

Northumberland County Planning Commission
September 19, 2024
Minutes

The regular monthly meeting of the Northumberland County Planning Commission was held on September 19, 2024 at 7:00 p.m. in person at the Northumberland Courts Building and using Zoom (internet and telephonic meeting) with the following attendance:

| | | | |
|----------------|---------|---------------------|---------|
| Chris Cralle | Present | Roger McKinley | Absent |
| Vivian Diggs | Present | Patrick O'Brien | Present |
| Allen Garland | Present | Garfield Parker | Present |
| John Kost | Present | Heidi Wilkins-Corey | Present |
| Richard Haynie | Present | Charles Williams | Present |

Others in attendance:
Stuart McKenzie, County Planner

RE: CALL TO ORDER

The meeting was called to order by Chairman Parker at 7:01 pm.

Mr. O'Brien led the commission in the Pledge of Allegiance, and afterward Chairman Parker gave the invocation.

RE: AGENDA

Mr. McKenzie asked the chairman if he could make a revision to the Draft Agenda. The chairman agreed. Mr. McKenzie stated that he had not received the memo from the Board of Supervisors when he created the draft agenda. Mr. McKenzie stated when he received the Board of Supervisors memo, the language was different than what he had drafted for the agenda. Mr. McKenzie stated he would like to change agenda item 2 from "Discuss the BOS Memo regarding changing the zoning ordinance to require painting or vegetative screening of all permitted and unpermitted cargo containers" to "Discuss the BOS Memo to further review regulations regarding the color requirements and vegetative screening of cargo containers storage units."

Mr. O'Brien made a motion to accept the revised agenda and Mr. Kost seconded the motion. All voted in favor of approving the revised agenda.

RE: MINUTES – August 15, 2024

Mr. Kost made a motion to accept the August 15, 2024 meeting minutes, and Mr. O'Brien seconded the motion. All voted in favor of accepting the minutes.

RE: COMMISSIONERS' COMMENTS

Mr. Kost stated that as the liaison to the Economic Development Commission, he joined the Board of Supervisors on a tour of the Omega Protein manufacturing plant in Reedville, and he found the tour fascinating. Mr. Kost mentioned an incident that was relayed on the tour, about the Omega fishing boats recently when they were about to make a net set, and a lone personal watercraft operator maneuvered his vessel in the middle of the school of menhaden. The personal watercraft and operator was eventually entangled in the net and was trapped. The Omega crew contacted the authorities and helped the vessel operator to free his vessel from the net. Mr. Kost stated that some people think that there is overfishing of menhaden in the Bay, although there is no data to support that conclusion, and evidently that was likely the reason for the interference by the operator of the personal watercraft. Mr. Kost stated he did not know of all the variety of products that Omega Protein makes, some for human consumption, but the majority of products produced is for animals. Mr. Kost stated he did not know that 50 semi-trailer trucks a day ship products out of Reedville, and stated that is a lot of commerce for one business. Mr. O'Brien added a point of information, that last year the Virginia General Assembly made interference with a lawfully licensed commercial fishing vessel in Virginia state waters an offense. Mr. Kost stated that the Omega officials stated the personal watercraft vessel operator was arraigned in Middlesex County and was fined and had to pay court costs. Mr. Kost remarked that the financial impact of the persons conviction would not deter a large environmental advocacy group from interfering with commercial fishing operations in Virginia, in his opinion.

RE: STAFF MEMBERS' COMMENTS

Mr. McKenzie stated he had no comments.

RE: CITIZENS' COMMENTS

There were no citizens comments.

RE: PUBLIC HEARINGS

There were no public hearings scheduled.

RE: WORK SESSION ITEMS

Chairman Parker asked staff to begin the work session. Mr. McKenzie stated that the Board of Supervisors, at their August 8, 2024 meeting made a motion to have the Planning Commission look at prohibiting large solar energy facilities within 1 mile of tidal waters in the county. Mr. McKenzie stated that when he first created the map, and calculated the acreage of area of the county that was proposed to prohibit solar energy facilities, versus the area where solar energy facilities would be allowed, he neglected to subtract the water area from the prohibited area calculations. Mr. McKenzie added that he had no polygon rivers only line based shorelines, and had to build the polygons in the GIS in order to get river acreage to subtract from the prohibited tidal water buffers. Mr. McKenzie added that he only finished the maps a few hours before the Planning

Commission meeting. Mr. McKenzie then projected the map of Northumberland County with a 1 mile buffer from tidal waters on the projection screen. Mr. McKenzie summarized the results of his analysis, stating that a prohibition of solar energy facilities with a 1 mile buffer from tidal waters would result in 64% of the county land area not available for solar energy facilities, leaving 36% of the interior of the county available for solar energy facilities. Mr. McKenzie followed with a map showing the county with the 1 mile buffer from tidal water with county R-2 Residential Waterfront zoning district lain over top of the buffer. Mr. McKenzie reminded the Planning Commission that the zoning ordinance prohibits large solar energy facilities in R-2, Residential Waterfront zoned land, so that any area of the map that shows the light red buffer color is additional areas where large solar energy facilities would be prohibited. Mr. McKenzie further pointed out that the proposed 1 mile buffer tidal water protected waterfront areas in the county that are not zoned R-2 at the headwaters of the Coan and Great Wicomico Rivers.

Mr. Kost asked why 1 mile? Mr. McKenzie stated he did not why that distance was chosen. Mr. McKenzie asked Mr. Haynie if he had any insight as to why the Board chose 1 mile. Mr. Haynie stated that the majority of the shoreline of the county is already residential, and that is the area where new residences will likely be built in the future. Mr. Haynie stated he received many phone calls regarding conditional use permits for the proposed solar energy facilities over the past two years. Mr. Haynie stated that every citizen that phoned him did not want a solar energy facility near them, but they stated that they would be OK if the solar facility was somewhere else in the county. Mr. Haynie stated the county needs solar energy facilities to be built up in the woods, away from houses, in a place where most citizens would never see the facility.

Mr. McKenzie then stated that he talked with Mr. Haynie and also created two more buffer maps from tidal water, a $\frac{3}{4}$ mile buffer as well as a $\frac{1}{2}$ mile buffer map. Mr. McKenzie then showed the $\frac{3}{4}$ mile buffer from tidal water map on the projection screen, and cited the results of his analysis that showed 57% of the county's land area would be in the prohibited area with 43% outside of the $\frac{3}{4}$ mile buffer from tidal water. Mr. McKenzie then showed the $\frac{3}{4}$ mile buffer map with the R-2 zoning district overlain as well. Next, Mr. McKenzie projected the $\frac{1}{2}$ mile buffer from tidal water map on the screen, noting that in this scenario, 48% of the county land area is prohibited from large solar energy facilities, and 52% is available for large solar energy facility development. Finally, Mr. McKenzie showed the $\frac{1}{2}$ mile buffer from tidal water map with the R-2 zoning district overlain to illustrate the additional areas in the county that would be covered should this scenario be chosen.

Mr. Garland asked Mr. McKenzie if the land area he calculated that was prohibited for solar included the village growth and support areas. Mr. McKenzie stated that they did not. Mr. Garland asked staff if the village growth and support areas are off limits to solar energy facilities, to which Mr. McKenzie replied yes. Mr. McKenzie further explained that those village growth areas are where the county wishes businesses in the county to locate, not utility energy facilities. Mr. Garland remarked that the percentage land areas in the county available for solar are further reduced by the prohibited village growth areas as well, to which Mr. McKenzie replied in the affirmative. Mr. O'Brien pointed out that we are only talking about the large solar energy facilities, not the small or medium ones.

Mr. O'Brien added that the 1 mile buffer from tidal water would also help shield town areas from solar development.

Mr. Kost stated that if the county passes the proposed 1 mile buffer from tidal water large solar energy facility prohibition, in addition to the existing prohibition in the R-2 Zoning District as well as the village growth areas, that will essentially be sending the message we do not want solar energy facilities in the county. Mr. Kost stated no solar developer would build here, as it is too far to connect to a power line with enough capacity to accommodate the solar energy facility. Mr. O'Brien stated he does not see any major economic consequence for the 1 mile buffer from tidal water, and he believes that 1 mile would be easier to administer. Mr. Williams asked about how the county would enforce this buffer from tidal waters requirement, by using the map or measuring in the real world? Mr. McKenzie relayed that when the Chesapeake Bay Act was first implemented, the 100 RPA buffer was what was shown on the map. The map was the map, staff emphasized. Mr. McKenzie then stated after a few years, the state realized that what is on the ground that matters and that surveyed site plan distances took precedence over anything shown on the RPA map, because by their very nature, a map has errors. Mr. McKenzie added that he is not the zoning administrator, but that he believed that Mr. Marston would want a surveyor to verify that the solar energy facility is further than the proposed buffer from tidal waters that is adopted. Mr. Kost stated that if the county adopts a one mile buffer from tidal waters, there is so little area left to develop solar it could have future repercussions. Mr. Kost hypothesized that Dominion will get the message that the county does not want solar, and then in the future, Dominion will not enhance power lines for additional capacity because of that fact, and we end up hurting ourselves. Mr. O'Brien stated that a lot of the remaining area in the county is a lot closer to Dominion power lines than you think, at most a mile from Dominion power lines. Mr. Kost stated that if the county adopts a one mile buffer, the county is sending the message we do not want solar in the county. Mr. O'Brien said you make an interesting point, do we? Mr. Kost stated that he thinks that solar energy is inevitable. Mr. O'Brien asked, who is being hurt by this proposed tidal water buffer...the solar developer? Mr. Kost stated the citizens of the county, we won't have extra electric capacity, and each year individual power demands have increased. Mr. Garland queried, how do we figure that out? What is the extra capacity now? Mr. McKenzie stated that a few years ago, the Planning Commission modified the zoning ordinance to facilitate Northern Neck Electric Co-Op (NNEC) to construct a new electric substation near Avalon. Mr. McKenzie recalled that when they came to discuss the project with the Planning Commission that the NNEC staff stated that the three substations that they had at the time, several were over 60% capacity. This meant that if one substation failed, the other two could not handle the additional load from the missing substation, so the NNEC were trying to get their substations under 50% capacity so they would have redundancy in case of a substation failure. By adding a fourth substation, that would solve their problem.

Mrs. Wilkins-Corey stated she was opposed to the one mile buffer from tidal waters, as it would mean that more than 60% of the county land area would not be available for solar. Mr. Garland asked, in the future, could we start with a one mile buffer and then reduce it in the future? Mrs. Wilkins-Corey stated that if you try to reduce it in the future, then the all of the citizens could come out to protest against the reduction. Mr. Kost added that if you adopt the one mile buffer, then some citizens could homestead in that area thinking

they do not have to worry about solar and then when you try to reduce the buffer they would vehemently opposed the reduction because they build their house with the understanding no utility scale solar energy facilities would be built near their new house. Mr. Kost stated that the one mile buffer only allows for 30% of the county to be available for utility scale solar energy facilities. Mr. O'Brien reiterated that likely it would be less than a mile to connect to a Dominion power line. Mr. O'Brien stated that only one side of the power line is prohibited, you could always build on the other side of the power line. Mrs. Wilkins-Corey stated that (if the one mile buffer is adopted) the only area for building solar farms are too far away (economically) to connect to a power line. Mr. O'Brien stated that all the solar company has to do is get to Route 360. Chairman Parker stated the he agreed with Mr. Kost and Mrs. Wilkins-Corey. Mr. Parker stated that we are sending a signal to the public, we want to stay farms and forests. We are sending a signal to business persons that we do not like solar, it looks ugly and we don't want it. Mr. O'Brien asked that we go back and look at the (Board of Supervisors) memo, the Board wants a one mile buffer from tidal waters and if we send them ½ mile buffer the Board could very well could reject it. Mr. O'Brien asked Mr. Haynie how he felt about the size of the buffer from tidal waters. Mr. Haynie stated that the county wants area for development, but that he can see both sides of the fence. Do we want solar in an already developed area? Mr. Haynie stated there is 5-7 MW on the current distribution (power) line, so there is only about 5 MW left, unless Dominion comes and upgrades the (power) line, which they are unlikely to do since they can serve everyone with what they have. Mr. Haynie said if businesses want to supplement their power demands (with solar), that is fine. If residences want to supplement their power (with solar), that is fine. Citizens will not see a reduction in power, the average citizen of Northumberland gets nothing when a solar energy facility is built, the only person that gets something is the landowner (where the solar is built) and Dominion.

Mr. Kost stated that demand for electricity in the state continues to grow, more distribution, but also more power sources are needed. New power generation sources are needed, but they cost money, so the cost (of electricity) will go up, but new solar facilities are one of the least expensive ways to generate new power sources. Mr. Kost continued that the county needs and will get more power generation into the future, whether we like it or not. Mr. Haynie stated that along with new solar you will be getting battery backup systems. Mr. Haynie stated batteries work, but if they catch fire, there is nothing you can do, it is a disaster. Mr. Kost added especially in the hurricane belt. Mr. Haynie continued, that is if the power lines are up (after a hurricane). Mr. Haynie said it would be nice if we could get out power lines underground, but they won't bury them all of them. Mr. Haynie stated whatever we do, we are always going to be wrong. Some will agree and some won't. Mr. Haynie said The Board of Supervisors tries to think of the whole county. If the solar farms are put on Ridge Road, you could tap into the power line over there. Mr. Haynie added that that area of the county is the least populated. Mr. Haynie stated that at the waterfront is where the residential development is going to occur. Mr. Haynie added that in the future, we may need to expand the village growth areas.

Mr. Cralle asked if there was a possibility of the state taking over land use control of solar energy facilities? Mr. McKenzie stated that Mrs. Seward of the Rural Solar Development Coalition stated that could be the case in the future, as two years ago a bill

was introduced to the Virginia General Assembly to that effect. Mrs. Seward informed us that the bill did not have the votes to move forward, but she felt that localities should be careful of outright banning of solar energy facilities, because the more that are turned down, the more chance of the state taking control of land use permitting of solar energy facilities in the future.

Mr. Garland stated that the solar energy facilities that are being built in Richmond County, the power they generate may not be used in Richmond County. Mr. Garland stated that it was obvious that the vast majority of Northumberland County citizens do not want solar energy facilities near them. What benefits does the county or its citizens get from a solar energy facility? Mrs. Wilkins-Corey stated that there is revenue sharing. Mr. McKenzie stated that revenue sharing in Northumberland County is not really an option, as the mathematics on the amount of tax a county will receive does not make sense on small solar energy facilities, as the machinery and tools tax will generate more tax revenue than revenue sharing on the smaller systems. Mr. McKenzie continued, and since there is not the powerline capacity for large solar energy facilities in Northumberland County, the county has decided not to implement revenue sharing. Mr. Haynie stated that the last solar energy facility application the county considered, the siting agreement payment, spread over 30 years was approximately \$7,000 a year. Mr. Garland stated that the benefit we get from solar is nowhere near the amount of frustration of our citizens, these solar energy facilities much up the scenery and the environment and can be devastating to plant life and wildlife. Mr. Garland continued that he does not see the benefit for us. Mr. Garland stated that if the Northumberland County tax payer got something out of this, such as lower electricity bills, then he might be more receptive of solar, but the way he sees the county and the citizens don't get anything, just the landowner and Dominion profit.

Mr. O'Brien asked if the Planning Commission could have three scenarios for the public notice and then have a public hearing? Mr. McKenzie stated he has never done that before and that he is not sure that is legal. Mr. McKenzie stated he felt he would need to discuss with the county attorney. Mr. O'Brien stated that would cause a delay that the Board of Supervisors do not want. Mr. Kost stated that if you did have the three scenarios, then the citizens would want a buffer from tidal waters of two miles. Mr. O'Brien stated that most citizens are NIMBY (not in my backyard) and will probably want the most restrictive. Mr. Williams asked if the Board of Supervisors would have to have a public hearing. Mr. McKenzie and Mr. Haynie both said yes. Mr. Williams stated he would like to get the public involved in the decision. Mr. Williams stated he was for the one mile buffer from tidal waters. Mr. Williams stated he hoped the power company would not "pull back" in the county due to that decision. Mr. O'Brien stated that at the pace of development in Northumberland County, state regulations require electric service to be available for those who want it, and that puts the onus on the solar developer to make the connection, and the connection points are the key.

Mr. O'Brien made a motion to recommend a one-mile buffer to tidal waters prohibition for utility scale solar energy facilities. Mrs. Diggs seconded the motion. The vote was as follows:

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|----------------|-----|---------------------|--------|
| Chris Cralle | Nay | Roger McKinley | Absent |
| Vivian Diggs | Aye | Patrick O'Brien | Aye |
| Allen Garland | Aye | Garfield Parker | Nay |
| John Kost | Nay | Heidi Wilkins-Corey | Nay |
| Richard Haynie | n/a | Charles Williams | Aye |

The motion died, as a result of the four to four tie.

Mr. O'Brien stated that since we have a deadlock, he made another motion to recommend the 0.75 mile buffer from tidal waters prohibition for utility scale solar energy facilities. The motion was seconded by Mr. Kost. The vote was as follows:

| | | | |
|----------------|-----|---------------------|--------|
| Chris Cralle | Aye | Roger McKinley | Absent |
| Vivian Diggs | Aye | Patrick O'Brien | Aye |
| Allen Garland | Aye | Garfield Parker | Nay |
| John Kost | Aye | Heidi Wilkins-Corey | Nay |
| Richard Haynie | n/a | Charles Williams | Aye |

The motion passed, six to two. Mr. McKenzie stated he would advertise in the newspapers for the public hearing at the October 17, 2024 Planning Commission meeting. Several Planning Commission members requested that staff send the public notice of the public hearing to Dominion Power and the Northern Neck Electric Co-Op. Mr. McKenzie stated that he would do as requested.

Chairman Parker stated next on the agenda is discussion of storage containers screening to reduce their visual impact. Mr. Parker started off asking the commissioners if any one of them had one. No one responded. Mr. Kost noted that his neighbor has a couple on his property. Mr. Parker asked what color the containers were? Mr. Kost responded that they were red, rust colored, and pretty ugly. Mr. Parker stated that cargo containers are very popular, probably on account of their low cost. Mr. Parker asked how much a cargo container costs. Mr. McKenzie stated he did not know. Mr. Kost looked online and found a company selling them in Baltimore, a 20 foot container was selling for \$1,574 + shipping, a 40 foot container was selling for \$1,999 + shipping, and a 40 foot wide container was \$2,274 + shipping.

Mr. O'Brien asked how the county enforces the zoning ordinance. Mr. McKenzie replied he was not the zoning administrator, but that he believes it would be a letter of violation sent by the county to the landowner. Mr. O'Brien then asked, what happens after the letter of violation is sent, what is the next step in the process? Mr. McKenzie stated he was not sure, but would ask the zoning administrator. Mr. McKenzie added that zoning enforcement in Northumberland County is by citizen complaints, provided the citizen puts the complaint in writing and signs the letter. Mr. McKenzie stated that the Board of Supervisors is worried about the visual impact of cargo containers used in the county for storage and would like some guidance on lessening the eyesore of a cargo container. Mr.

McKenzie noted that the county zoning ordinance allows cargo containers for storage in A-1 Agricultural, by conditional use and in M-1 Industrial, by right. Mr. McKenzie stated that he discussed the issue with the Board member that made the motion and he was most concerned about the view of cargo containers from existing roads. After some discussion, Mr. Kost made a motion that a storage container that is visible from the road or a neighbor's property must be painted to blend in with the existing scenery and/or establish natural vegetative screening to hide such a unit, so that is significantly less visible. Mrs. Wilkins-Corey seconded the motion. All commissioners voted Aye, and the motion passed.

Chairman Parker stated it was getting late, and the rest of the agenda would have to wait until next meeting. Mr. McKenzie requested that the Chairman consider the Hampton Hall Landing agenda item before adjourning. Mr. Parker agreed. Mr. McKenzie stated he contacted VDOT personnel regarding creating an entrance to Hampton Hall Landing, and in the same email requested information on the VDOT program to assist counties in building access roads to parks and recreation areas. Mr. McKenzie stated he believes that Hampton Hall Landing is a good candidate for the VDOT access road grant program, after reading the grant guidelines. Mr. O'Brien made a motion to recommend to the Board of Supervisors to declare the Hampton Hall acreage a county park to avoid any problems with VDOT. Mr. McKenzie stated he did not think that was necessary after reading the VDOT grant guidance. Mr. O'Brien's motion did not receive a second and therefore died. Mr. McKenzie informed the commission that prior to researching the VDOT county access road program, that staff requested estimates for surveying, and completing the VDOT application for an entrance for Hampton Hall Landing. Mr. McKenzie stated that out of four contractors, the county only received one estimate, and that estimate was approximately \$5,000 to design the entrance and submit the entrance application to VDOT. Mr. McKenzie noted that cost was for designing and receiving permission to access Rt.202, and did not entail moving one shovel of dirt. Mr. McKenzie also added that the estimate was one third of the total amount of money in the Northern Neck Chesapeake Bay Public Access Authority fund for Northumberland County. Mr. McKenzie stated he did not think the county should not pursue that course of action, as the VDOT county park access program would cover the cost for designing and constructing the entrance and road. Mr. McKenzie stated that the VDOT program only will pay for the design and construction of the entrance and the road. The five space parking lot and individual handicapped parking spot will have to be constructed by the county, as well as the pier or boat ramp or whatever public water access devices the county decides to install. Staff suggested that the county only worry about getting access to the site for now, by placing a couple of picnic tables near the water for a waterfront park. After the road and parking lots are built, Mr. McKenzie stated that the county can apply to the Virginia Saltwater Recreational Fishing Fund for the pier, boat ramp and/or canoe/kayak launch in the future. Mr. McKenzie stated he visited the site a week ago after work, and spent about an hour with loppers cutting branches and vines to begin the process of tree and brush clearing. Mr. McKenzie stated that there are trees with three to four inch trunks that have grown in the roadbed, and will need to be cleared, and that it was too much for one person to do by themselves. Mr. McKenzie suggested that to be able to assess the potential public water use of the Hampton Hall Landing site, hiring a land clearing contractor to clear the roadway would be one of the first things that should be done. Mr. McKenzie stated that there is still \$14,000 in the Northumberland's account

of the Northern Neck Chesapeake Bay Public Access Authority (NCBPAA), and that could be used to pay the land clearing contractor. Mr. Kost made a motion to send a recommendation to the Board of Supervisors to utilize the funding in the NNCBPAA to hire a contractor to clear the trees and brush along the roadbed from the entrance to the water so county staff and the commission can determine how to develop the site. Mrs. Wilkins-Corey seconded the motion. All voted in favor of the motion and the motion passes. Mr. McKenzie stated that staff will attempt to solicit estimates for clearing the trees and brush before the next Board of Supervisors meeting.

RE: DISCUSSION ITEMS

There were no discussion items scheduled.

RE: BOARD OF SUPERVISORS REPORT

Chairman Parker asked Mr. McKenzie for a Board of Supervisors Report. Mr. McKenzie stated that there were three public hearings. The first one, Mr. McKenzie stated, was for a no-wake zone designation applied for by Hacks Neck Farms for the aquaculture site before the Glebe Point bridge on Rt. 200 at the Great Wicomico River. Mr. McKenzie stated that the Board denied that request. Mr. McKenzie stated the second public hearing was for the Little Wicomico Oyster Company to allow an expansion of the business adjacent to Railway Drive. Mr. McKenzie stated the Board tabled that decision. Finally, Mr. McKenzie stated there was an application to allow farming with livestock on property zoned R-2, waterfront residential. Mr. McKenzie stated that the Board denied this request.

RE: PUBLIC COMMENTS

Maurice Johnson stated that regarding the buffer from tidal waters prohibiting utility scale solar energy facilities that most of the protection is near Rt. 202 and Rt. 360. Mr. Johnson added you have to be away from water if you are going to make it possible, along the power lines, you might want a setback from power lines, with a balance between power lines and water. Mr. Johnson stated with regards to the Cockrell’s project (Little Wicomico Oyster Company) the new building was not a seafood operation, and that a buffer would help people nearby, at least with the visual perception of the business.

RE: ADJOURNMENT

Mr. O’Brien made a motion to adjourn, seconded by Mr. McKinley to adjourn the meeting at 8:50 pm. The adjournment vote was as follows:

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|----------------|-----|---------------------|--------|
| Chris Cralle | Aye | Roger McKinley | Absent |
| Vivian Diggs | Aye | Patrick O’Brien | Aye |
| Allen Garland | Aye | Garfield Parker | Aye |
| John Kost | Aye | Heidi Wilkins-Corey | Aye |
| Richard Haynie | n/a | Charles Williams | Aye |

The motion passed and the meeting was adjourned.