

**Northumberland County Planning Commission
February 15, 2018
Minutes**

The regular monthly meeting of the Northumberland County Planning Commission was held on February 15, 2018 at 7:00 p.m. in the Old Courthouse at Heathsville, VA with the following attendance:

Chris Cralle	Present	Garfield Parker	Present
Vivian Diggs	Present	Albert Penley, Jr.	Present
Alfred Fisher	Present	Wellington Shirley, Jr.	Present
Ed King	Present	Heidi Wilkins	Present
Patrick O'Brien	Present	Charles Williams	Present
Richard Haynie	Absent		

Others in attendance:
Stuart McKenzie (County Planner)

RE: CALL TO ORDER

The meeting was called to order by Mr. Fisher.

Alfred Fisher led the Commission in the Pledge of Allegiance to the Flag.

Ed King gave the invocation.

RE: AGENDA

Mr. O'Brien made a motion to adopt the Agenda. Mr. Shirley seconded the motion. All members voted for the motion, and none against. Details on the vote are below:

Chris Cralle	Aye	Garfield Parker	Aye
Vivian Diggs	Aye	Albert Penley, Jr.	Aye
Alfred Fisher	Aye	Wellington Shirley, Jr.	Aye
Ed King	Aye	Heidi Wilkins	Aye
Patrick O'Brien	Aye	Charles Williams	Aye
Richard Haynie	Absent		

RE: MINUTES- January 18, 2018

With a motion from Mr. O'Brien, seconded by Mr. King, and approved by all, the November 16, 2017 minutes were approved. The vote was as follows:

Chris Cralle	Aye	Garfield Parker	Aye
Vivian Diggs	Aye	Albert Penley, Jr.	Aye
Alfred Fisher	Aye	Wellington Shirley, Jr.	Aye
Ed King	Aye	Heidi Wilkins	Aye
Patrick O'Brien	Aye	Charles Williams	Aye
Richard Haynie	Absent		

RE: COMMISSIONERS' COMMENTS

There were no Commission Member comments.

RE: STAFF MEMBERS' COMMENTS

Staff did not have any comments.

RE: CITIZENS' COMMENTS

There were no citizen's comments.

RE: PUBLIC HEARINGS

There were no Public Hearings scheduled.

RE: WORK SESSION ITEMS

There were no Work Session Items scheduled

RE: DISCUSSION ITEMS

Mr. McKenzie handed out the recommendations by staff for solar zoning definitions and uses. Staff had formulated definitions for small solar facility (residential), medium solar facility (business) and large solar facility (utility scale). Staff proposed that the small solar facilities be allowed by-right in all zoning districts and that medium and large facilities would be conditional use in all zoning districts. Mr. McKenzie noted that staff are still discussing the provisions for a decommissioning plan with the county attorney. Mr. McKenzie noted that he had a phone conversation with a person retired in Lancaster who used to work for the regional power transmission authority. Mr. McKenzie asked him if Northumberland County's position in the electrical grid lends itself to locating a large solar farm. He stated that no, since Northumberland is geographically isolated by the Rappahannock, the Potomac and Chesapeake Bay that there is a limit by the structure of the grid on the amount of electricity that can be produced and transmitted, so there is a lower likelihood of a large solar farm being developed in Northumberland County. Mr. McKenzie noted that Mr. Smith from the Northern Neck Electric Cooperative stated that a 20 Mw solar farm is being built in Westmoreland County, and that will definitely absorb some of the capacity of the local electrical grid. Mr. McKenzie referenced a newspaper article that was previously sent to Planning Commission members via email regarding Dominion's admission that the electric grid is transitioning from a centralized distribution network (large power plants sending out power) to a decentralized electric

grid (where there are many small power plants dispersed throughout the region). Staff indicated this is a monumental shift in the electric grid paradigm.

Mr. McKenzie explained that staff were mainly concerned with large solar facilities next to residential areas, but still allow residents to be able to install solar panels with little interference, but still retain control over the larger facilities. Mr. McKenzie stated he was open to any suggestions on how to modify staff recommendations to suit the commission's will. Mr. Penley asked if a resident wanted to put solar panels on their roof, can the county control how they are placed. Staff responded it was by right, they could put them as close to the property line as the setbacks allowed in that zoning district. Mr. O'Brien stated that most people don't want to upset their neighbors, and that if you put up something ugly on your house, then you have killed the resale value of your house. Chairman Fisher stated that making homeowners abide by the principal structure setback requirements, it would certainly not be a hardship for the person putting them in, and would help protect neighboring landowners. Mr. McKenzie stated that the commission may want to look at increasing the minimum setbacks for the medium and large scale solar farms, noting that Gloucester county had a setback of 50 feet for utility scale solar facilities. Mr. O'Brien stated that he thought that 50 feet was rather small, as a large facility will be on large acreages so it shouldn't cause too many problems. Chairman Fisher asked why such a large setback, and citizen Allain stated so trucks can move about the perimeter.

Mr. Williams asked what type of conditions would the county consider when allowing conditional use. Staff indicated that in the example for the solar facility in Chesapeake, the developer stated they would not use herbicide to control vegetation on the property. Mr. Williams stated that would be appropriate for a site near the water, but not appropriate for someone inland, but that we would have to treat all solar facilities the same way. Mr. McKenzie stated that he talked with the county administrator about this and found out that if we put the suggested conditions in the zoning ordinance, that is true, we would have to implement all of them, but if we came up with suggested conditions and did not put them in the ordinance, and just kept them in the minutes, then the commission could pick and choose the suggested conditions to suit the individual solar facilities as they come up for review. Keeping the suggested conditions out of the ordinance allows the commission some flexibility into the future. Mr. McKenzie stated that other suggested conditions might be vegetative screening, signage, and fencing. Mr. McKenzie noted that with the erosion and sediment problems that happened in Essex County, that maybe we want to put a time of the year restriction on construction so that land disturbance should not occur between December and March, because grass does not germinate in the winter. Mr. Williams asked what was the cause of the problem at Essex County? Mr. O'Brien stated that they planted vegetation, but that it didn't grow fast enough to hold the soil. Staff stated that they also took out temporary sediment holding ponds before the soil was stabilized. Staff explained that DEQ is in charge of stormwater and erosion and sediment control for commercial developments, not the county. There was discussion regarding State bonding and whether the locality would want to protect itself with an additional bond. Staff indicated that it might be better to let the state handle this, since it is their responsibility, and the county does not want to conflict with state oversight. Most commission members stated they did not want to be more restrictive than the State.

Ms. Wilkins asked what the commission members wanted to decide regarding setbacks for medium and large solar facilities. Chairman Fisher stated that he was OK with the

existing setbacks for the primary structure in each zoning district, and asked Mr. Shirley's opinion. Mr. Shirley stated he felt the existing primary structure setbacks would be sufficient in his opinion. Mr. O'Brien asked what the average setback from property lines were, and Mr. Shirley responded 10 feet, the same for houses in most residential districts. Mr. O'Brien asked Mr. Shirley if he felt that was adequate, and he responded yes. There was discussion regarding whether the Chesapeake Bay Act 100 foot RPA would be necessary for solar facility construction, and staff responded yes, all construction has to abide by the Chesapeake Bay Act. Ms. Wilkins asked Mr. Shirley if he thought that a 10 foot setback would be enough for a large scale solar facility and he reiterated yes. There was some discussion regarding the height of the panels as well as the wind velocity rating of the solar panels.

Discussion moved to the content of the solar facility decommissioning plan, staff explained the content of neighboring counties solar facility decommissioning plans, that they require a surety, that they require removal of all equipment, structures, cabling to a depth of 36 inches, and if the land was previously in agricultural use, then the site would have to be restored to tillable soil. Furthermore, if the property is sold or transferred, the surety would transfer to the new owner. If the company owning the solar facility were to cease to exist or if the site is not properly decommissioned the county could place a lien on the property to cover the cost of decommissioning. It was mentioned that would be a last resort measure, and would not likely be enforced. Staff queried the planning commission members to see if they agreed on not requiring a decommissioning plan on the small solar facility, and all were in favor of not requiring a plan. Planning commission members added that a decommissioning plan should be required for medium and large solar facilities. Further discussion ensued regarding the requirement of a decommissioning plan to leave the site in the same condition it was before the solar facility was built, e.g. if the site was built on agricultural land, then it would have to be returned to tillable soils, if the site was built on a forested area, then it would have to be planted with the same kind of trees that were present before construction, etc.

Mr. Williams asked if we have looked at enough county's ordinances to feel comfortable with this ordinance. Mr. McKenzie stated that yes, with the DEQ model ordinance which has portions taken from several Virginia counties ordinances as well as input from other states such as Arizona and Oregon, that we have enough samples to move forward. In addition, staff indicated we have examined the solar zoning ordinances from Gloucester, King William and Richmond counties, and think we have enough examples to create a comprehensive solar ordinance.

Mr. Penley asked about a bond for decommissioning medium or large solar facilities. Staff outlined the mechanism for triggering a decommissioning, an abandonment or a discontinuing of power production, what type of time limit does the county want on that. Staff noted that King William had 24 months of inactivity in their ordinance. Staff indicated that once that time period is decided, how long of a period after notification by the county to begin the decommissioning, does the solar facility owner have to complete the decommissioning of the facility. Chairman Fisher noted how is this different from the hypothetical example of a landowner having an outside entity come in and set up a winery, complete with vines, trellis', support buildings and what have you, if they decide to pack up and leave a year after building, the county has no say in what infrastructure stays and what doesn't. Chairman Fisher noted this is like comparing apples to oranges, but why is the county involved in this. Chairman Fisher stated that the integral component in this is the landowner, as he is ultimately responsible for what happens on

his land, and the county will hold him responsible. The landowner should make sure he has the mechanisms in place to remove the equipment in his agreement with anyone that leases his land, and the county shouldn't be involved with this. Staff replied that the State requires a decommissioning plan to be included in any county solar ordinance. Mr. McKenzie noted that the King William solar ordinance has 1/3 of a page on decommissioning, while the Gloucester County solar ordinance has four sentences on decommissioning. The commission wanted the decommissioning plan to be as simple as possible while still complying with state law, so they agreed to go with the simplified decommissioning language from Gloucester County. Mr. O'Brien outlined a scenario where a solar facility was made up of several parcels of land with different owners, and the developer goes out of business and asked which landowner would the county go after to clean up the site? Mr. O'Brien pointed out this is the reason to have a bond for decommissioning. Mr. McKenzie pointed out that the decommissioning language we have decided on has no surety mentioned. Mr. O'Brien stated he knew that, and that was the reason for him bringing up this scenario, perhaps the county would like to require a bond between the landowner and the solar facility developer. Mr. O'Brien stated he would like a surety on the large (utility) scale solar facility for the purposes of decommissioning. Mr. O'Brien stated he also would like the decommissioning plan updated as needed, but he mentioned he might be in the minority. Mr. McKenzie stated that the commission still had not decided how long a solar facility can be inactive before the decommissioning clock starts ticking. Chairman Fisher stated one year, and citizen Allain agreed that would be a reasonable timeframe, as there are little moving parts to the installation. Mr. McKenzie asked is this an annual checkup sort of deal, or a one time notification by the operator that the facility is no longer in operation. Chairman Fisher stated a one time notification. Mr. McKenzie then asked if the commission wants to put a time limit after notification to dismantle and decommission the site? The commission agreed that six months to decommission would be a good time frame, and we could always grant them more time if they are working with us. Mr. McKenzie asked whether the commission would like to discuss suggested conditions for medium and large solar facilities. Staff gave examples of visual screening, fencing and asked about what other conditions the members might have. Ms. Wilkins asked if height of the panels might enough of a concern to warrant a suggested condition. Other members stated that the technology is changing fast, so the height of the panels could very well increase, and we don't want to limit the technology. Mr. Cralle mentioned the dark skies initiative and that we could add a condition that all lighting would be directed downward and shielded. Mr. Williams mentioned glare as a condition, and others mentioned fencing and signage. There was discussion on how the Board of Supervisor's could add extra conditions as they see fit, and these suggested conditions can get the ball rolling, they may want to add others as they see fit.

RE: PUBLIC COMMENTS

There were no comments from the public.

RE: PUBLIC HEARING

There were no public hearings at this meeting.

RE: ADJOURNMENT

With a motion from Mr. King, seconded by Mr. Penley, and approved by all, the meeting was adjourned at 8:30 pm. The vote was as follows:

Chris Cralle	AYE	Garfield Parker	AYE
Vivian Diggs	AYE	Albert Penley, Jr.	AYE
Alfred Fisher	AYE	Wellington Shirley, Jr.	AYE
Ed King	AYE	Heidi Wilkins	AYE
Patrick O'Brien	AYE	Charles Williams	AYE
Richard Haynie	Absent		