

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

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

Chris Cralle	Present	Garfield Parker	Present
Vivian Diggs	Absent	Albert Penley, Jr.	Absent
Alfred Fisher	Present	Wellington Shirley, Jr.	Absent
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.

Garfield Parker gave the invocation.

**RE: AGENDA**

Ms. Wilkins pointed out that the agenda has the incorrect date for the last meeting minutes. Mr. O'Brien made a motion to adopt the Agenda with the revision to the date. Mr. Parker 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	Absent	Albert Penley, Jr.	Absent
Alfred Fisher	Aye	Wellington Shirley, Jr.	Absent
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 Ms. Wilkins, seconded by Mr. O'Brien, and approved by all, the February 15, 2018 minutes were approved. The vote was as follows:

Chris Cralle	Aye	Garfield Parker	Aye
Vivian Diggs	Absent	Albert Penley, Jr.	Absent
Alfred Fisher	Aye	Wellington Shirley, Jr.	Absent
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 a letter from the Northumberland County Attorney, Matson Terry regarding the draft of the solar farm zoning ordinance amendment as of the February meeting. The letter stated that we need to add components to our solar ordinance as required by Virginia State Code Section 67-103. He also stated he would like additional definitions added, as well as more detail in the form and content of an application so that the Zoning Administrator would quickly be able to determine if this is by-right or conditional use. In the letter, Mr. Terry expands on the necessary items that are required by State Code, a section on buffering/setbacks, noise regulation, and a decommissioning plan. Mr. Terry noted in his letter he didn't feel that a surety is needed, as he learned that can be very costly. Mr. Terry also noted that the local ordinance should promote the Commonwealth's Energy Policy. Regarding promoting solar energy, Mr. McKenzie handed out a copy of Virginia State Code Section 67-103 entitled the "Role of local governments in achieving objectives of the Commonwealth Energy Policy." Mr. McKenzie summarized the document saying that local governments should not put onerous regulations regarding renewable energy sources, as well as outlining minimum requirements that need to be included when local governments develop renewable energy ordinances. Mr. McKenzie stated that the Commonwealth doesn't want local

government to put up barriers that slow the adoption of renewable energy sources. Mr. McKenzie further noted that the Virginia DEQ model solar ordinances stated that they did not recommend a surety bond for decommissioning. Mr. O'Brien stated that if a bond for decommissioning is very costly, shouldn't we include that requirement so the County doesn't get stuck with the cost of dismantling one of these solar facilities? Mr. O'Brien clarified that he was only concerned with the large, utility scale solar facilities being required to obtain a bond for decommissioning. There was discussion regarding the difference between the meaning of surety and bond, and about periodically updating a decommissioning plan to account for inflation. The planning commissioners agreed that a surety on the large utility scale would be appropriate. Mr. William's asked if there are any hazardous materials in the solar panels or structures, and the consensus was that most of the components are inert. Mr. McKenzie stated that the larger a solar facility, the more money it costs to decommission, and that staff are concerned, but that ultimately it was the commission's decision whether to require a surety or not.

Mr. McKenzie informed the commission members on the discussion that staff had regarding solar farm zoning. Staff indicated that staff had planned to integrate the solar farm zoning into the zoning ordinance without creating a new article. With the addition of the requirements of State code, that could no longer be the case. Therefore, we need to write a new standalone article of the zoning ordinance to contain all the specifics required for solar facilities, which would be slightly more complicated. Mr. McKenzie elaborated on the State requirement for noise, doesn't make sense at first, as solar panels do not generate sound. However, Mr. McKenzie found upon further research that the state combined wind and solar power together in the same state code section, so that the noise regulation is really part of the wind section of renewable energy, but since they are grouped together, the county has to have some language addressing noise to be in compliance with state code. Staff stated in the staff conference, it was suggested we could just reference our noise ordinance, but we can't, because our noise ordinance only references amplified music. There was discussion on how you measure noise, that the county would have to buy a decibel meter, where and how do you measure the noise and other details. Mr. O'Brien suggested that we just reference the state requirement and then the county would be compliant. Mr. McKenzie stated that is sort of what he did. At this point, Mr. McKenzie handed out the revised staff recommendations regarding zoning solar facilities, noting that he received the letter from the county attorney on Wednesday and didn't have a lot of time to prepare. Mr. McKenzie elaborated that he tried to follow the recommendations of the county attorney, and stated to the commissioners that they can pick it apart as they see fit. Mr. O'Brien stated that he felt that we should require a surety on the large solar facilities, and if needed, we can revisit the zoning ordinance later if that is a deal breaker for a solar development company. Staff indicated that the medium sized facility have a much tighter bottom line and that may be the case for them. Ms. Wilkins stated that the larger developers expect to have to have insurance and it is much easier for them to absorb the cost of a decommissioning bond. Chairman Fisher asked Citizen Allain if he has ever heard of noise being generated by a solar facility, and he said no, and added that he would ignore that requirement. Mr. Allain mentioned regarding decommissioning, that the county could put that as one of the conditions of conditional use, along with the noise and buffering. Mr. McKenzie stated that he asked the county attorney if we could put the State Code requirements in the conditions, and he said no, it has to be written in the ordinance so that it applied to all instances when triggered. Mr. McKenzie noted that he added a section addressing noise in the staff recommendations

document and read from that document “Noise requirements shall be no more stringent than other types of development.” Mr. McKenzie stated that this was pretty innocuous and that noise is addressed in the ordinance. Staff indicated it was a placeholder, and Mr. O’Brien and Ms. Wilkins said they are OK with that language. Speaking of State requirements, Mr. McKenzie noted that the more research he does, the more state requirements he finds. Mr. McKenzie told the commission that Virginia State Code has a section that addresses Small Agricultural Generators of renewable energy, and they are allowed by right in State Code. Mr. McKenzie noted that to acknowledge that fact, he added to the definition of the medium and large solar facilities that the definition does not apply to small agricultural generators and cited the section of Virginia State Code that applies. Mr. McKenzie stated that it does not apply to the small (residential) solar facilities as they are not agricultural. There was some discussion about unfunded mandates that the State requires a locality to do, and that for the most part, are not enforced. Mr. McKenzie stated that after discussions with the Zoning Administrator, he also added a required setback for small residential solar facilities that are ground mounted which is the same as the principal structure, that is, 10 feet from the property line. Mr. McKenzie stated that the rationale for the decision was that if the county treats ground mounted solar panels as an accessory use (which is the way the county has been permitting these residential solar projects), that would reduce the set back to 4 feet, and the Zoning Administrator felt that 4 feet was not far enough from the property line. Mr. McKenzie emphasized that if the resident mounts the solar panels on the house that the setback does not apply.

Regarding other setback changes, staff noted that according to state law we have to address buffers in our solar ordinance, and to create an effective vegetative buffer around a medium or large scale solar facility one would need more area than the proposed 10 foot setback. Therefore, staff proposes a 25 foot setback on the large scale solar facilities, to provide additional room for vegetative screenings to grow. Mr. McKenzie then went into detail on the various requirements for plan submittal, indicating that all of these requirements would help the zoning and building administrator to be better able to do their job to make sure the facility is built the way the developer says it will, echoing the county attorney’s recommendations. Mr. Williams asked what size solar facilities are we talking about here. Staff indicated he was discussing the medium and large solar facilities. Mr. Williams asked about the small (residential) solar projects. Mr. McKenzie noted that if installed on a house, it was by-right, and if was ground mounted solar the resident would need a zoning permit (to make sure it was 10 foot from the property line). Chairman Fisher asked whether a resident could install solar panels on a barn, a smokehouse, a detached garage, and staff stated yes, any building on the property. Ms. Wilkins asked about the problem that happened at the Essex County solar farm site (erosion problems) and asked if the county should have something in the solar ordinance to address concerns regarding stormwater and erosion? Staff stated that all commercial development in Northumberland County is regulated by the State, specifically the Virginia Department of Environmental Quality, while the county regulates stormwater on residential property. Staff stated that adding a clause in the ordinance that says all construction must comply with all applicable federal and state law and regulations regarding erosion and sediment control as well as stormwater. Mr. McKenzie stated that we should not interject the county into something that the state has regulatory authority over, but adding that language to the ordinance is a good idea. Mr. McKenzie summarized what he had heard from the commissioner’s, that we group medium and

large scale solar facilities together with the same requirements, except that the large solar facilities shall require a surety in the amount stated in the decommissioning plan that is approved by the county attorney to cover the cost of dismantling the large scale solar facility. Mr. O'Brien asked the members if anything that staff had proposed in the revised staff recommendations would be objectionable to a business that wanted to supplement the power to the business with a medium scale solar project. Commission members who were also business owners said they had no problems with the requirements as stated for medium size solar facilities. Mr. O'Brien asked if a statement requiring non-reflective solar panels should be added. Staff cited the DEQ model solar ordinance that stated that this was not a problem in Virginia, and DEQ did not think glint and glare studies would be required. Staff stated he would add language in medium and large solar facilities that require non-reflective solar panels if that is the commission's will. Staff stated draft language for the commission to consider for the medium and large solar facilities, "Solar panels should, to the extent practical, be non-reflective."

Mr. McKenzie stated that he wanted to inform the commissioners of the changes that have been made to the staff recommendations that were precipitated by the letter from the county attorney, and staff felt that we have addressed all of those concerns. Staff indicated that he wanted to run the revisions by the county administrator, the zoning administrator and the county attorney before we go to a public hearing, so there would likely be one more meeting before we take the solar ordinances to a public hearing. There were some discussion about the Callao revitalization project, the county dedicating match money as well as what type of improvements might be made if the county gets a Main Street grant.

**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. O'Brien, seconded by Mr. Williams, and approved by all, the meeting was adjourned at 8:03 pm. The vote was as follows:

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