

Regular Meeting (Thursday, March 9, 2023)

Northumberland County, VA

Members present:

Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Other Staff Present:

Mr. Luttrell Tadlock, County Administrator

Mr. Drew Basye, Assistant County Administrator

Ms. Morgan Wilson, Executive Assistant

Mr. Robert Headley, IT Director

Mr. Matthew Bailey, IT Assistant

Mr. Eric Gregory, County Attorney

The regular monthly meeting was convened by Chairman Haynie and held at the Northumberland Courthouse located at 220 Judicial Place, Heathsville, VA 22473.

1. Opening of Meeting 5:30 P.M.

Procedural: A. Invocation - Pastor Lee Farmer, Coan Baptist Church

Pastor Farmer led the invocation.

Procedural: B. Pledge of Allegiance

Chairman Haynie led us in the Pledge of Allegiance.

Action: C. Approval of Agenda

Motion to approve the agenda for today's meeting.

Motion by: Thomas H. Tomlin, second by: James W. Brann.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

2. Approval of Minutes

Action, Minutes: A. February 2, 2023 Called Meeting

Motion to approve the minutes from the special called meeting on February 2, 2023.

Motion by: James M. Long, second by: James W. Brann.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action, Minutes: B. February 9, 2023 Regular Meeting

Motion to approve the minutes from the regular meeting on February 9, 2023.

Motion by: James M. Long, second by: James W. Brann.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

3. Presentations

Information: A. All Points Broadband - Tom Innes

Mr. Tom Innes provided an update to the Board on All Points Broadband and stated they would be doing a site visit with the Virginia Department of Housing and Community Development (DHCD) Wednesday March 15, 2023. Mr. Innes informed the Board that there is a lot of pole work being done in the County, so if any Board member would like to join them for a field visit to see the ongoing construction, they would be happy to arrange that. To date, All Points has completed 50% of the make-ready construction on all poles and all pole attachment applications have been submitted and accepted by the electric utility partners. Once the make-ready construction is complete, then they will proceed on the installation of the fiber. Mr. Innes emphasized the fact that they are focused on the unserved locations that are a part of the grant project. They have been experiencing a lot of interest outside of the project area, but those areas will not be addressed until the VATI grant has been closed out. Mr. Innes reiterated that they will not be using any grant funds to go into areas that are currently served.

Supervisor Tomlin asked when the first connection will be complete in Northumberland County.

Mr. Innes stated that the first connection would be later this year before the month of September.

Information: B. Adam Duncan - Robinson, Farmer, Cox Associates

Mr. Duncan presented the County's annual audit report from fiscal year 2022, beginning on July 1, 2021, through June 30, 2022. The auditors are required to audit federal grant programs as the County spends federal dollars. The programs audited this year were the Covid-19 stabilization grant, the food stamp program through Social Services, and the water/waste disposal systems program for expenditures made for the wastewater system. Mr. Duncan continued his presentation by stating the unassigned fund balance for the County was approximately \$9.2M with an operating budget of around \$33M at the end of the year. The undesignated fund balance represents about 30%, which is a great number in comparison to other localities. Mr. Duncan stated that the fund balance does not include unspent American Rescue Plan Act funds. About \$650,000 of these funds were unspent at the end of June and the County received their second half of allotment of \$1.2M in July 2022. The County's tax collection percentage is around 101%, so the Treasurer is doing a great job at collecting billed as well as delinquent taxes.

Mr. Duncan disclosed four points to the Board that were included in the management letter. The School Board did not meet the code in advertising their public hearing for their budget. The School Cafeteria maintains a bank account that is used to record local collections of meal sales. Mr. Duncan recommended periodic transfers of money from this account to the primary bank account to offset related expenditures. This will maintain a minimum balance in that account. The School Cafeteria expenditures exceeded budgeted appropriations for the year, so Mr. Duncan emphasized appropriating funds if the original budget is going to be over expended. The last concern was related to the federal programs with the school. Federal money is received on a

reimbursement basis after you expend and request it. The requests made by the school were not being made very timely. The new Finance Director, Tara Booth, assured the auditors that she would work on improving this in future requests.

Mr. Duncan then discussed some of the figures contained in the audit report. The full audit report can be accessed on the County's website or in board docs. Mr. Duncan concluded his presentation to the Board by stating that there were two material weaknesses: reconciliation of school fund expenditures and the School Board's expenditure documentation records of approval and payment.

Supervisor Tomlin asked when the audit process usually begins.

Mr. Duncan stated that the auditors do preliminary work in the month of May or June and then the final fieldwork is completed by October or November. The audit must be presented to the state by December 15, 2023.

Supervisor Tomlin asked if Mr. Duncan has ever seen the County of Northumberland write a letter to the auditor of public accounts about a delay in the audit.

Mr. Duncan explained that he had not seen this happen during his experience with the County.

Supervisor Tomlin asked how much the expenditures exceeded the appropriations.

Mr. Duncan clarified that it was the school's cafeteria fund expenditures that exceeded its appropriations by approximately \$208,000.00.

Supervisor Tomlin then asked if the school and the County need to come up with some sort of corrective action plan.

Mr. Duncan stated that he's not sure if it's required, but it would be appropriate.

Chairman Haynie asked how many times the auditors had to request the information from the school in order to complete the audit.

Mr. Duncan informed the Board that they use a consultant to retrieve the information and it was requested from her two or three times.

Chairman Haynie asked what the final date was when all necessary information was received.

Mr. Duncan stated that it was somewhere near February 15, 2023.

Information: C. Ellen Kirby, Treasurer - Tax Collection

Treasurer Ellen Kirby came to the Board to report that the County's collections for tax year 2022 have gone just as smoothly as last year. There is about 3.5% uncollected at this point which is exactly what it was this time last year in the 2021 tax year. The County has collected 99% so far

for the 2021 tax year, so Mrs. Kirby expects to have a 98% collection rate by June 30th for the 2022 tax year.

Mrs. Kirby then announced her anticipated retirement at the end of the year after serving as Treasurer of Northumberland County for 45 years.

Action, Information: D. Update from the Virginia Department of Transportation

Mr. David Beale came to present an update from the Virginia Department of Transportation in relation to graded gravel roads, shoulder repair, ditch cleaning, and patched potholes. Mr. Beale then went through some upcoming projects and repairs. The full report from VDOT can be found in board docs.

VDOT is starting to plan the replacement of a single lane bridge on Gilliams Road, route 611. The existing bridge is about 11 feet wide, and the replacement bridge proposes a width near 14 to 16 feet with 3.5 feet tall railings. Mr. Beale stated that the traffic count on that road has varied from 5 to 20 cars a day over the past 20 years. In order to build back the one lane bridge, VDOT has to receive concurrence or have a request from the County. Mr. Beale asked this concurrence to be in writing and sent to him as soon as possible.

Motion to approve the replacement of the single lane bridge on Gilliams Road, route 611, in Northumberland County with another single lane bridge.

Motion by: Thomas H. Tomlin, second by: James M. Long.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Supervisor Long stated that there is a trash problem in the County and asked what they can do.

Mr. Beale stated that public education is the best way to reduce litter. VDOT budgets for litter pick up three times a year on primary routes and two times a year on secondary routes.

Supervisor Long wanted an update on the Norris bridge.

Mr. Beale informed Mr. Long that there is a replacement schedule with a starting construction in 2036. Currently, geotechnical work is being done in the river to decide what the new alignment will be.

Supervisor Brann understands why VDOT is paying to replace the single lane bridge on Gilliams Road but doesn't understand why they can't pay to repair Kissinger Springs Road that has greater numbers of traffic.

Mr. Beale explained that the funding to repair the bridge is coming from federal monies that are strictly to be used for bridges. There is an existing bridge that is structurally deficient, so VDOT has an obligation to fix it. Kissinger Springs Road runs over a dam that VDOT does not own. If the landowner would like to repair the dam, VDOT will put the road back in the prescriptive

easement and repair it, but they cannot take responsibility for the repair of something they do not own.

Supervisor Tomlin reported a pothole repair on Cranes Creek Harbor Drive.

Supervisor Long reported excessive standing water on route 609.

Information: E. Update from Northumberland County Schools

Superintendent Wargo went through the school's highlights which can be found in board docs. Dr. Wargo also provided the Board with a corrected document from Finance Director Tara Booth regarding the comparison of salary scales.

Information: F. Stuart McKenzie, Planner - Year End Report

County Planner McKenzie presented the year-end report to the Board and the full report can be found in board docs.

4. County Administrators Report

Information: A. Building Permit Report

Action, Information: B. Proclamation - Red Cross Month

Motion to approve the proclamation for Red Cross month as presented:

Proclamation

Know all citizens by these presents that:

Whereas, President Franklin Roosevelt first proclaimed American Red Cross Month in March 1943 and since then, every president has called on Americans to support the organization's humanitarian mission; and

Whereas, the American Red Cross has been helping people prevent, prepare for, and respond to emergencies for more than 130 years; and

Whereas, the American Red Cross is celebrating and recognizing the Everyday Heroes in our community - those who help their neighbors by giving blood, volunteering or making a financial contribution; and

Whereas, the American Red Cross is present in communities across the United States providing disaster relief, health and safety training, ensuring a stable blood supply for hospital patients and more, none of which would be possible without the support of **Everyday Heroes** found in Northumberland County, Virginia, and across the world; and

Whereas, on average, the American Red Cross must collect 13,000 pints of blood every day to meet the needs of patients at approximately 2,500 hospitals and transfusion centers across the country; and

Whereas, while the American Red Cross works tirelessly to be there with help and hope when people need it most, without the support of volunteers and the public, the work of the American Red Cross and the Northumberland County Chapter would not be possible; and

Whereas, during the month of March, everyone is encouraged to uncover their inner hero and celebrate American Red Cross Month by donating blood, learning a lifesaving skill, volunteering, or making a financial donation to aid the efforts of this humanitarian organization,

NOW, THEREFORE, BE IT PROCLAIMED that the Northumberland County Board of Supervisors does hereby proclaim the month of March 2023 as “**American Red Cross Month**” in Northumberland County and urges all citizens to support the programs and services of the local American Red Cross organization by giving blood, through volunteerism, assisting with fundraising efforts, donating to the organization, and by becoming an **Everyday Hero**.

Motion by: Thomas H Tomlin, second by: James M Long.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action: C. Re-appointment - Roger McKinley, Planning Commission District IV

Motion to approve the re-appointment of Mr. Roger McKinley on the Planning Commission, District IV.

Motion by: Thomas H. Tomlin., second by: Ronald L. Jett.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action: D. Re-appointment - Charles W. Williams, Planning Commission District V

Motion to approve the re-appointment of Charles W. Williams on the Planning Commission, District V.

Motion by: Ronald L. Jett, second by: Thomas H. Tomlin.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

County Administrator Tadlock reminded the Board that there are several vacancies on the Economic Development Commission: Districts I, II, IV, and V.

Action, Discussion: E. Loaded Firearms in Northumberland County

County Administrator Tadlock explained that the Board requested additional information on the definition of a loaded firearm. County Attorney Eric Gregory has done additional research on this and spoke with the County's Commonwealth Attorney Jane Wrightson on this matter as well.

County Attorney Gregory explained that the questions arose from Chapter 72 of the existing County ordinance which involves the use of firearms in the County. To be specific, there are two County code sections, § 72-4 and § 72-7, that reference state code provisions that have been repealed. The general assembly repealed section § 18.2-287 and § 18.2-287.1 from the code of Virginia and not only repealed these sections, but created new code that addresses the same subject, placing the repealed § 18.2-287 and 287.1 under new state code sections § 15.2-915.2 and 1209.1. The new state code section § 15.2-915.2 authorizes local governments to prohibit the transport/possession of carrying loaded shotguns, rifles, firearms in any vehicle on public streets, roads or highways within the locality if they choose to by ordinance. Similarly, state code section § 15.2-1209.1 authorizes governing bodies of any County to adopt an ordinance making it unlawful for any person to carry or have in his possession, for the purpose of hunting, while on any part of a public highway within such county a loaded firearm when such person is not authorized to hunt on the private property on both sides of the highway along which he is standing or walking.

Along with this, the Board questioned what constitutes a loaded firearm. The local Department of Wildlife Resources (DWR) Conservation officer has been citing people with violations of these ordinances for traveling the roadways with what are considered loaded firearms. Firearms are not defined in the code of Virginia, but DWR defines it in their annual handbook publication. DWR defines a loaded firearm as a firearm in which ammunition is chambered on loaded in the magazine or clip and is engaged or partially engaged in a firearm, so in absence of any other definition, this is the definition to follow. State code section § 29.1-504 states that the courts of the Commonwealth shall take judicial notice of all laws and regulations contained in the DWR handbook publication.

County Attorney Gregory explained that the Board has a few different options to choose from. If the Board is concerned about enforcement, the ordinance can still be enforced as it is even though it references a repealed state code section. Another option is to update the County's code by replacing the referenced code sections with the new state code sections and advertise those changes for a public hearing. Or, if the Board no longer would like to prohibit the carrying of loaded shotguns in vehicles, the ordinance can be advertised to be repealed.

County Attorney Gregory and Commonwealth Attorney Wrightson recommended not defining a loaded firearm contrary to what DWR defined it as. They explained that two conflicting definitions could render the local ordinance unenforceable.

Motion to advertise for a public hearing on the repeal of Northumberland County Code Chapter 72 Firearms, Article II, Sections 72-4 Transport or possession of loaded shotgun or rifle, 72-5 Exceptions, and 72-6 Violations and penalties; which would remove local prohibitions against carrying a loaded shotgun or rifle in any vehicle on any public street, road, or highway within

Northumberland County. This would also remove any exceptions and violations associated with the removal of Section 72-4.

Motion by: Ronald L. Jett, second by: James M. Long.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, James W. Brann

Nay: Thomas H. Tomlin

Action, Information: F. Update Code Section for Loaded Firearms in Northumberland County

Motion to advertise for a public hearing to amend Northumberland County Code Chapter 72 Firearms, Article III, Section 72-7 Unlawful possession; to update the statutory reference from a repealed state statute to Virginia Code Section 15.2-1209.1.

Motion by: Ronald L. Jett, second by: James W. Brann.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action, Information: G. Rescind Motion - Paving (February 9, 2023)

County Administrator Tadlock explained that the Board did move forward with an estimate for paving a section of the parking lot at the old Courthouse, but after further investigation, not all paperwork was in order, so Mr. Tadlock asked the Board to consider rescinding their motion and move forward with the alternate estimate.

Supervisor Tomlin asked what paperwork was not in place.

County Administrator Tadlock informed him that a contractor's license was not on file with DPOR.

Motion to rescind the motion made at the regular February meeting to approve the estimate from B.C. Paving and instead approve the estimate from C.W. Davis Contractors for pavement work at the old courthouse in the amount of \$18,470.00.

Motion by: Thomas H. Tomlin, second by: Ronald L. Jett.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action: H. Supplemental Appropriation - Sheriff's Department

Motion to approve a supplemental appropriation in the amount of \$485.29 to account number 3102-3012 for a VACorp reimbursement.

Motion by: Ronald L. Jett, second by: James W. Brann.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action: I. Supplemental Appropriation - Sheriff's Department

Motion to approve a supplemental appropriation from account 10-273 to account number 3102-1006 in the amount of \$769.50 for ball games.

Motion by: Ronald L. Jett, second by: Thomas H. Tomlin.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action: J. Supplemental Appropriation - Sheriff's Department

Motion to approve a supplemental appropriation from account 10-1800-189917 to account 3102-3012 in the amount of \$5,184.58 for the 2016 Explorer deer strike.

Motion by: Ronald L. Jett, second by: James M. Long.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action: K. Supplemental Appropriation - School Bus Garage Roof

Motion to approve transferring monies from the school's capital improvement funds, account 10-767, to the general fund and a supplemental appropriation to line item 9103-7030 in the amount of \$91,750.00 for the school bus garage roof replacement.

Motion by: James M. Long, second by: Thomas H. Tomlin.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action: L. Supplemental Appropriation - Hinton Property Purchase

Motion to approve a supplemental appropriation for the Hinton property purchase in the amount of \$17,015.67 to line item 10-9103-7019.

Motion by: Thomas H. Tomlin, second by: James M. Long.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action: M. Peninsulas EMS (PEMS) Appointment - Calvin Balderson

Motion to approve the appointment of Calvin Balderson as Northumberland County's representative to the PEMS Operations Committee. Mid-County's President, Valerie Barton, will serve as the alternate this year (2023).

Motion by: Thomas H. Tomlin, second by: James M. Long.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Information: N. Other County Administration Items

County Administrator Tadlock explained that staff will be looking at the County's fee schedule to see if any adjustments are needed during the budget process. Mr. Tadlock also provided a list to the Board of potential dates for budget meetings.

County Administrator Tadlock provided some information to the Board that explains the County's health insurance increase of 9.9% which is an additional cost to the County of approximately \$98,752.20. Last week the School Board presented their budget presentation and stated they were looking at the possibility of including school bus drivers in their health insurance plan. The school bus drivers are classified as part-time employees, so in order for this to occur, the County would also have to consider offering health insurance to part-time employees. The proposal provided to the Board tonight does not include this consideration.

Supervisor Tomlin asked what the preliminary estimate was for covering part-time employees.

County Administrator Tadlock stated that the school's was about \$300,000 and the County's would be near \$320,000 because this would include an additional 36-40 employees. If the County maintains a 75% participation rate in the total population in which health insurance is being offered, the County does not have to pay the County's portion of dependent care. The participation rate is currently at 78%, so another potential impact that could be seen is by adding additional employees (who may or may not participate) may hurt that percentage.

Supervisor Tomlin asked if there is a definition for a part-time employee.

Ms. Mary Dodson, Bookkeeper and Benefits Administrator, explained that it depends on how it is stated in the County's personnel policy.

Supervisor Long motioned to offer health insurance to part-time employees, but after further discussion, he withdrew his motion.

Supervisor Tomlin asked if the school could have a different definition of part-time than the County.

County Administrator Tadlock stated that he would follow up with an answer next week.

Supervisor Brann asked if staff could send out a survey to part-time employees to see who would be interested in the opportunity for health insurance.

5. Board of Supervisor Items

Action: A. Approval of Check Register

Motion to approve the check register for March 2023.

Motion by: James M. Long, second by: Thomas H. Tomlin.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action, Information: B. Board Comments

Supervisor Brann asked if staff reached out to anyone related to cleaning up around the fence area at the Lottsburg trash site.

County Administrator Tadlock stated that he contacted waste management and they passed on that information to the Site Director, Vince Jameson.

Motion to request EMS Chief Balderson and Sheriff Beauchamp to investigate whether the County's Emergency Medical Dispatch education program needs to be updated and to see where the County is in terms of compliance with Virginia State code section § 56-484.16:1.

Motion by: Thomas H. Tomlin, second by: James W. Brann.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

6. Items Related to Closed Meeting

Discussion: A. Convene into Closed Meeting

***Closed meeting was moved to the end of the meeting due to timing constraints.*

7. Public Comments

Mr. Maurice Johnson reiterated that the Northern Neck Regional Jail is stealing the 1st, 4th, 5th, 6th, and 8th amendments from pre-trial detainees. Mr. Johnson provided the Board with an email exchange that gives a small piece of information that proves the situation occurring at the NNRJ.

Ms. Robin Schiro requested that funds be dedicated to the education of high school students by the County's Sheriff's Office concerning the new generation of human trafficking in our schools. Ms. Schiro went into detail on how human traffickers affect students' lives.

Mr. James Penney thanked Supervisor Tomlin for his great leadership in performing as Supervisor for District IV for 24 years. Mr. Penney then brought attention to an article titled the Dollar Store Invasion. He emailed this article to the Board to read at their leisure. Mr. Penney then questioned the Board's approval of changing property zoned Agricultural (A-1) to Business (B-1) for a dollar store to be constructed in Wicomico Church. He also asked why the name of the tenant of that property was hidden and not announced. Mr. Penney believes the Board did no justice to themselves or the County residents by making this decision and doesn't feel that this

complied with the County Code, which states to always advise the public as to what is being proposed with full transparency.

Mr. John Sperlazza, President of the Bay Quarter Shores Homeowners Association (HOA), stated that they are experiencing an issue on Coral Drive regarding trash debris and abandoned vehicles which is out of compliance with the HOA guidelines. Their association has tried contacting the property owner by certified letters that the owner refuses to sign. Mr. Sperlazza reached out to Chairman Haynie and Zoning Administrator Marston who also issued a certified letter that was declined by the owners. The Bay Quarter Shores legal counsel has taken this issue to the courts and Mr. Sperlazza thanked the County for their assistance with this.

Mr. Philip Haynie asked how much money the County has spent on renting the Social Services/Health Department facility. Mr. Haynie stated someone needs to look at how we are spending County dollars.

Ms. Laura Mcmillan currently owns 159 Harbor Road in Reedville and occasionally uses their home as a short-term rental. Ms. Mcmillan stated the CBCC neighbors have harassed her guests, egged vehicles, attempted removal of people from the beach, and damaged her personal property to the extent that she has had to call the police on multiple occasions. Ms. Mcmillan shared her input that she would like to keep the short-term rental laws and regulations the same when revision is up for consideration.

***Chairman Haynie requested a 10-minute recess.*

8. Public Hearings 7:00 P.M.

Action, Information: A. TABLED FROM THE REGULAR MEETING ON FEBRUARY 9, 2023: A revision to the Northumberland County Zoning Ordinance § 148-155, Solar Energy Facilities, to prohibit solar energy facilities in R-1, Residential General and R-2 Residential Waterfront zoned properties, require a solar siting agreement, an environmental impact statement, a landscape agreement and surety, reduce the time for revision of the decommissioning plan from every five years to every two years, and increase the time to decommission a solar energy facility from six to twelve months.

Supervisor Tomlin asked Mr. McKenzie what might need to be done to the ordinance based upon the presentation given by Mr. Berryhill from the Department of Energy.

Mr. McKenzie stated that there were some issues with R-1 and R-2 prohibition and the fact that the ordinance did not specifically state that the small agricultural generators were exempt. Mr. Berryhill also suggested there be a trigger for when to begin the decommissioning process.

Motion to send the revision of the Northumberland County Zoning Ordinance § 148-155 back to the Planning Commission to make additional recommendations based on Mr. Berryhill's presentation, include necessary information, and to ensure that the County is in compliance.

Motion by: Thomas H. Tomlin, second by: James W. Brann.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Information: B. APPLICANT REQUESTED TO TABLE THE PUBLIC HEARING TO APRIL 13, 2023: Request by Most Reverend Michael F. Burbidge, owner, and The New Y-Capp, Inc., applicant, to allow a health care facility (Luxury Residential Treatment Center) on property zoned R-2, Residential Waterfront. The property is shown as Tax Map Parcel # 51-(1)-135 and is located at 355 Ditchley Road.

This public hearing was tabled to the regular meeting on April 13, 2023, at 5:30 p.m.

Action, Information: C. Request by Steven W. Jett, owner, and Old Glebe Point, LLC, applicant, for a Conditional Use Permit to allow a utility-scale solar energy facility on property zoned A-1, Agriculture. The property is shown as Tax Map Parcel #36-(1)-63 and is located on Old Glebe Point Road.

Mr. Hickcox, Land Delivery Project Manager of Pivot Energy, and Mr. Eric Wallace, Attorney for Pivot Energy, presented the Old Glebe Point Road project to the Board and shared a large view of the site plan. The PowerPoint presentation for the solar project can be accessed in board docs.

Zoning Administrator Philip Marston read the suggested conditions as follows:

Suggested Conditions if Approved:

1. The conditional use permit shall expire on March 9, 2027, if no construction has taken place in accordance with the plans for which use was granted.
2. All required permits and/or licenses shall be obtained from all appropriate regulatory agencies, including but not limited to stormwater plan review approvals from the Department of Environmental Quality.
3. A payment and waiver agreement shall be agreed upon and executed between the solar facility operator and the County. At the end of the payment and waiver agreement's term, the County and solar facility owner may mutually agree to an extension of the existing agreement or to another agreement. Compliance with the payment and waiver agreement is required and failure to make the required payments under the payment and waiver agreement will be considered a violation of the approved conditional use permit and failure to comply may result in the County requiring the removal of the solar facility.
4. Vegetative screening shall be established around the perimeter of the fence where the property owner's existing vegetation does not already provide a 25-foot width. The plantings shall have a minimum height of (4) feet and at least 75% of the plantings shall be evergreen with a continuous landscaping strip and a minimum of a 25-foot width forming a continuous screen.

5. A landscape plan shall be submitted by a professional landscape architect and a surety bond shall be posted for the plantings for the life of the project to secure compliance with screening. The vegetative screening shall be planted within 6 months after the issuance of a building permit and shall be maintained for the life of the facility.
6. The grass inside the solar facility shall be a fire-resistant variety ground cover and shall be maintained to not exceed 18 inches.
7. The proposed 400 linear feet of guardrail shall be constructed as shown in the application along Old Glebe Pt. Road.
8. A surety bond for decommissioning shall be posted by all facility owners of record prior to obtaining any necessary permits for construction of the solar project in the amount of \$150,109.77. The surety bond shall be applicable to all successors, heirs, and assigns and each property owner, heirs, and assigns shall be severally and jointly liable for the full amount of the surety bond. The surety bond shall be updated and filed with the County every (5) five years based upon an estimate of a mutually agreed upon professional engineer, licensed in the Commonwealth of Virginia, with the cost to revise the plan being born by the facility owner, and with experience in preparing decommissioning estimates for localities in the Commonwealth. The new estimate shall include any increasing or decreasing costs due to current market rates on the estimated cost of decommissioning.
9. Proof of adequate liability insurance shall be required, and a copy of the lease agreement shall be submitted to the Zoning Administrator prior to the issuance of any building or zoning permits. A revised copy of the lease agreement shall be provided to the Zoning Administrator if any substantial changes to the lease agreement are made during the life of the project.
10. The perimeter fence shall consist of an (8) foot tall chain link security fence.
11. This project shall be limited to the fenced 19 acres.
12. Any on-site lighting provided for the operational phase of the solar facility shall be dark-sky compliant, shielded away from adjacent properties, and positioned downward to minimize light spillage onto adjacent properties.
13. During construction of the solar facility, any temporary construction lighting shall be positioned downward, inward, and shielded to eliminate glare from all adjacent properties. Emergency and/or safety lighting shall be exempt from this construction lighting condition.
14. The CUP will be binding on the Applicant or any successors or assigns of the project. Applicant or any successor or assign shall notify the County upon any transfer or

assignment of the Project within (15) fifteen days of such transfer or assignment providing the County with contact information for any transferee.

15. The applicant shall notify the County when the facility is operational and shall submit an annual report to the County on the amount of energy produced on December 31st of each year. If the report indicates that no energy was generated during the year then the decommissioning process will be triggered to begin.

16. If the Applicant, it's successor, or the property owners fail to timely decommission the solar facilities, the County shall have the right, but not the obligation, to commence decommissioning activities and shall have access to the property, access to the full amount of the decommissioning bond, and the rights to the solar facilities equipment and materials on the property.

Supervisor Tomlin wanted to know why there are multiple limited liability corporations (LLC) on the application.

Mr. Hickox stated the SCG Power entered into the original agreement with Mr. Jett and Pivot Energy acquired SCP Power and all its assets.

Supervisor Tomlin asked why each facility operates as a separate LLC other than to protect the company and not the County.

Mr. Wallace stated that operating as separate LLCs is a typical norm for the solar industry for the purposes of individually financing them by different financing entities.

Supervisor Tomlin questioned this because separate financing for one project can be done under the same corporate structure.

Supervisor Tomlin asked what their objection was to a chain link fence.

Mr. Hickox stated that the recommendation is more for aesthetics but if the standard chain link fence pleases the Board, Pivot Energy has no problem changing that condition.

Supervisor Tomlin asked if there are berms on this project for stormwater control.

Mr. Hickox informed Mr. Tomlin that there are berms only during construction but there will be no permanent stormwater features.

Supervisor Tomlin asked what storm level was prepared for in the plan (in years).

The Engineer and Architectural Consultant from Thrasher Group, Mr. Cole Anderson, stated a 10-year storm.

Supervisor Brann asked if they were going to sell the solar project once it is built.

Mr. Hickox stated that they will own the project during the entire life of the facility.

Supervisor Brann and Chairman Haynie expressed their concern on the 18-inch grass.

Mr. Hickox was willing to change this condition to their liking.

Chairman Haynie asked how far the guard rail is going to be from the highway on Old Glebe Point Road.

Mr. Anderson stated that the distance would vary anywhere from 10 to 20 feet.

Chairman Haynie then asked how far the first panel will be from the ditch line.

Mr. Anderson apologized for not knowing this information at this time.

Supervisor Tomlin asked how many acres of timberland will have to be cut for this site.

Mr. Wallace confirmed that approximately 5.77 acres of timberland would be cut.

Public Hearing Open.

Mr. George Benjamin asked if the panels were made of gallium arsenide because a concern is the materials of the panels contaminating the environment.

Mr. Hickcox informed Mr. Benjamin that the panels did not contain gallium arsenide.

Mr. Benjamin also suggested the Board have a bond that is fully funded upfront and indexed on an annual basis for inflation.

Mrs. Joan Boisselle stated that agriculture is the heritage of the Northern Neck, and the USDA has defined the two subject parcels as prime farmland. She would like the Board to consider that the companies may not be around in 30 years to oversee the decommissioning of the project and the project will be left for the future generations of Northumberland County. Ms. Boisselle stated the community needs to be prudent and vigilant as the County considers these projects to ensure they meet current and anticipated standards.

Mrs. Katie Powers asked the Board to re-read the County's Comprehensive Plan because it lays out the goals and strategies on how to remain a clean and rural County. Mrs. Powers' concerns consisted of environmental insurance, animal habitats, brush fires, complying with the Chesapeake Bay Act, and the sodium levels in the water. Lastly, she emphasized that the County should protect the land because more land can't be made.

Mr. Jacob Carasella asked the Board to consider the rights of landowners and to consider a long-term goal in becoming energy independent.

Mr. Kirk Brammer wanted to know what the relationship was between Pivot Energy and Dominion Power. Along with this, Mr. Brammer asked how much energy generated in the County stays in the County.

Mr. Hickox explained that there is no financial relationship between Dominion Power and Pivot Energy. He also stated that the energy generated in the County goes out to the subscribers in the County.

Mr. Jim Johnson believes it is inconsistent for the Board to consider the solar projects when the Board just sent back the solar ordinance to the Planning Commission for revision.

Public Hearing Closed.

Supervisor Tomlin asked how dominion rate payers who don't subscribe to solar benefit from this besides the potential for higher rates.

Chairman Haynie asked how long the subscription is effective.

Mr. Hickox stated that it is not a contract term and believes that users can unsubscribe at any time, but he would get clarification on that.

Chairman Haynie asked Mr. Marston about the setback stated in the solar ordinance.

Zoning Administrator Philip Marston stated that the current ordinance requires the panels be at least 200 feet from the edge of the right-of-way of any state-maintained road unless preventive measures are put into place to prevent the drivers from entering the facility.

Chairman Haynie asked about the sidelines as well.

Zoning Administrator Marston stated the ordinance requires a minimum setback of 25 feet.

Chairman Haynie asked Mr. Hickox if this project conformed to those requirements.

Mr. Hickox confirmed that these requirements will be met.

Supervisor Tomlin asked when the agreement would be considered in the process if the County were to approve the project.

County Attorney Gregory clarified that the agreement is not a siting agreement since the project is less than 5MW, but the applicant has offered a payment and waiver agreement which is very similar to a siting agreement. The agreement is incorporated into the conditions of the conditional use permit, so by approving the permit, that would be requiring the applicant to enter into the agreement. If the applicant fails to do so, then they would be in violation of the conditional use permit.

Motion to deny the conditional use permit to allow a utility-scale solar energy facility on property zoned A-1, Agriculture. The property is shown as Tax Map Parcel #36-(1)-63 and is located on Old Glebe Point Road.

Motion by: Thomas H. Tomlin, second by: Ronald L. Jett.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Action, Information: D. Request by Steven W. Jett, owner, and 200 Folly, LLC, applicant, for a Conditional Use Permit to allow a utility-scale solar energy facility on property zoned A-1, Agriculture. The property is shown as Tax Map Parcel #27-(1)-304 and 304A and is located on Northumberland Hwy in Burgess.

Mr. Wallace, Attorney for Pivot Energy, explained that one distinction between this project and the Old Glebe Point Road project is that the eastern side of this project runs along a utility right of way, so in relation to the vegetative screening, Pivot Energy requested a 15-foot setback instead of 25-foot setback as stated in condition 4.

Supervisor Tomlin asked how the project on Folly Road generates more energy if the acreage is smaller than the Old Glebe Point Road project.

Mr. Hickox explained that it's based on the layout and efficiency of the panels.

Public Hearing Open.

Mr. George Benjamin reiterated his concerns about the bond and materials of the solar panels. Mr. Benjamin suggested the Board have a bond that is fully funded upfront and indexed on an annual basis for inflation.

Mrs. Katie Powers stated that she spoke with two property owners in the County who own over 500 acres each in farmland and if Northumberland County opens the doors to solar, those property owners are going to break contracts with their farmers and reach out to the solar company.

Mrs. Joan Boisselle stated that Virginia is on a fast track to get as many solar farms in place as possible. Ms. Boisselle would like the County to be an exception to that crowd instead of being a part of it.

Mr. Philip Haynie believes we need something environmentally friendly to produce electricity.

Mr. Steven Jett, applicant, stated that he was tired of seeing his land being poisoned by agriculture and believes he has the right to do whatever he wants with his land.

Mr. Shawn Scully stated the County needs to acknowledge that solar brings cleaner energy into the County and might help mitigate some of the chemical runoff into the Bay.

Mr. Carasella believes that solar should be looked at like every other development and that it shouldn't be denied because it is new. Solar should be studied and judged on the same merits as any other project.

Mrs. Wiest is a new resident of the area and stated that the beauty of the land and water is what brought her here to Virginia. Mrs. Wiest hates seeing precious land being destroyed by the solar projects.

Ms. Scully stated that these farmlands are not natural ecosystems. Ecosystems are being destroyed by the chemicals that are placed on the farmlands and the community needs to pay attention to the destruction that has been in place for decades and continues to cause dead zones in the Chesapeake Bay. Ms. Scully believes if the farmlands are converted into solar farms, it might eliminate those chemicals running into the Bay.

Mr. Craig Spisake asked how we can take away a man's opportunity to do what he wants with his land that would create a financial ability to retire with some stability.

Public Hearing Closed.

Motion to deny the conditional use permit to allow a utility-scale solar energy facility on property zoned A-1, Agriculture. The property is shown as Tax Map Parcel #27-(1)-304 and 304A and is located on Northumberland Highway in Burgess.

Motion by: Thomas H. Tomlin, second by: Richard F. Haynie.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Nay: James M. Long

Information: E. Request by Philip J. Haynie, III, owner, to allow a mobile/manufactured home park on property zoned R-2, Residential Waterfront. The property is shown as Tax Map Parcel #37-(1)-195A and is located adjacent to 1015 Whays Creek Road.

Mr. Philip J. Haynie, II, came to the board on behalf of Philip J. Haynie, III.

Public Hearing Open.

Mr. Chris Maxwell is the Treasurer for the Inland Harbor Property Owners Association. Mr. Maxwell submitted a petition to the office of Building & Zoning with over 100 signatures to deny this application. In addition to the concerns in the petition, the application and the advertising signage that Mr. Haynie posted does not meet several key requirements for the County's regulation for the mobile/manufactured home (§ 148-152).

Mr. George Benjamin stated that the proposal for the land doesn't conform with the various developments in the County. Mr. Benjamin believes the site needs to be revisited and looked at from the standpoint of increasing the value and looking similar to the residences across the road at Inland Harbor.

Ms. Vikki Wise shared some of her concerns about the project in relation to water supply, run off, septic, and electricity.

Mr. Bruce Samuelson agreed that a property owner has the right to use their land as they please, but that right is bounded by the regulations of the County and those regulations need to be considered when looking at this project.

Mrs. Jan Brammer shared her concerns about the traffic, destroyed habitats, and litter.

Mr. Kirk Brammer believed the paperwork was incomplete and inconsistent. Mr. Brammer stated that it's not right to improve the owner's property by causing a detriment to other's property by reducing the property value and increasing traffic.

Mr. Philip Haynie stated that he loves his neighbors and respects their rights, so he withdrew his application. Mr. Haynie emphasized that the County needs more affordable housing for those who don't have big retirement plans.

Public Hearing Closed.

Supervisor Tomlin commends Mr. Haynie for his decision to withdraw his application and agreed that every County is struggling with affordable housing.

9. Closing of Meeting

The Board of Supervisors agreed on having a special called meeting for a budget work session on March 15, 2023 at 5:00 p.m.

***Due to timing constraints, the Board postponed the closed meeting to the special meeting on March 15, 2023.*

Action: A. Public Hearing Documentation Deadline

Motion that all completed applications for public hearings be provided to the Board five days prior to the hearing date (this may vary on a case-by-case basis) and that all correspondence be provided to the Board as soon as it is received by staff.

Motion by: Richard F. Haynie, second by: James W. Brann.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann

Vice Chairman Jett asked the Board to consider moving the regular meeting start time to 5:00 p.m. instead of 5:30 p.m.

Action: B. Carry Over

Motion to carry over to the special called meeting on March 15, 2023 at 5:00 p.m.

Motion by: Thomas H. Tomlin, second by: James W. Brann.

Final Resolution: Motion Carried

Aye: Ronald L. Jett, James M. Long, Richard F. Haynie, Thomas H. Tomlin, James W. Brann