

**Northumberland County Planning Commission  
January 18, 2018  
Minutes**

The regular monthly meeting of the Northumberland County Planning Commission was held on January 18, 2018 at 7:00 p.m. in the New Courthouse at Heathsville, VA with the following attendance:

Chris Cralle	Present	Garfield Parker	Absent
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.

Ed King gave the invocation.

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

**RE: ELECTION OF 2018 OFFICERS**

Mr. McKenzie stated that this meeting is the meeting where we elect the Chairman and Vice Chairman, and asked for nominations for the Chairman position from the floor. Mr. McKenzie noted that the Commission will vote on the nominations in the order they are received. Patrick O'Brien nominated Mr. Alfred Fisher for Chairman. Albert Penley motioned for Mr. Fisher to be nominated chairman, and was seconded by Ms. Wilkins. Mr. McKenzie asked if there were any other nominations. No other nominations were offered, so Mr. McKenzie took a roll call vote, the results are as follows:

Chris Cralle	Aye	Garfield Parker	Absent
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		

Mr. McKenzie stated that the Aye's have it, Mr. Fisher is Chairman.

Mr. McKenzie asked for nominations for Vice-Chairman of the Planning Commission.

Mr. Shirley made a motion to nominate Mr. Albert Penley for the vice chairman position. Mr. O'Brien seconded the motion to accept the nomination of Mr. Penley. Mr. McKenzie asked if there were any other nominations. None were offered, so Mr. McKenzie conducted a roll call vote for Albert Penley for the position of Vice Chairman.

Chris Cralle	Aye	Garfield Parker	Absent
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		

Mr. Penley thanked the members who voted for him as vice chairman.

**RE: MEETING DATE, TIME, LOCATION**

Mr. Fisher asked if the Commission wanted to change the meeting date, time or location. Hearing no responses, Mr. Fisher stated that we would keep the meeting time, date and location the same.

**RE: BY-LAWS, AGENDA**

Mr. Fisher reminded members had reviewed the By Laws late last year and had not found any reason to modify them. Heidi Wilkins made a motion to adopt the By-Laws. Mr. O'Brien seconded the motion. All members voted for the motion, and none against. Details on the vote are below:

Chris Cralle	Aye	Garfield Parker	Absent
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- November 16, 2017**

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

Chris Cralle	Aye	Garfield Parker	Absent
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 informed Planning Commission members that he met with the Zoning Administrator and the County Administrator for two hours in regards to staff recommendations for solar farm zoning definitions and uses. Mr. McKenzie stated that there were many questions that came up and the uses are important, but you do not know the context until you have a definition. County staff indicated they needed more time to formulate a staff recommendation and plan to have one at the next month's Planning Commission Meeting. Mr. Fisher agreed we need to work on the definition first and foremost and be comfortable with that before we start talking uses.

Mr. Penley asked if we were going to use commercial and non-commercial in the definitions, as he felt we would have more non-commercial uses here in the county versus commercial uses. Mr. McKenzie asked Mr. Penley to provide his definition of commercial vs non-commercial. Mr. Fisher stated that if the power was primarily for sale, then it would be commercial, any others would be non-commercial. Mr. O'Brien stated that if an entity sold 51% of the power generated by the solar facility, then they would be considered commercial, if they sold 49% of the solar power generated, then it would be non-commercial. Mr. O'Brien stated that a business that wants to put solar panels up to supplement the power for their business should be allowed to with minimal restrictions, as the power is for use on site, not for resale. Mr. O'Brien stated that, in his view, this would be non-commercial use, even though it is a commercial enterprise, as it is for use primarily by the business, and not for resale. Staff indicated that would be confusing to the public, as the terminology of non-commercial (solar use) would apply to a commercial enterprise (the business). Staff indicated that he was in favor of language similar to the King William solar ordinance, and cited the relevant section of the definition, "...This definition is not intended to regulate solar structures on individual

residential or business properties primarily serving the energy needs for the subject property, so long as such structures meet applicable requirements of local, state and federal regulation.” Mr. McKenzie stated that this language is one way to handle the commercial and non-commercial, without it being confusing. Mr. O’Brien stated that the King George definition is in line with his idea of allowing residences and businesses to supplement their power usage with solar panels. Mr. Williams noted that if the business that installs solar panels is seasonal, like a seafood business, then you could sell energy back to the grid when the business is idle in the winter and use that power during the warmer months. This may cause some problems with the definition; would that be commercial? Mr. O’Brien stated that in that case, you do a three-year rolling average to determine commercial versus non-commercial. Mr. McKenzie queried the members present as to how Northumberland County gets that power usage information, and those intrusive to the average solar panel user that is required to release that personal information. Mr. O’Brien stated that the rate commission records that information, so the county could get that info from there. Mr. McKenzie noted that staff has concerns that if solar for your own use is allowed by right, then in areas zoned R-2 waterfront residential and a seafood business decides to put solar panels in their parking lot, then retired persons living around the business may not like that use next to their home. Staff brought up a component of the Gloucester County solar ordinance that might be useful in Northumberland County. The Gloucester Ordinance says if you install solar panels on your roof, it is a by right use, but if you install solar panels on the ground, it is a conditional use. Mr. McKenzie stated that this way you have some control over people that are trying to take advantage of the rules and generate cash by oversizing their installation to sell power. Mr. Williams stated that homeowner’s associations can also pass rules to restrict solar panels in their neighborhoods if they desire more restriction. There was some discussion regarding how much electric power is produced by how many solar panels, citizen Allain stated that approximately 1 square foot produces 10 watts of power, thus 200 panels would service about 10 houses. Mr. Penley mentioned the new solar farm being built in Essex County. Chairman Fisher asked how Essex handles solar farms. Mr. McKenzie replied that Essex County considers solar farms a utility, and is a conditional use in all districts. Mr. O’Brien stated he wanted to hear what Mr. Shirley thinks regarding solar facilities. Mr. Shirley noted that he read an article today about the precautions a landowner needs to take when considering leasing land for solar or for cell towers. One of the big issues is who is responsible for it when it is no longer in use, stating your need to put that language in the lease agreement. Regarding homeowners they can also generate more power than they need and sell it back to the utility (a term called net-metering), what is the limit for that? Mr. McKenzie stated delving into individual’s utility usage is not what the county wants to get into, as that is too intrusive. Mr. McKenzie noted that a second home, if it were to have solar panels installed, would likely be selling more power than the house would be using when unoccupied, however the intended use is to power that household. Staff continued, the amount of work county staff would need to do annually to monitor the metering percentage of each household with solar panels installed would quickly become very expensive in terms of staff time. Mr. McKenzie recalled that Mr. Allain had mentioned that an average size house uses 25 KW, so that might be a good place to set the maximum amount of electricity generated, and staff feels we need some kind of cutoff so there is no loophole for oversized facilities primarily intended to sell power and make money. Chairman Fisher asked if someone that installs solar panels has to sell power back to the utility? Mr. Allain stated no, they

can install a bank of batteries, but batteries are expensive and only last so long. Chairman Fisher stated if the solar panel owner does not connect to the utility, then the power is strictly for his personal use, solely private. Mr. Allain stated another way to look at this is a homeowner with solar facilities and net metering, if they pay any amount to the electric provider annually, then that is private non-commercial enterprise, conversely if a homeowner gets cash or cash equivalent credit, then that could be considered commercial. Mr. McKenzie reiterated his position that was stated earlier, how does county government get that net metering information? Mr. Allain stated the only way he knows is to have the utility tell you. Ms. Wilkins stated she felt that a business putting solar panels on their property is quite different from that business buying 15 acres of land to put solar panels on, and the same holds true for a resident who buys 10 acres to put solar panels to power their household. Ms. Wilkins stated that putting solar panels on your own roof, or your property is different from buying land to put solar panels on. Mr. O'Brien stated if a business is a net seller, or a residence is net seller of electricity, then they are, in some sense, commercial. Ms. Wilkins felt that she disagreed with that statement, saying that only the individual who owns the panels is benefitting from the sale of their account. Mr. McKenzie asked if the electric utility actually cuts checks or pay cash for the excess electricity, or is it only in the form of credits? Mr. Allain stated he has a friend in the southwest US that gets a check every month from the electric utility provider. Mr. McKenzie stated that if someone gets cash (or a check), then that would be commercial and if they only get credits then it would be considered non-commercial. Mr. Allain stated that a business with an over-sized solar system (producing more electricity than the business uses) would not be cost effective due the more expensive up front costs (about \$3 a watt). It would be in the businesses best interest to size their system to have a net metering cost of \$0, to be most efficient. Mr. Williams stated he did not want to penalize citizens who net meter their solar power. Mr. Allain pointed out that the sun only shines during the day and you use most of your power in the evening, that is why you need net metering. There was discussion of power companies quest to add infrastructure costs for delivery of power to solar users, and the fact that power companies have a harder time managing the grid with the fluctuations caused by solar power and the necessity to have nearly instantaneous back up power production facilities to fill the gap in power when needed. Staff reminded members that the peak load in the county is at night in the winter, and solar power does nothing to address that power demand. Mr. Penley noted that no one has addressed the aesthetics of the solar panels, and he could envision citizens nearby to a proposed solar farm objecting to it on those grounds. Chairman Fisher asked if Mr. Penley felt there was an aesthetic problem if the panels are on the roof of a building. Mr. Penley stated if it were a flat roof, it would be impactful. Mr. Penley stated he felt that solar facilities should be conditional use in all districts so the public and the Board of Supervisors can weigh in on the appropriateness of each project. Mr. O'Brien states that as he understands it the Zoning Administrator currently allows solar panels for residences, and treats it as an accessory structure, like a shed or gazebo. Staff concurred with his statement. Ms. Wilkins stated that there are already plenty of residential solar panels out there now, and they would be grandfathered. Mr. Allain mentioned that you could put a limit on ¼ acre of solar panels used in a residential application, if you exceed that area, you have to get a conditional use permit. There was discussion regarding how much area of solar panels you need to create 25 KW (which was, in a previous meeting determined to be the average energy usage for an average size house). Approximately 1,200 sq ft produces approximately 25 KW, however

Mr. Allain noted that can be confusing, because we measure power usage over time (kilowatt hours). Mr. McKenzie stated that this discussion regarding solar panels is good, it is a balancing act. You need to allow flexibility for individuals to adopt this technology, but then again, you do not want to impact your community negatively. Regarding conditional use, Mr. Penley asked if the Planning Commission can put conditions on an application. Mr. Shirley noted that the Board of Supervisor's are the ones that can put conditions on an application, but that the Planning Commission could make suggestions for conditions that the Board could consider. Mr. McKenzie stated with regards to decommissioning solar infrastructure, that the King William solar farm ordinance states that the owner must have a bond equal to the amount needed to decommission the facility, have it approved by the county attorney, and revisit the calculation of the bond amount every five years to adjust for possible rising costs of decommissioning. Mr. McKenzie clarified that it is the owner's responsibility to secure financing to decommission the solar facility. Mr. O'Brien states that the owner passes this cost to the developer in the contract or lease agreement. Mr. McKenzie stated that the King William solar farm ordinance had additional language regarding decommissioning he thought was useful and read from the ordinance: decommissioning includes the removal of the solar systems, buildings, cabling, electrical components, roads, foundations, pilings, and fencing to a depth of 36 inches. Any agricultural land upon which the facility was located shall be restored to tillable soil suitable for agricultural use, forestry, ponds and/or wetlands. There was discussion on how to determine when a solar facility is no longer is in use, and the appropriate time period until it is determined abandoned. Mr. McKenzie noted that the King William solar farm ordinance time limit was 24 months of inactivity before a facility was deemed to be abandoned, after notice from the county, gave the owner 6 months to decommission the solar farm. Staff indicated that decommissioning was intended for utility scale solar facilities, but did not believe it was necessary for residential solar applications, since the panels will convey when the property is sold. Mr. Williams stated that it looks like we need three solar definitions. Ms. Wilkins stated that was how Gloucester County defined it, small system, large system, and utility scale, and they have kilowatts and acreage associated with the large and utility scale system. Ms. Wilkins continued, we could attach some type of size limit with the small system, use those definitions and determine which zoning districts would be by-right and which would be conditional use and then determine suggested conditions for the Board of Supervisors and then we would be done. Chairman Fisher stated the commission needs to look at the definitions. Ms. Wilkins suggested staff look at the Gloucester County definitions as a model. Chairman Fisher asked Mr. Allain if he could attend the next Planning Commission Meeting, and he agreed. Mr. McKenzie asked Mr. Allain if non-reflective panels are a solar industry standard? Mr. Allain stated he did not know. Mr. O'Brien stated that the industry is moving that way, as any reflectivity reduces the efficiency of solar panels. Staff replied that the Board of Supervisors signed a memorandum of understanding with the Patuxent River Naval Air Station that we would require non-reflective solar panels in our county to protect the Naval Air Test Range above Northumberland County. Mr. McKenzie noted that they are not concerned with individual residences, but rather acres of solar panels. Mr. McKenzie continued, that the county could put a check box on the building application that states the solar panels are reflective and it would be up to the applicant to abide by the condition.

Mr. McKenzie stated that he had the End of the Year Report for 2017 to go over, Chairman Fisher stated lets get started. Mr. McKenzie read the 2017 End of the Year Report, there were a couple of revisions pointed out by Commission Members that he corrected. Chairman Fisher asked if a house burned down, would it show up on the report as a new building application? Mr. McKenzie did not know, and he would check. Highlights from the report include an increase in the total estimated cost of construction from 2016 to 2017 at 17%, from \$20,900,323.98 to \$25,116,719.86. Of that total estimated cost, \$3,482,729.78 was spent in the county for remodel and/or repair on commercial structures. New structures built in 2017 include 27 single family dellings, 8 modular homes, 2 double wide mobile homes, and 3 mobile homes. For more details please reference the 2017 End of the Year Report available on the Northumberland County website. With a motion by Mr. O'Brien, seconded by Mr. Shirley, the Planning Commission unanimously approved the 2017 End of the Year Report with the corrections noted.

Mr. McKenzie noted that the Board of Supervisors had to change their meeting date for their February meeting to the 15<sup>th</sup>, and will be using the room in the new courthouse, which is the date the Planning Commission meets, so staff suggested keeping the meeting date and time, and meeting in the old courthouse board room. Chairman Fisher agreed after quickly polling the members if that was acceptable

**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. Shirley, and approved by all, the meeting was adjourned at 8:33 pm. The vote was as follows:

Chris Cralle	AYE	Garfield Parker	Absent
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		