company becomes insolvent because that is 100% a situation where we would go after the bond.

During the subcommittee meeting, Chair Brock said that at 25 years, the panel's efficiency in producing power wasn't as good as it was in year one. Is the County's revenue based on how many megawatts the panels produce? If they are supposed to produce 350 megawatts in year 25, they are producing 275 megawatts. Chair Brock asked if something could be put in the language to keep it at 350 megawatts. That is why we have the conditional use for that property.

Mr. Wade said one of the ways most localities and Surry address issues is through a siting agreement. Before, it was strictly M&T. Usually, with M&T, you have diminishing value for your panels. Over five years, you start seeing a huge drop in revenue. The study agreements are like every four to five years, there's a significant increase.

Mr. Wade said that the siting agreements with the general assembly have gone up. Even though the panel's value of the equipment may have gone down, it has been noticed that panels may become more efficient over time, and you may have fewer panels. You may see the decommissioning of certain areas of the project later

Mr. Wade said that civic uses are on the last page. Communities-scale solar is one megawatt to five megawatts. Distributed solar is like residential, rooftops, or ground-mount solar, and utility-scale solar are newly defined uses. We are no longer using the term solar farm, but we are now calling it either community-scale solar or utility-scale solar, and we will be incorporating this into the main ordinances.

NEW BUSINESS:

1. Ordinance Amendment 2024-01:

The Planning Commission will hold a Public Hearing to consider and intends to take action on, the adoption of amendments to the uncodified Wetlands Ordinance adopted on February 16, 2006, and codify the ordinance by amending Article III, Zoning Districts and Boundaries, Section 3-101(B) and add Sections 3-1600 through 3-1613, as a new special overlay zoning district, "Wetlands District", to the Surry County Zoning Ordinance to reference and update 2 provisions for controlling the use and development of wetlands in Surry County in accordance with Virginia Code § 28.2-1302.

MRS. PERKINS:

- At the last Planning Commission meeting, a motion was made to come before tonight's meeting, to have a public hearing for the Wetlands Ordinance Amendment 2024-01. The wetlands ordinance is set out in the Virginia code. It's very specific language that must be modeled. The General Assembly, in 2023, updated some of the language. All localities with a wetlands ordinance must bring their wetlands ordinance into compliance.
- Our wetlands ordinance has existed since 2006. The amendment never made its way into our actual County Code or the land development section of our County Code.
- The new language of the Ordinance is in red and in italics, and a certain language is struck through. A lot is just formatting, putting it into the type of language, and making sure the language is consistent with what Virginia code dictates.
- Putting the ordinance amendment together and going back several years over Virginia General Assembly changes to the Wetlands Ordinance, to ensure that everything that has happened since 2006 contained in the current Virginia Code is captured by our ordinance. Not everything seen in red was a 2023 General Assembly. This is the first time she have done a comprehensive review. A lot of the changes are housekeeping amendments to bring us in line with the Virginia Code.
- The original 2006 ordinance had a section 14 for appeals. There isn't a provision for appeals in the current language of the code. The appeals fall under other laws, and it does not need to be set out in our Wetlands Ordinance but will be handled at the state through VMRC.
- It's not the elimination of the appeal section in our ordinance, does not mean that someone cannot appeal. It's not necessary in our ordinance because there is no appeal. For example, if somebody wanted to appeal, they can't go to the Board of Supervisors. Their avenue for appeal is VMRC.

PUBLIC HEARING OPEN:

PUBLIC HEARING CLOSED:

Mr. Hardy moved to approve Ordinance Amendment 2024-01 and Mr. Wooden seconded it.

In favor: (9) Brock, Wooden, Newby, Hardy, Lunsford, Cheek, Judkins, Seward, Pierce

Opposed: 0

Abstain: 0

PUBLIC COMMENTS:

MR. ELWOOD CONNER:

Mr. Conner, a landowner, asked the Commission if a survey has ever been done or if a survey will be done for the displacement of wildlife from the proposed areas of the solar panel projects. The issues of wildlife dispersing on other landowners' property and causing issues. There are coyotes and bears on his property. Mr. Conner said there are packs of coyotes killing animals less than 75 yards in the woods from his house, which wasn't there two, three, or four years ago. He loves deer in his front yard, but it's the bitty critters he doesn't want. He is not against solar panels, but his wife is afraid to walk the dogs, in fear that the coyotes and bears may attack them.

Chair Brock said that maybe the Staff could check into that. But the design for solar projects' defense is to have a supposed pass, allowing the wildlife to visit on the inside and a way out. Another avenue would be the Game Commission.

MS. TERRA PASCAROSA DUFF:

Ms. Duff is a geologist and said that before solar panels are placed on any property, there's an environmental site assessment that takes into consideration the wildlife, habitat, flora, and fauna. To answer Mr. Conner's question, that would happen with an environmental site assessment before the project even takes place.

COMMITTEE UPDATES:

Mr. Wade said he would work with the Zoning Subcommittee to finish the Solar Ordinance Amendment before the next meeting. He asked the subcommittee for their comments on the Williamsburg Conference. Chair Brock said that one big concern in the State of Virginia was the upcoming Data Center. They also looked at other data centers and how they have been built around them.

Ms. Cheek said that they did hear a lot about data centers. The placement of the data center here in Surry is good because transmission lines are abundant. She thought noise would be something that Staff would be involved in and how to mitigate noise depending on the type of data center. Another topic that she hopes would happen here in the County is the County's budget. The Planning Commission could be involved in the CIP plan. To have the Planning Commission involved in developing what would be in the CIP plan for the budget. To bring together planning for the whole county, from the Comprehensive Plan through the Commission to the Board of Supervisors. Mr. Wade said next year's Conference will be at the Renaissance Hotel in Portsmouth.

Mrs. Perkins apologizes for not catching this sooner. The minutes from the June 24th meeting have a significant typographical error on page 16. The first full paragraph is where we discuss the Wetlands Ordinance Amendment. It reads, "Mr. Wooden move that the Wetlands Ordinance Amendment be

brought forth per Virginia code section 15.2, 2286 A7, a motion that the public instead of assesses it should be a public necessity, convenience, general welfare, and good zoning practice. “

Mrs. Perkins asked the Commission, and the minutes were approved unanimously, that the person who voted to approve the minutes make a motion for reconsideration. If we could make that amendment and revise the minutes, it would be accurately reflected.

Ms. Cheek also added that she noticed on page 14 it says in the last sentence, the third paragraph, it says, “We want good partners to come to serve. She thought it meant to Surry instead of it would be good partners to come to serve.” Ms. Cheek said another change on page seven, third paragraph, was where a woman had a yardstick. She didn’t know what that was “Ms. Copeland says she didn't bring a yardstick.” Mrs. Perkins thought that maybe that was what she did say.

Chair Brock entertained a motion. Mr. Hardy made a motion to take into consideration that the June 24th minutes meetings be reopened for approval. It was seconded by Mr. Wooden. Chair Brock said it was properly moved and seconded for reconsideration of the June 24th meeting minutes.

In favor: (9) Brock, Wooden, Newby, Hardy, Lunsford, Cheek, Judkins, Seward, Pierce
Opposed: 0
Abstain: 0

Chair Brock asked for a motion to accept the noted corrections. Mr. Pierce moved to accept the changes considered by Mrs. Perkins and Ms. Cheek and one more change. The name of Bryon Pierce should be B-R-E-Y-O-N and again to amend the minutes from June 24, 2024, to the recommendations that Mrs. Perkins, Ms. Cheek, and himself have made. Mr. Newby seconded it.

Chair Brock asked for a motion to approve the minutes for June 24th, with the denoted corrections that Mrs. Perkins, Ms. Cheek, and Mr. Pierce made, which have been properly moved to second.

In favor: (9) Brock, Wooden, Newby, Hardy, Lunsford, Cheek, Judkins, Seward, Pierce
Opposed: 0
Abstain: 0

ADJOURNMENT:

Chair Brock entertained a motion to adjourn at 8:23 until the September 23rd meeting. All those in favor signify by saying, Aye.

Commissioners: Aye