

Regular Meeting, Wednesday, July 28, 2021, 7:00 p.m. Government Center, Verona, VA.

PRESENT: Butch Wells, Vice-Chair
 Pam Carter
 Michael Shull
 Scott Seaton
 Jeffrey Slaven
 Steven Morelli
 Timothy K. Fitzgerald, County Administrator
 Jennifer M. Whetzel, Deputy County Administrator
 John Wilkinson, Director of Community Development
 Leslie Tate, Senior Planner
 James Benkahla, County Attorney
 Angie Michael, Executive Assistant

ABSENT: Gerald Garber, Chairman

VIRGINIA: At a regular meeting of the Augusta County Board of Supervisors held on Wednesday, July 28, 2021, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 246th year of the Commonwealth....

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Vice-Chairman Wells welcomed those present for the meeting.

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Mr. Morelli, Supervisor for the South River District, led the Pledge of Allegiance.

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Ms. Carter, Supervisor for the Pastures District, delivered the invocation.

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NATURAL CHIMNEYS PUBLIC USE OVERLAY AMENDMENT

This being the day and time advertised to consider a request to amend the proffers for an existing Public Use Overlay to add weddings, stages, and pavilions as permitted uses for approximately 134.86 acres owned by the County of Augusta located on the northeast side of Natural Chimneys Road approximately 0.1 miles east of the intersection of Natural Chimneys Road and North River Road in Mount Solon in the North River District. The Planning Commission recommends approval. The Planning Commission also recommends that language be added to the proffers to specifically tie weddings to existing shelter capacity.

Leslie Tate, Senior Planner, stated that the proposed general use of the property is weddings, stages, pavilions and other special events. The general use of the property as stated in the Comprehensive Plan is Urban Open Space. The proposed changes are as follows:

- a. Active and passive recreational facilities, including camping, stages, and pavilions
- b. Community center and similar facilities
- c. Carnivals, circuses, fairs, festivals, revivals, animal shows, exhibitions, weddings (using shelter capacity and rental procedures), and similar special events not permitted under 25-21 of this chapter.

July 26, 2021, at 1:30 p.m.

MATTERS TO BE PRESENTED BY STAFF (CONT'D)

- 3) VATI grant applications
- 4) The VACo County Officials Summit is August 19, 2021.
- 5) The Historical Marker event will be at the Circuit Court on Wednesday, July 28 at 5:00 p.m.
- 6) Strategic Plan direction.

The Board made the consensus to wait on the process for the Strategic Plan.

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Chairman



County Administrator

H7-26sbmin.2021

The Chairman declared the public hearing open.

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

Mr. Slaven moved, seconded by Dr. Seaton, that the Board approve the amendment as presented.

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

Motion carried.

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DAVID W. SURRATT REZONING
This being the day and time advertised to consider a request to rezone from General Agriculture to Rural Residential with proffers approximately 34.44 acres owned by David W. Surratt located on the east side of Battlefield Road approximately 0.1 miles north of the intersection of Dam Town Road and Battlefield Road in New Hope in the Middle River District. The Planning Commission recommends denial.

Rezoning withdrawn by the applicant.

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ORDINANCE AMENDMENT CHAPTER 19 FEES
This being the day and time advertised to consider Community Development Chapter 19
Fee increase request.

John Wilkinson, Director of Community Development, stated that the Board has received a copy of the proposed fee schedule. It has been twenty years since the last fee increase. The fee increases include zoning permits, subdividing property, site plan review and building inspection. Staff has reviewed surrounding localities and what their fees include. Mr. Wilkinson reviewed the changes in the fees.

Dr. Seaton questioned why the creation of an Ag Forestal District is \$550.00.

Ms. Tate stated that it requires State Code notification and there is cost involved for advertisement.

Dr. Seaton does not agree with charging a fee to create an Ag Forestal District since it does not provide an individual benefit, but a benefit to the public as a whole.

The Chairman declared the public hearing open.

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

Ms. Carter moved, seconded by Mr. Slaven, that the Board remove the fee for creation of an Aq Forestal Districts and approve the fee increases.

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ORDINANCE AMENDMENT – CHAPTER 19 FEES (CONT'D)

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

Motion carried.

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AUGUSTA COUNTY COMPREHENSIVE PLAN – SOLAR ENERGY FACILITY POLICY
AMENDMENTS

This being the day and time advertised to consider amendments to the Augusta County Comprehensive Plan related to considerations for the siting of utility scale solar energy facilities. A summary of the amendments is as follows: projects strongly discouraged from covering more than 200 acres with solar photovoltaic panels in order to mitigate visual impacts, projects should not site on non-contiguous parcels or in close proximity to existing solar energy facilities, projects strongly discouraged from siting in Urban Service and Community Development areas. The Planning Commission recommends denial.

Ms. Tate reviewed the process and what has happened up to this point. There were eleven policies brought before the Board of Supervisors in 2020 and those policies were approved. The amendments for consideration are to those eleven policies. During a March 10 worksession, the Augusta County Board of Supervisors directed Planning staff to draft amendments to the eleven Comprehensive Plan policies that address development of solar energy facilities, with a focus on three areas: clustering, location and size. The Board may approve of all draft policies, some draft policies or no draft policies. The first amendment is to policy 5, which discusses visual impacts. The amendment would be in order to design and integrate buffers that succeed in mitigating the visual impact of a project on nearby development; projects should cover no more than 200 acres with photovoltaic panels. Policy 6 addresses balanced land uses. The amendment would be the County strongly discourages projects that have a photovoltaic panel coverage of more than 200 acres, and projects should not site on non-contiguous parcels or in close proximity to existing solar facilities. Consideration of existing Augusta County Service Authority infrastructure should be made. Policy 7 is proposed to be amended by stating projects are strongly discourage from siting partially or fully within Urban Service or Community Development areas in order to recognize the county's vision for compact, interconnected, and pedestrian-oriented residential and commercial development in these areas. The last amendment is the creation of Policy 12; Clustering and colocation. Support projects that site on contiguous parcels. Strong consideration should also be given to siting projects a reasonable distance away from existing solar facilities so as not to significantly alter existing community character or create undue adverse impact on nearby neighborhood development. Solar facilities that are sited on the same parcel or contiguous parcels, but are constructed in distinct phases, should be considered to be separate facilities for purposes of fully and accurately evaluating the potential impact on the surrounding community. Staff would use these policies if utility solar project applications would be submitted. State code requires that the Planning Commission determine if a utility scale solar project is in substantial accord with the Comprehensive Plan or parts thereof. These twelve policies, if adopted, would be what the Planning Commission would use as mirroring staff's report to recommend to the Board of Supervisors if they thought the project was in substantial accord with the twelve policies or parts of those twelve policies. This is not ordinance language so it is not a regulatory framework in the sense of prohibiting an application or public hearing to move forward with a land use application.

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AUGUSTA COUNTY COMPREHENSIVE PLAN – SOLAR ENERGY FACILITY POLICY
AMENDMENTS (CONT'D)

The Chairman declared the public hearing open.

Jefferson Shingleton, 6003 Middlebrook Road, is concerned with solar in the County and how it is handled.

Michael Godfrey, 304 Cattleman Road, encourages the Board to consider inclusion of ag activity.

Shane Murrow, 133 Cattleman Road, Swoope, stated that solar would provide opportunity for farmers.

Coley Rittenhouse, 765 Horsehead Road, Grottoes, spoke in favor of the amendments.

Jayne Reed, 2751 Lee Highway, Mt. Sidney, spoke against the amendments.

Donna Miller, PO Box 1125, Grottoes, spoke against the amendment.

Skyler Zunk, 25 E. Main Street, Richmond, represents a group called Conservatives for Clean Energy. Landowners should have property rights and be able to make their decisions for their land.

On behalf of the Augusta County Service Authority, Phil Martin, 209 Raintree Road, Verona, supports the proposed amendments to the Comprehensive Plan language. Especially the strong discouragement of siting solar facilities in Urban Service and Community Development Areas.

Rick Pfizenmayer, 30 Round Hill Drive, Stuarts Draft, supports the proposed amendments as a reasonable exercise in planning in a measured balance of interest related to large utility scale solar projects.

Kristin Jackson, 562 Churchman's Mill Road, Stuarts Draft, supports the proposed amendments.

Kirk Quillen, 1382 Ladd Road, Lyndhurst, stated that the proposed amendments are not necessary.

Theresa Brents, 713 Churchman's Mill Road, Stuarts Draft, supports the proposed amendment. Each amendment encourages balanced land use. The amendments do not prohibit solar projects.

Kim May, 2958 Lee Highway, Mt. Sidney, discourages amendments that inhibit the advancement of solar energy.

Dwight Houff, 3006 Lee Highway, Mt. Sidney, stated that the Planning Commission voted against these amendments 5-1 and that is a problem. He is a supporter of solar and Augusta County should be too. He does not support the amendments.

Nancy Sorrells, 3419 Cold Springs Road, Greenville, stated that the Planning Commission recommends denial and the Board of Supervisors should support that recommendation. Carefully sited solar projects are a win for the County. She is concerned with Government dictating how landowners can use their land. Vote no or table the amendments presented.

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AUGUSTA COUNTY COMPREHENSIVE PLAN – SOLAR ENERGY FACILITY POLICY
AMENDMENTS (CONT'D)

Stan Sikorski, 169 Benz Road, Waynesboro, is not necessarily against the proposed amendments, but the amendments give a pause for thought.

Bobby Whitescarver, 164 Whiskey Creek Road, spoke against the proposed amendment. The County has a good Comprehensive Plan and a good solar ordinance. It is not time to change the Comprehensive Plan.

Kristin Donohue, 572 Churchman's Mill Road, Stuarts Draft, spoke in support of the proposed amendment.

Wayne Nolde, 210 Cider Mill Road, Mt. Sidney, spoke against the proposed changes. The County has invested a lot of time trying to balance solar. It is too soon to make changes.

Randall Wolfe, Stuarts Draft, spoke against the proposed amendments. Landowner rights are critical.

David Stoner, representative of Strata Solar, does not support the proposed changes. This additional language is not needed. Two recommendations if the Board passes the amendments; the previously considered green language would be much more appropriate as it gets the concerns across, but provides flexibility for developers, landowners and the County in its review and it is important for the Board to reiterate that these are just guidelines, they are not strict limits and the Board will look at each project individually.

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

Mr. Morelli moved, seconded by Mr. Shull, that the Board approve the Augusta County Comprehensive Plan amendments as presented.

Ms. Carter asked what environmental benefits would come from a solar farm.

A previous speaker explained the benefits and stated that the environmental benefits need to be addressed before any decisions on changes are made.

Ms. Carter encourages the Board to table the item to give time to review critical information.

Dr. Seaton moved, seconded by Ms. Carter, that the Board approve postponing this until the August 11, 2021 meeting.

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

Motion Failed.

Dr. Seaton is concerned with the wording in the changes regarding projects with more than 200 acres. It is frustrating when the Board of Supervisors ignore the recommendations of the Planning Commission. The Comprehensive Plan right now, represents what the citizens want. The Board of Supervisors need to represent what the citizens want. There is more clarity that people want solar. Two 200 acre plots does not equal one 400 acre plot in tax revenue. There is a lot more that can be obtained, income wise, from a utility scale. Reducing the size from 200 acres or less is bad for the County.

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AUGUSTA COUNTY COMPREHENSIVE PLAN – SOLAR ENERGY FACILITY POLICY AMENDMENTS (CONT'D)

Dr. Seaton moved to amend the wording to remove the 200 acre stipulation and the sentences that involve the 200 acres..

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

Motion Failed.

Dr. Seaton moved to amend the changes to say more than 200 acres will be considered on an individual basis.

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

Motion Failed.

Mr. Morelli moved, seconded by Mr. Shull, that the Board approve the Augusta County Comprehensive Plan amendments as presented.

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

Motion carried.

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REDISTRICTING 2021
 Update from Staff.

Ms. Tate stated that local governments in Virginia are mandated to complete decennial redistricting in every year ending in one. With the release of the U.S. 2010 Census Data scheduled for mid-August, it is again time for us to complete this process in Augusta County. Requirements for Local Magisterial Districts include the following:

- More or less equal in population to adhere to the "one person, one vote" principle
- Must be contiguous and compact, with boundaries that follow pre-determined and observable geographic boundaries. For example: roads, interstate highways, rivers Census tract boundaries
- Must not be drawn to discriminate based on race
- The population deviation across the seven magisterial districts should be under 5%

Projected 2020 Augusta County population is 76,544, which is a 3% increase from 2010. Redistricting will not impact November 2021 state or local elections. In 2021 the Virginia Rights of Voters Act was passed.

Two options for meeting the approval requirements of the 2021 Virginia Rights of Voters Act regarding "discrimination based on race or color or membership in a language minority group":

1. Act mandates additional notices be sent 45 days prior to proposed amendments, publish on website and through press releases, public comments must be accepted for

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REDISTRICTING 2021 (CON'TD)

30 days, hold a public hearing during the 30 day period. The above process must be repeated if changes are proposed. After a conclusion, a newspaper notice of description of change to take effect in 30 days. Within the 30 days "any person who will be subject to or affected the change may sue in local circuit court"

2. Receiving an opinion of "no objection: from the Virginia Attorney General's office-staff recommends this option to ensure the process is completed in a timely manner (60 days upon submission and potentially sooner) and to avoid potential litigation.

A change in the redistricting for 2021 that will affect Augusta County states that any individual incarcerated in a federal, state, or local correctional facility within Virginia will be counted as a resident of the jurisdiction of their last known residential address. Any inmates whose last known residential address is located outside of Virginia will be counted as part of the jurisdiction in which they are incarcerated. The Virginia Division of Legislative Services has 30 days from the release of Census data to adjust the numbers and provide updates to localities. Planning staff is working with County Attorney's office and Communications to develop a robust public engagement strategy. Staff would recommend the formation of a redistricting committee. The committee would meet monthly from August to December with staff to analyze 2020 Census data, follow the state-level redistricting process, and review potential options for local districts and precincts. Similar to other committees, this committee could have one or two Supervisors, and would be open to the public for attendance. Staff intends to create a separate page on the Augusta County website specifically for the redistricting process. This page would provide information about the local redistricting process and provide ways for online public engagement and feedback. Staff plans to post updates and information about the redistricting process on County social media channels, as well as through press releases to local media. Because many Augusta County citizens do not have reliable internet access, staff is planning a series of in-person "pop-up" public engagement sessions.

Virginia State Code mandates that precincts cannot have more than 5,000 registered voters and no fewer than 100 registered voters. As of July 1, the Ridgeview precinct is currently the County's largest with 4,097 registered voters and the Deerfield precinct is currently the County's smallest with 489 registered voters. New mandates for 2021 prohibit split precincts. Augusta County currently has one split precinct, the White Hill voting precinct in the Riverheads district. Staff does not plan on finalizing voting precincts and polling locations until January 2022 due to the delay in the release of Census data and due to the need to wait for the statewide redistricting commission to finalize their plans.

A draft timeline was provided to the Board. Staff requests that the Board authorize or approve the following:

1. The initiation of the Augusta County 2021 redistricting process on August 1, 2021
2. Direct Staff to pursue a request to the Virginia Attorney General for a certificate of no objection
3. The process as outlined in the timeline, which may or may not include the appointment of one or two Board members to serve with staff on a temporary Redistricting Committee.

Dr. Seaton moved, seconded by Ms. Carter, that the Board approve the recommendations from Staff.

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

Motion carried.

July 28, 2021, at 7:00 p.m.

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DELINQUENT REAL ESTATE TAX COLLECTION RESOLUTION

The Board considered a resolution associated with collection of delinquent real estate taxes.

A RESOLUTION TO PROVIDE FOR THE COLLECTION OF ATTORNEY'S FEES TO COVER COSTS ASSOCIATED WITH THE COLLECTION OF DELINQUENT REAL ESTATE TAXES

WHEREAS, the County Treasurer has asked that the Board of Supervisors authorize the County Attorney's Office to file suits to collect delinquent real estate taxes; and

WHEREAS, Section 58.1-3965 provides for the collection of reasonable attorney's fees in connection with the institution of legal action and for the sale of real estate to collect delinquent real estate taxes.

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

1. The County Attorney's Office is authorized to file such legal actions as are necessary to collect delinquent real estate tax pursuant to Chapter 39 of Title 58.1 of the Code of Virginia.
2. The Board of Supervisors does not deem it necessary that the County Attorney's Office post a bond as is authorized, but not required, under the provisions of Section 58.1-3966 of the Code of Virginia.
3. The County Attorney's Office is authorized to collect the following attorney's fees for the collection of delinquent real estate taxes:
 - a. Fee when title work is done, and owner redeems prior to filing suit: \$250.00;
 - b. Fee when title work is done, suit is filed, and owner redeems prior to sale: \$500.00 plus costs; and
 - c. Fee when sale is completed: \$750.00 plus costs.

State law reference – Virginia Code § 58.1-3965 *et seq.*

James Benkahla, County Attorney, stated that court action to collect real estate taxes has been filed. It has been past practice of the Board to authorize the County Attorney's office to pursue court action for collection of those taxes and set the attorney's fees. 2009 was the last resolution that authorized the then County Attorney to pursue court action. The resolution up for consideration authorizes the current County Attorney to pursue court action in collecting delinquent real estate taxes and sets the attorney's fees for various stages in the process.

Ms. Carter moved, seconded by Mr. Shull, that the Board adopt the resolution.

Vote was as follows:

Yeas:	Carter, Wells, Shull, Slaven, Seaton, and Morelli
Nays:	None
Absent:	Garber

Motion carried.

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

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Dr. Seaton would like to create a committee to review the need for and performance of the dash cams and body camera equipment, to report what the Sheriff wants, to develop a plan to determine a cost for camera equipment and annual maintenance

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MATTERS TO BE PRESENTED BY STAFF (CONT'D)

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

Motion carried.

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CLOSED SESSION

On motion of Mr. Shull, seconded by Ms. Carter, the Board went into closed session pursuant to:

- (1) **the personnel exemption under Virginia Code § 2.2-3711(A) (1)**
[discussion, consideration or interviews of (a) prospective candidates for employment, or (b) assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific employees]:
a) Boards and Commissions: Youth Commission, Ag & Forestal Dist., Ag Ind. Brd., Recycling, Valley Community Services Board, Economic Development Authority
- (2) **the economic development exemption under Virginia Code § 2.2-3711(A) (5)**
[discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of its interest in locating or expanding its facilities in the county]:
a) Proposed Office space, flex space, storage facilities, manufacturing facilities, utility and mixed use development.
- (3) **the real property exemption under Virginia Code § 2.2-3711(A) (3)**
[discussion of the acquisition for a public purpose, or disposition, of real property]:
a) Augusta County Courthouse

On motion of Mr. Shull, seconded by Ms. Carter, that the Board came out of Closed Session.

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

Motion carried.

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The Chairman advised that each member is required to certify that to the best of their knowledge during the closed session only the following was discussed:

Public business matters lawfully exempted from statutory open meeting

1. requirements, and
2. Only such public business matters identified in the motion to convene the executive session.

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CLOSED SESSION (CONT'D)

The Chairman asked if there is any Board member who cannot so certify.

Hearing none, the Chairman called upon the County Administrator/ Clerk of the Board to call the roll noting members of the Board who approve the certification shall answer AYE and those who cannot shall answer NAY.

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

Motion carried.

The Chairman authorized the County Administrator/Clerk of the Board to record this certification in the minutes.

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BOARDS AND COMMISSIONS

Mr. Shull moved, seconded by Ms. Carter, that the Board appoint Brett Snyder to serve an un-expired term on the Economic Development Authority. Effective immediately and to expire on March 14, 2022.

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

Motion carried.

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ADJOURNMENT

There being no other business to come before the Board, Dr. Seaton moved, seconded by Mr. Slaven that the Board adjourn subject to call of the Chairman.

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

Motion carried.

Guest W. B. B. B.
Chairman


County Administrator