

Special Called Board of Supervisors Meeting (Tuesday, May 2, 2023)
Northumberland, County Virginia

Members present:

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

Absent:

Ronald L. Jett

Staff Present:

Mr. Luttrell Tadlock, County Administrator
Mr. Drew Basye, Assistant County Administrator
Ms. Morgan Wilson, Executive Assistant
Mr. Matthew Bailey, IT Assistant
Mr. Philip Marston, Zoning Administrator
Mr. Stuart McKenzie, County Planner

1. Opening of Meeting 1:00 P.M.

Information: A. Call to Order

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

2. Presentations

Discussion, Information: A. Rural Solar Development Coalition

Ms. Susan Seward is Vice Chairman of the Board of Supervisors for Sussex County as well as a lobbyist/consultant at the General Assembly. In 2020, a few counties in Southern Virginia approached Ms. Seward about the need of economic tools for solar so she partnered with Mr. Robert Crockett to form the Rural Solar Development Coalition. Ms. Seward stated that the Coalition was formed primarily by defensive measure to become quickly educated on the subject due to solar projects in her own County. A number of counties have joined the coalition to discuss revenue tools and strategies regarding solar. Another service provided by Mr. Crockett and Ms. Seward is assistance with creating/updating zoning ordinance language and comprehensive plan language. As a Board of Supervisor for Sussex County, Ms. Seward initially was overwhelmed and afraid of solar, but her opinion has shifted because over the past few years there has been great success at the General Assembly in getting revenue tools. When solar was first introduced, land was being used for solar with no return of revenue to the locality, but now localities have the ability to extract revenue from these projects.

Ms. Seward provided a packet to the Board and went through some foundational legislation from 2020. She explained that HB1131/SB762 was a game changer in 2020 because it authorizes any locality by ordinance to assess a revenue share of up to \$1,400 per megawatt on solar projects.

Another piece of legislation passed in 2020 was HB1434/SB763 which changed the local property tax exemption for solar energy projects from an 80 percent exemption for the life of the project to a step-down scale of an 80 percent exemption in the first five years, 70 percent in the second five years, and 60 percent for all remaining years in service (if a locality assesses a revenue share on a project, the step-down scale shall not apply). The exemption of solar projects to machinery and tools tax caused a lot of frustration in the beginning because even if the projects were taxed, there really was no return to the locality. Ms. Seward stated that this bill helps alleviate that concern.

The third piece of legislation passed in 2020 was HB1675 which authorizes host/siting agreements between localities and solar facilities. The original siting agreement legislation had a couple of caveats such as applying only if the project was greater than 5 megawatts and only if the project was in an opportunity zone. The original siting agreement didn't address all solar projects, so this was changed by eliminating the limitation of opportunity zones, by expanding the agreement to cover battery storage (attached to a project or standalone), and by allowing siting agreements for projects under 5 megawatts.

Ms. Seward continued by explaining that a revenue share of \$1,400 per megawatt is now indexed at a 10% increase every five years and she emphasized that not only does the project pay the landowner, but it also pays the locality if the revenue tools are used. From a revenue perspective, the projects are money makers for localities and the bigger the project, the larger the revenue option.

Ms. Seward then introduced legislature passed this year in 2023. SB1390 allows any solar project conditional use permit that has been permitted by July 1, 2023, be extended to July 1, 2026, administratively by Board resolution without having to repeat the entire process of the CUP. This legislation was passed because there are a lot of projects that localities have issued conditional use permits for that remain at the Pennsylvania-New Jersey-Maryland Interconnection (PJM) level due to Covid-19.

Ms. Seward presented two budget amendments that thankfully failed in 2023. She summarized the language as allowing the state to have siting authority over all solar projects and becoming a by right exercise which means the locality would lose their local siting authority. Ms. Seward expressed her fear of localities repeatedly saying no to well-sited projects because the state may take away the locality's authority to approve/deny projects all together. Her advice to all localities is to be discerning, develop good ordinances, and consider how you would like to utilize these projects in the locality.

Supervisor Long stated that the population of the other counties in the coalition do not compare to Northumberland's population. He asked if she had approached Lancaster or Westmoreland County.

Ms. Seward stated that she has not presented to those counties, but she hopes they are taking advantage of the revenue tools.

Supervisor Brann asked if there has been any documented proof of the project diminishing neighboring property/home values.

Ms. Seward stated that the most important thing that a locality can do is require good buffers and setbacks. The locality has a lot of control in relation to the zoning and CUP if the locality knows how to use it. Ms. Seward explained that this won't alleviate all concerns, but it will alleviate a lot of them.

Supervisor Brann asked how to manage the citizens in the County who disagree with the projects.

Ms. Seward agreed that balancing comments from the citizens is difficult and there are a lot of items to consider when a project is presented to the locality. She emphasized that concerns/complaints can be mitigated with a strong zoning ordinance and conditional use permit. Ms. Seward advised the Board to listen to and understand the citizens' opposition and their reasoning for their concerns.

Supervisor Tomlin asked if Ms. Seward sees any activity by electric cooperatives in the solar field.

Ms. Seward informed Mr. Tomlin that one of the projects in Sussex County was for Prince George Electric Cooperative, although it was never built. She stated that the cooperatives typically do the smaller projects (5 megawatts or less) specifically for use within the co-op system.

Supervisor Tomlin explained to Ms. Seward that someone informed the Board that there was a different type of agreement for projects less than 5 megawatts.

Ms. Seward stated that was not true and that a siting agreement applies to all solar projects regardless of megawattage.

Supervisor Tomlin brought attention to a law coming into effect in 2024 to look at prime farmland and timber, so Mr. Tomlin asked if Ms. Seward has seen a good number of projects coming in to avoid that timeline.

Ms. Seward stated that she has not seen any enhancement in project numbers.

Supervisor Tomlin asked if PJM gets involved in smaller projects.

Ms. Seward stated that the shared/community solar less than 5 megawatt projects do not have to go through the queue process that utility scale solar does, so the interaction with PJM is minimal with smaller projects. PJM is involved when the project is on the larger transmission lines.

Supervisor Tomlin asked what kind of setback they have in Sussex County.

Ms. Seward stated the setback from any primary or secondary road is somewhere around 75 feet, but she believes it was changed to 150 feet. There is also a 350-foot minimum setback from any dwelling or business.

Supervisor Tomlin asked if Ms. Seward had seen any fencing other than a chain link fence.

Ms. Seward informed Mr. Tomlin that the chain link fence is the standard.

Supervisor Tomlin stated that the County doesn't have the expertise in solar to be able to evaluate any project put before the Board. Mr. Tomlin asked who the County would get to evaluate the projects.

Ms. Seward informed the Board that there are a couple of firms that will evaluate the permits as well as help the locality create suggested conditions for the permit. Ms. Seward also made the Board aware that they can require the applicant to pay for these services upfront or include the amount in the application fee.

Supervisor Tomlin asked if the General Assembly decided to take the local authority, would the Department of Energy (DOE) have sufficient staff and expertise to review all this information and what would happen to all the liabilities and revenues lost in localities.

Ms. Seward doesn't believe the DOE has the staff or expertise to review the information and the rest is unknown.

Supervisor Tomlin shared his concern of liability for the decommissioning process.

Ms. Seward stated that the cost of taking the solar project out of the ground will be at least as much as it costs to put it into the ground.

Further discussion on the decommission process led to Ms. Seward suggesting the County require all topsoil be stored on site for the purpose of restoring the ground after decommissioning. From the localities' point of view, Ms. Seward believes restoration of the ground and the disposal/recycling of the panels are two of the major things to make sure the locality is protected from at the facility's end of life. Ms. Seward recommended a financial assurance mechanism (a surety bond, insurance policy, etc.)

Supervisor Tomlin asked about off-site (standalone) storage for electricity.

Ms. Seward explained that Sussex County approved one because it is in the middle of nowhere with no residence or well. It is heavily conditioned for the safety of fire and EMS and annual training is required. Ms. Seward explained that the battery storage must be near a substation, so counties need to locate their substations when considering the off-site storage because that is ultimately where it's going to be if approved.

Supervisor Tomlin asked if any of the modulation from power in solar has any impact on the other electric lines.

Ms. Seward believes that these disruptions are possible and worrisome.

Supervisor Tomlin asked if the Department of Forestry is supposed to be notified when timber is being cut.

Ms. Seward stated that the DOF is supposed to be notified. She continued by stating that landowners are anxious to clear their land so construction can start as soon as the project is approved, but the pre-approval timber cutting is causing sediment problems, environmental problems, and the disruption of wildlife habitats. She urged cutting timber on the internal area of the project site all they want, but they also need to mark and leave a buffer standing until approval of the project from the local government.

Supervisor Tomlin shared his concern with the Chesapeake Bay Act.

Ms. Seward believes that is a concern of everyone a part of the Chesapeake Bay community. She emphasized that landowners, loggers, and developers need to be aware and consider that certain areas are just not meant to be a solar field.

Mr. Chris Cralle asked if she sees a trend in the panel size.

Ms. Seward stated that she believes technology is changing and developers are trying to maximize their footprints because areas are getting full. She believes that willing space will run out before the state hits 16,100 megawatts.

Supervisor Tomlin asked for a rough estimate of how much the state has now.

Ms. Seward stated that Virginia has around 3,500 megawatts.

Ms. Seward informed the Board that these are the types of conversations localities have during the coalition's monthly calls. Typically, a special guest will attend on a particular item and the state corporation commission (SCC) will join to discuss any legislation they're going to have for the next General Assembly. Additionally, localities discuss what works and what doesn't regarding solar projects.

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

3. Items Related to Closed Meeting

Action: A. Convene into Closed Meeting

Motion to Action: A. Convene into Closed Meeting: convene into closed meeting as permitted by Virginia Code Section 2.2-3711 (A)(29); 29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

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

Final Resolution: Motion Carried

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

Action: B. Reconvene into Open Meeting

Motion to reconvene into open session.

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

Final Resolution: Motion Carried

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

Action: C. Certification of Closed Meeting

Motion that the Northumberland Board of Supervisors return to Public Meeting and certify by roll call vote that only public business matters lawfully exempted from open meeting requirements by the Virginia Freedom of Information Act, and as were identified in the motion convening the closed meeting were heard, discussed or considered during the closed meeting.

The vote on the motion was passed by a roll call vote as follows:

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

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

Final Resolution: Motion Carried

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

4. Closing of Meeting

Action: A. Southern Air HVAC contract

Motion to move forward with the Southern Air HVAC contract as presented to the Board and reviewed by the County's attorney.

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

Final Resolution: Motion Carried

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

Supervisor Tomlin also requested that County Administrator Tadlock place the figure for joining the Rural Solar Development Coalition into the budget for their review during the budgetary process. Placing this figure into the budget does not include the intent to join the coalition at this time.

Action: B. Carry Over

Motion to carry over to the special called meeting on May 4, 2023 at 7:00 p.m.

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

Final Resolution: Motion Carried

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