

Regular Meeting, Wednesday, February 8, 2023, 7:00 p.m., Government Center, Verona, VA.

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

VIRGINIA: At an adjourned meeting of the Augusta County Board of Supervisors held on Wednesday, February 8, 2023, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 247th year of the Commonwealth....

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Chairman Shull welcomed those present at the meeting.

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The following students from Fort Defiance High School Future Farmers of America led the Board of Supervisors in the Pledge of Allegiance:

- Lee Kent is a junior and is the FFA Sentinel. He plans to become a Diesel Mechanic.
- Claire McNeal is the FFA Junior President and plans to work with animals.
- Chloe Phillips is a senior and the FFA Chapter President.
- Rylee Shiflett is a junior and the FFA Historian. He plans to be full time farmer.
- Olivia Tarbell is a freshman and the Junior Vice President. She plans to be a livestock photographer.
- Allison Rhodes is a junior and the FFA Secretary. She plans to study poultry science.

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Dr. Seaton, Wayne District, delivered the invocation.

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February 8, 2023, at 7:00 p.m.

ORDINANCE AMENDMENT-SECTION 25-123-DOMESTIC CHICKENS

This being the day and time advertised to consider an ordinance to amend Chapter 25. Zoning. Division C. Single-Family Residential Districts. Article XII. Rural Residential Districts. Section 25-123. Uses permitted by Administrative Permit E. Domestic Chickens.

Alidia Vane, Senior Planner I, stated that Rural Residential Districts are intended to provide space for low density residential development of an exclusive nature interspersed with agricultural lands and uses. The minimum lot size for rural residential is two acres, but majority of rural residential lots within the County are over five acres. Amendment repeals current ordinance to be replaced by the following:

The keeping of chicken hens shall be permitted by Administrative Permit provided:

1. Lots containing two (2) acres but less than five (5) acres shall be allowed to have no more than 6 chicken hens per parcel and will be accessory to a single-family dwelling. Chickens shall not be permitted on any parcel of land that is within five hundred (500) feet of any poultry house. Chickens shall only be raised for domestic purposes. No commercial on-site use on the property such as selling eggs or selling chickens for meat shall be allowed.
2. Lots containing five (5) acres or more shall be allowed to have no more than 12 chicken hens per parcel and will be accessory to a single-family dwelling. Chickens shall not be permitted on any parcel of land that is within five hundred (500) feet of any poultry house. Chickens shall only be raised for domestic purposes. No commercial on-site use on the property such as selling eggs or selling chickens for meat shall be allowed.
3. This ordinance will not supersede restrictions by HOAs or deed restrictions.
4. No roosters, capons, or crowing hens shall be allowed.
5. If kept in a secure movable coop or pen, all coops and enclosed pens must be located behind the front building line of the principal structure and may not be erected, altered, located, reconstructed, or enlarged nearer than twenty-five (25') from any property lines or thirty-five feet (35') from any stream or any river and shall not be located in any storm water management area, flood plain, or Source Water Protection Area 1.
6. In the event of the Department of Community Development receiving and verifying three substantial and credible complaints of violation of any provision of this chapter and after notice given of such to the permit holder, the permit shall be revoked.
7. Upon revocation of the permit, chickens must be removed within 30 days or be subject to removal. Any person(s) so having a permit revoked shall not be allowed, at any time, to make application for another permit for two (2) years; and
8. Unexplained bird deaths will be reported to the Virginia Department of Agriculture and Consumer Services.
9. The permit applicant must be the owner of the property or must have and submit written consent of the owner of the property as part of the Keeping of Poultry Permit application to keep chickens on the property. Upon written notice of the property owner's withdrawal or cancellation or termination of such approval, the permit shall be revoked by the Director of Community Development.
10. In all cases, the permit to keep chickens is issued non-transferrable and does not run with the land.

The proposed text states that six hens are allowed for lots of two to five acres and twelve hens for lots of five plus acres. This is an increase from four hens. The proposed text adds that this will not supersede HOA's or deed restrictions. This is new language. The proposed text states that no roosters, capons, or crowing hens shall be allowed. This language remains the same. The proposed text states that keeping hens in a coop or pen is optional. If chickens are kept in coops or pens they must meet setbacks. The proposed text states that if three credible complaints of violation are received, the permit shall be revoked. This language remains the same. The proposed text states that if permit is revoked, the applicant must wait two years to reapply. This is reduced from five years. Proposed text states that unexplained bird deaths will be reported to VDACS. The word "all" was removed.

The following items were removed the current ordinance:

- No outside slaughter.
- Hens must be kept in coops and pens.
- Pens must be kept in a neat and sanitary condition.
- Feed shall be kept in a secure container or location.

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ORDINANCE AMENDMENT-SECTION 25-123-DOMESTIC CHICKENS (CONT'D)

- Chicken litter and chicken waste shall be collected by a litter service or taken to the county landfill.
- Any dead bird shall be taken to the county landfill.
- Permit application must include a sketch of all enclosures, dimensions, and setbacks.
- Notification of adjoining property owners
- Site and enclosures to be inspected and approved by Community Development.
- Chickens must be tagged with an identification band.
- Pausing the issuance of permits during a threat of avian influenza or other poultry disease.

The Planning Commission recommends that the requirement for chickens to be kept in pens or coops including the current setbacks remains in the ordinance due to the fact that Augusta County is a fenced in county. The Planning Commission also recommends that three or more unexplained bird deaths within a 48-hour period be reported to VDACS and the issuance of permits be suspended if an outbreak of Avian Influenza or other poultry disease is reported should be kept in the ordinance.

The Chairman declared the public hearing open.

Jeremy Nance spoke in opposition of the ordinance as a whole. There should not be any restrictions.

Trent Byerly spoke against the part of the ordinance restricting the sale of eggs.

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

Ms. Carter moved, seconded by Dr. Seaton, that the Board approve the ordinance amendment as advertised with an addition of 3 or more deaths to be reported.

The Board had a lengthy discussion on the Avian Flu outbreak in the surrounding areas.

Dr. Seaton stated that there is already a Domestic Chicken Ordinance in place and he is unclear how waiting on this amendment would affect the Avian Flu outbreak.

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

Motion carried.

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SMARTSCALE SUPPORT LETTER

The Board considered the Smartscale application support letter.

Jennifer Whetzel, Deputy County Administrator, stated that the City of Waynesboro is applying for a RAISE Grant. This falls under an approval that done in June 2022 related to a Smartscale project. The application would be for constructing approximately 1.3 miles of a shared use path from 1800 east Market Street in Waynesboro to the western trail of the Blue Ridge Tunnel. This will be part of a continuous path that will go from East Main Street in Waynesboro to Route 6 in Afton and it would get non-vehicular traffic off of the roadway onto a shared use path. The Board has supported a previous BUILD grant application for the same segment that the City of Waynesboro applied for in 2018. The RAISE grant is the new BUILD grant.

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

Ms. Whetzel stated that BARC is doing a project in the southern part of the County. The County is not involved in a grant application with BARC. This is a project that has been going on for a couple of years. BARC is evaluating the project in regards to cost and will take it back to their Board to make a decision on the next steps.

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MATTERS TO BE PRESENTED BY STAFF

Mr. Fitzgerald discussed the following:

- 1) House Bill 1818 passed the House and is headed to the Senate.
- 2) Meeting with School Board members regarding a Joint Board of Supervisors and School Board meeting. Per direction from the Board of Supervisors, the meeting should take place prior to the Budget Worksession.
- 3) Presented John Wilkinson, Director of Community Development, with a seal for his years of service with the County.

Mr. Wilkinson thanked the Board. He has enjoyed his twenty-three years with the County.

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CLOSED SESSION

On motion of Mr. Slaven, seconded by Dr. Seaton, the Board went into closed session pursuant to:

- (1) the legal counsel exemption under Virginia Code § 2.2 3711(A)(7) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

- a. Turley, et al. v. Holmes, et al. (GV22000714-00)
- b. Regulation of short-term rentals on property with agritourism activities.

- (2) the legal counsel exemption under Virginia Code § 2.23711(A)(8) Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

- a. Turley, et al. v. Holmes, et al. (GV22000714-00)
- b. Regulation of short-term rentals on property with agritourism activities.

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February 8, 2023, at 7:00 p.m.

CLOSED SESSION (CONT'D)

On motion of Mr. Slaven, seconded by Dr. Seaton, the Board came out of Closed Session.

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

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:

1. Public business matters lawfully exempted from statutory open meeting requirements, and
2. Only such public business matters identified in the motion to convene the executive session.

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.

Roll Call Vote was as follows:

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

Motion carried.

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

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ADJOURNMENT

Dr. Seaton moved, seconded by Mr. Morelli, that the Board adjourn the meeting.

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

Motion carried.


Chairman


County Administrator