

Regular Meeting, Wednesday, July 24, 2024, 7:00 p.m., Government Center, Verona, VA.

PRESENT: Jeffrey Slaven, Chairman
Pam Carter, Vice-Chair (VIA ZOOM)
Michael Shull
Butch Wells
Carolyn Bragg
Scott Seaton
Timothy K. Fitzgerald, County Administrator
Jennifer M. Whetzel, Deputy County Administrator
Doug Wolfe, Director of Community Development
Julia Hensley, Planner II
James Benkahla, County Attorney
Angie Michael, Executive Assistant

ABSENT: Gerald Garber

VIRGINIA: At an adjourned meeting of the Augusta County Board of Supervisors held on Wednesday, July 24, 2024, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 249th year of the Commonwealth....

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Chairman Slaven welcomed those present at the meeting.

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Dr. John Wise, Westwood Animal Clinic, led the Board in the Pledge of Allegiance.

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John Craft, Sheriff's Department, delivered the invocation.

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Ms. Bragg moved, seconded by Mr. Shull, that the Board allow Ms. Carter to join the meeting via Zoom.

Vote was as follows: Yeas: Slaven, Shull, Wells, Bragg and Seaton
Nays: None
Absent: Carter and Garber

Motion carried.

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REZONING REQUEST-ZACHARY DEAN
This being the day and time advertised to consider a request to rezone from General Agriculture to General Business approximately 2.515 acres owned by Zachary Dean located at 3840 East Side Highway near Harriston in the Middle River Magisterial District. The Planning Commission recommends denial of the request.

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REZONING REQUEST-ZACHARY DEAN (CONT'D)

Julia Hensley, Planner II, stated that the property is located in a rural conservation area of the Comprehensive Plan and is planned for agriculture. The purpose of the rezoning is to add a larger storage lot to the south side of the property, construct a shop, and increase the size of the sales lot along the northern fence. A shipping container is requested to remain on the property.

The Chairman opened the public hearing.

Zachary Dean is the owner of the property. He has plans to build a garage on the property. The container that is requested is to allow a place to store equipment to prevent theft.

Keller Penrod stated that Augusta County is a business-friendly environment and is in favor of this request.

Bob Pingrey asked the purpose of the denial recommendation. Ms. Hensley answered all of his questions. Mr. Pingrey is in favor of this request.

There being no other speakers, the Chairman closed the public hearing.

Mr. Wells stated after a lengthy conversation during the Staff Briefing on Monday, it is clear that the request being made can be done through a special use permit.

Mr. Wells moved, seconded by Ms. Bragg, that the Board deny the rezoning request as presented.

Dr. Seaton stated that Mr. Dean's purpose is to improve the use of the land. The property has no designated zoning for the future. There are business around the property. Dr. Seaton is not sure how spot zoning the property will negatively affect the land values surrounding the area.

Mr. Shull addressed the issue of containers on properties. There are a lot more requests regarding containers and it should be evaluated further.

Vote was as follows: Yeas: Slaven, Carter, Shull, Wells, and Bragg
 Nays: Seaton
 Absent: Garber

Motion carried.

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Timothy Fitzgerald, County Administrator, explained the process of the next agenda item. Ms. Hensley will review the appeal from a staff's perspective and then immediately talk about the special use permit request. After Ms. Hensley is complete, representatives from AES will discuss the appeal and the special use permit. Then the public hearing will be opened. Once the public hearing is closed, the Board will consider the appeal first and then the special use permit.

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AUGUSTA SOLAR, LLC

Ms. Hensley stated that following staff's review of Augusta Solar, LLC's ninety megawatt special use permit request, the Planning Commission held a public hearing in May for a substantial accord determination pursuant to Virginia Code section 15.2-2232. The Planning Commission found the project was not in substantial accord with the Comprehensive Plan after considering the project's location, character and extent and its conformance with the plan's twelve solar policies. Tonight, the applicant is appealing the decision before the Board of Supervisors. The Board of Supervisors will be making the final decision on the Augusta Solar, LLC large solar energy system special use permit request. Ms. Hensley gave a background of the project. In 2019 Community Energy Solar submitted the first Augusta Solar, LLC application and the Board of Supervisors denied the request. In 2023 AES submitted a new application for Augusta Solar, LLC and in 2024, following staff's report, AES submitted responses to staff's first report. Augusta Solar is appealing the substantial accord determination made by the Planning Commission. The substantial accord determination request is for the construction and operation of a large solar energy system which is 90 megawatts. The total parcel acreage is approximately 1693.10 acres and the proposed acreage to be developed is approximately 470 acres in the fenced project area. The parcels included in this request are located within either an Urban Service Area or Community Development Area of the Comprehensive Plan and are planned for Industrial, Planned Residential, Low Density Residential or Medium Density Residential. Ms. Hensley showed a list of all parcels within the project, an aerial map of the parcels and an aerial map of the project with landscape buffers.

Matt Hooper with AES, will discuss the project and its conformity with the Comprehensive Plan.

Karen Cohen with Gentry Lock Attorneys is council on behalf of AES and Augusta Solar. She discussed the laws that apply. She also explained what code section 15.2-2232 means

- a. The Board considered the appeal of the Planning Commission Substantial Accord Determination.
- b. This being the day and time advertised to a request by Augusta Solar, LLC to construct and operate a large solar energy system.

The Chairman opened the public hearing.

Mr. Fitzgerald stated that the Board received a significant number of emails with forty-four of them opposed and fourteen in favor of the request. A petition was received from the Hampton subdivision with 127 signatures in opposition of the request.

The following spoke in favor of the request:

- James Lagrue, 140 Providence Lane, Waynesboro.
- Bobby Whitescarver, 104 Whiskey Creek Road, Churchville.
- Kirk Quillen, 1382 Ladd Road, Waynesboro.
- Randall Wolf, Stuarts Draft.
- Nancy Fox, 2640 Lyndhurst Road, Waynesboro
- Skyler Zunk, 210 E. Franklin St
- Max Quillen, 73 Hibernia Circle, Lyndhurst
- Nancy Sorrells, 3419 Cold Springs Road, Greenville
- Bruce Dorries, 1036 Middle River Road
- Phyllis Cox, 654 Broadhead School Rd, Greenville
- Jeff Shingleton, 22 Hays Creek Rd, Brownsburg, VA
- Bob Pingry, 306 Old Goose Creek Rd

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AUGUSTA SOLAR, LLC (CONT'D)

- Karen Quillen, 243 Plantation Lane, Lyndhurst
- William Renard, Gordonsville, VA

The following spoke in opposition of the request:

- Rebecca Early, 2400 Stuarts Draft Hwy, Stuarts Draft.
- Janet Rallings, 615 elk Mountain Road.
- Joyce Jaswick, Stuarts Draft.
- Shannon Lucas
- Jason Levinsan, 36 Prince Court
- Steve Morelli, Stuarts Draft
- Rebecca Angelo, 26 E. High St., Stuarts Draft
- Dean Anderson, 28 Queens Ct, Stuarts Draft
- Lisa Burns, 9 Canada St, Stuarts Draft
- Brian Burns, 9 Canada Ct, Stuarts Draft
- David Smith, 131 Hampton Dr, Stuarts Draft
- Theresa Klimovich
- Jane Gunter, 402 Shalem Rd, Waynesboro
- Travis Gilmer, 81 Kenndy Ridge Ct, Stuarts Draft
- Kenneth Cunningham, 254 Cranberry Dr
- Fonda Kamric, 10 Canada Ct, Stuarts Draft
- Lisa Vinson, 25 Carson Ct, Stuarts Draft
- Carrie Eheart, 940 Patton Farm Road
- Stan Sikorski, 169 Benz Rd, Waynesboro
- Bob Nutt, Staunton
- Maria Puchinski, Staunton
- Vanessa McMillen

Hannon Graves, Fishersville, stated that fairness is important for the land owners.

There being no other speakers, the Chairman closed the public hearing.

Mr. Hooper and Ms. Cohen addressed some of the comments and concerns from the citizens that spoke.

Ms. Bragg commented on the appeal. One of the duties of the Planning Commission is to evaluate projects and determine if they are in compliance with the Comprehensive Plan. As a body, these commissioners represent years and years of knowledge and experience specifically related to decisions involving the County's Comprehensive Plan. For the utility project being presented, the Board spent months reviewing applications, speaking with applicants, researching, asking questions, touring project sites, hearing comments from the public and reviewing the Comprehensive plan of the policy the Board has put in place to evaluate solar applications. It was determined by a six to one vote from the Planning Commission that this was not in substantial accord with the Augusta County Comprehensive Plan. She encouraged the Board to go along with the determination of the Planning Commission.

Ms. Bragg moved, seconded by Mr. Shull, that the Board deny the appeal and uphold the decision of the Planning Commission.

Dr. Seaton stated that it is important to look at the Comprehensive Plan that currently governs the Board's planning. The plan was adopted in 2007. That was before solar energy became so efficient. The plan was amended repeatedly. The Comprehensive Plan and amendments provide the framework for approval or denial of solar utility projects. The Comprehensive Plan, in regulating development, declares the freedom and

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AUGUSTA SOLAR, LLC (CONT'D)

rights of the individual landowner are balanced with the overall long term common good of the community. The rights of landowners are the legal privileges and entitlements of owning a piece of land. Augusta Solar has proposed a construction operation of the large solar energy system. Ninety megawatts on property owned by long-term residents. Who for years have paid taxes to the County and have been valuable members of the community. All of the parcels that are part of the proposed project were chosen because they lie along the Dominions 115kv transmission line which has additional capacity. He examined the July 28, 2021 amendments to the Comprehensive Plan. The plan encourages distributed solar and carefully sited utility scale solar as a means of achieving renewable energy goal. Dr. Seaton reviewed the benefits of the tax revenues that would come from the solar project, the rural view shed concerns and nearby housing. He also reviewed the different policies within related to this project. This project clearly meets the Virginia Code 2232 requirement, contrary to the Planning Commission vote.

Dr. Seaton questioned 15.2-2232 and confusion about how many votes are necessary. At one point, it says a vote of the majority of the membership, and another point it says a majority vote of the governing body.

Jim Benkahla, County Attorney, stated that it would be the majority vote.

Vote was as follows: Yeas: Slaven, Carter, Shull, Wells and Bragg
 Nays: Seaton
 Absent: Garber

Motion carried.

Ms. Bragg commented on what this project means and how it does not comply with the Comprehensive Plan. The comprehensive Plan identifies the proposed area as a growth area where County citizens will have the opportunity to live, work and play. The addition of the solar energy generating plants will change the character of this community. The proposal as submitted or as modified shall not have undue and adverse impacts on the surrounding neighborhoods. She reviewed some of the policies that are affected by this project. Taking into consideration reports from independent consultants and listening to landowners and neighbors, in summary, the urban service community and development areas are where significant public investment has and will continue to be made.

Ms. Bragg moved, seconded by Mr. Shull, that the Board deny the large-scale solar application by AES that was presented to Augusta County.

Dr. Seaton moved that the Board approve postponing this request to the August 14, 2024 Board of Supervisors meeting to allow time to discuss in open session, the revenue to the County that is being given up and discuss siting agreement options that could provide tax revenue for much needed projects and address our Board's concerns he would like to postpone to a later meeting.

Vote was as follows: Yeas: Seaton
 Nays: Slaven, Carter, Shull, Wells and Bragg
 Absent: Garber

Motion failed.

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AUGUSTA SOLAR, LLC (CONT'D)

The Board then voted on the motion to deny the special use permit.

Vote was as follows: Yeas: Slaven, Carter, Shull, Wells and Bragg
 Nays: Seaton
 Absent: Garber

Motion carried.

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CONSENT AGENDA

Mr. Fitzgerald reviewed the items on the consent agenda and asked if any of the Board member would like to remove any of the items from the consent agenda. He also explained what the emergency drought resolution consisted of.

Mr. Shull moved, seconded by Ms. Bragg, that the Board approve the consent agenda as follows:

- a. Claims paid since June 1, 2024
- b. Inclusion in the following opioid settlement resolution:

A RESOLUTION OF THE AUGUSTA COUNTY BOARD OF SUPERVISORS APPROVING OF THE
 COUNTY'S PARTICIPATION IN THE PROPOSED SETTLEMENT OF OPIOID-RELATED CLAIMS
 AGAINST KROGER AND ITS RELATED CORPORATE ENTITIES, AND DIRECTING THE COUNTY
 ATTORNEY TO EXECUTE THE DOCUMENTS NECESSARY TO EFFECTUATE THE COUNTY'S
 PARTICIPATION IN THE SETTLEMENT

WHEREAS, the opioid epidemic that has cost thousands of human lives across the country also impacts the Commonwealth of Virginia and its counties and cities, including the County of Augusta, by adversely impacting the delivery of emergency medical, law enforcement, criminal justice, mental health and substance abuse services, and other services by Augusta County's various departments and agencies; and

WHEREAS, the Commonwealth of Virginia and its counties and cities, including Augusta County, have been required and will continue to be required to allocate substantial taxpayer dollars, resources, staff energy and time to address the damage the opioid epidemic has caused and continues to cause the citizens of the Commonwealth and Augusta County; and

WHEREAS, a settlement proposal has been negotiated that will cause Kroger to pay over a billion dollars nationwide to resolve opioid-related claims against it; and

WHEREAS, the County has approved and adopted the Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding (the "Virginia MOU"), and affirms that this pending settlement with Kroger shall be considered a "Settlement" that is subject to the Virginia MOU, and shall be administered and allocated in the same manner as the opioid settlements entered into previously with opioid distributors McKesson, Cardinal Health, and AmerisourceBergen, opioid manufacturers Janssen Pharmaceuticals, Teva Pharmaceuticals, and Allergan, and retail pharmacy chains CVS, Walgreens, and Walmart;

WHEREAS, the County Attorney has reviewed the available information about the proposed settlement and has recommended that the County participate in the settlement in order to recover its share of the funds that the settlement would provide;

NOW THEREFORE BE IT RESOLVED that the Augusta County Board of Supervisors, this 24th day of July, 2024, approves of the County's participation in the proposed settlement of opioid-related claims against Kroger and its related corporate entities, and directs the County Attorney and/or the County's outside counsel to execute the documents necessary to effectuate the County's participation in the settlement, including the required release of claims against Kroger.

- c. Crozet Tunnel Smart Scale Resolution:

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CONSENT AGENDA (CONT'D)

**A RESOLUTION OF SUPPORT FOR A SMART SCALE
APPLICATION FOR CROZET TUNNEL TRAIL
IN WAYNESBORO, VIRGINIA**

WHEREAS, the City of Waynesboro has submitted a SMART SCALE application for a 1.3 mile shared use path running roughly parallel to US-250 from 1800 East Main Street, including a pedestrian tunnel underneath the Buckingham Branch rail line, to the western trail of the Blue Ridge Tunnel Phase III project; and,

WHEREAS, in conjunction with the previously funded East Main Street Shared Use Path, this project is intended to address Regional Network and Corridor of Statewide Significance needs by creating a continuous bike and pedestrian connection from Downtown Waynesboro to Route 6 in Afton, providing an alternative route to US-250 for non-motorized traffic; and,

WHEREAS, the Commonwealth of Virginia has adopted a project prioritization program under the SMART SCALE Program whereby transportation projects are selected for funding based on the cost-effectiveness of those projects to meet performance goals; and,

WHEREAS, a significant portion of this trail will be located in the jurisdiction of Augusta County and the trail will be a major recreational and economic development asset for properties in Augusta County;

NOW THEREFORE be it resolved that the Augusta County Board of Supervisors does hereby support the application by the City of Waynesboro, to compete for state and federal funding under the Smart Scale program.

d. Resolution declaring a local drought emergency:

**DECLARATION OF A LOCAL EMERGENCY
DROUGHT 2024**

WHEREAS, there continue to be extremely dry conditions coupled with high temperatures throughout Augusta County, Virginia. Which have caused widespread agricultural issues and have the potential to affect private and municipal water supply, and;

WHEREAS, the conditions of the drought due to low precipitation and high temperatures necessitate the declaration of a local emergency pursuant to the Commonwealth of Virginia Emergency Services and Disaster Law of 2000, codified at Code §§ 44-146.13 through 44-146.28.1.; and

WHEREAS, the potential of such an emergency necessitates the Declaration of a Local Emergency by the Director of Emergency Management, effective July 24, 2024; and it is

FURTHER DECLARED, that the Augusta County Emergency Operations Plan is now in effect along with Chapter 24-13 Drought Management of the Augusta County Code and that the powers, functions, and duties of the Emergency Management Coordinator and Emergency Services organization of Augusta County shall be those set forth in the laws of the Commonwealth of Virginia and the ordinances, resolutions, and approved plans of Augusta County to mitigate the effects of this emergency.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Augusta County

1. Confirms the declaration of a Local Emergency dated July 24, 2024; and
2. Approves and consents to all actions taken by the Emergency Management Coordinator and County staff pursuant to the Declaration of Local Emergency and the Augusta County Emergency Operations Plan; and
3. That the Augusta County Board of Supervisors hereby petitions Ronald M. Howell, Jr. Ed. D., State Executive Director, Virginia Farm Service Agency - USDA, to declare Augusta County a disaster area in order to provide the means for those affected to qualify for some relief assistance.

e. Funding request from Middlebrook Ruritans for stone replacement from the Riverheads Infrastructure account I the amount of \$1,050.00.

f. Funding request for Riverheads Volunteer Fire Department for an extractor drain line extension from the Riverheads, Beverley Manor and South River Infrastructure accounts in the amount of \$15,500.00.

A Parks & Rec Infrastructure funding request for Stuarts Draft Park for netting in the amount of \$12,470.00 from the Riverheads, Wayne, South River and

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CONSENT AGENDA (CONT'D)

- g. Beverley Manor Districts.
- h. Mill Place Parkway donation of right-of-way to VDOT.

Vote was as follows: Yeas: Slaven, Carter, Shull, Wells, Bragg and Seaton
 Nays: None
 Absent: Garber

Motion carried.

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MATTERS TO BE PRESENTED BY THE PUBLIC

Linda Ellis, 137 Mill Stone, Verona, asked what the opioid funding will be used for.

Jennifer Whetzel, Deputy County Administrator, stated that there is a regional study being completed between Staunton, Waynesboro and Augusta County. It will be determined from that study how to spend the funds.

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MATTERS TO BE PRESENTED BY STAFF - NONE

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MATTERS TO BE PRESENTED BY THE BOARD

Dr. Seaton moved, seconded by Mr. Wells, that the Board appoint Brian Riddle to serve a term on the Ag Industry Board. Effective immediately and to expire June 30, 2028.

Vote was as follows: Yeas: Slaven, Carter, Shull, Wells, Bragg and Seaton
 Nays: None
 Absent: Garber

Motion carried.

Dr. Seaton asked how many applications have been received for the South River Planning Commission position.

Mr. Fitzgerald stated that one application has been received.

Dr. Seaton asked for more information regarding the changes to the streaming of meetings.

Mr. Fitzgerald stated that the County is transitioning to a new software. We will be using Civic Plus going forward. This software will aide in creating the agendas and will be our public facing product. It will allow citizens to watch the meeting live and view the corresponding agenda at the same time. All videos, agendas and minutes will be located in the same location on the website. We will no longer be streaming on Facebook.

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MATTERS TO BE PRESENTED BY THE BOARD (CONT'D)

Dr. Seaton moved to continue livestreaming meeting using Facebook.

Vote was as follows: Yeas: Seaton
 Nays: Slaven, Carter, Shull, Wells and Bragg
 Absent: Garber

Motion failed.

Mr. Wells moved, seconded by Ms. Bragg, that the Board appoint Scott Vanlear to serve a term on the Blue Ridge Criminal Justice Board. Effective immediately and to expire June 30, 2026.

Vote was as follows: Yeas: Slaven, Carter, Shull, Wells, Bragg and Seaton
 Nays: None
 Absent: Garber

Motion carried.

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ADJOURNMENT

Mr. Shull, seconded by Ms. Bragg, moved that the Board adjourn the meeting.

Vote was as follows: Yeas: Slaven, Carter, Shull, Wells, Bragg and Seaton
 Nays: None
 Absent: Garber

Motion carried.



Chairman
m:7-24min.24



County Administrator