

Minutes
Northampton County Planning Commission
Recessed Meeting
May 20, 2010

This was a recessed meeting of the Northampton County Planning Commission held on Thursday, May 20, 2010 in the auditorium of the former Northampton Middle School located at 7247 Young Street in Machipongo, Va., for the purpose of conducting regular business.

Those members present were David Fauber, Chair; Martina Coker, Vice-Chair; Robert Meyers, David Kabler, John Wescoat, Jr., Michael Ward, Mary Miller and Roberta Kellam. The member absent was Marshall Cox.

Also attending were Sandra Benson, Director of Planning & Zoning; Peter Stith, Long Range Planner; and Kay Downing, Administrative Assistant.

The meeting was called to order at 7:00 p.m. and a quorum established.

The agenda was reviewed and unanimously accepted upon motion by Commissioner Miller and second by Commissioner Coker.

The Chair called to order concurrent public hearings on Zoning Text Amendment 10-03 and Special Use Permit 10-06 as filed by the Northampton County Board of Supervisors.

Public Hearings:

- A. Zoning Map Amendment 10-03: The Northampton County Board of Supervisors has filed to rezone 3.80 acres from TE-1 Town Edge-1 District to TE-2 Town Edge-2 District. The property, owned by Canonie Atlantic Company, is described as Tax Map 58A2, double circle A, parcel 60 and is located at the corner of Rockefeller Lane and Indiantown Road in the area known as Eastville Station.

- B. Special Use Permit 10-06: The Northampton County Board of Supervisors has filed to operate a temporary public waste collection center on property described as Tax Map 58A2, double circle A, parcel 60 owned by Canonie Atlantic Company. The parcel is located at the corner of Rockefeller Lane and Indiantown Road in the area known as Eastville Station.

No ex parte communications were reported. However, Commissioner Wescoat abstained from discussion and voting on these matters since he is considered an adjacent property owner.

Ms. Katie Nunez, County Administrator, spoke on behalf of the Board noting that the county is seeking a temporary green box facility for the Eastville area. She explained that after 30 years the collection facility located south of Eastville on Courthouse Road has been removed at the owner's request. Noting that the county has vigorously advertised the need for a temporary location no property owners have come forward until this railroad siding was made available. The county is concerned that local residents may not travel to one of the manned facilities and that illegal refuse accumulation could be a problem. She stressed that it is imperative to move forward with providing a temporary facility until negotiations are completed for a permanent site. When asked, Ms. Nunez stated that no roll-off containers would be utilized, but six green boxes would be arranged in an angular pattern and staggered out along the existing concrete pad.

Commissioner Meyers had visited the property and observed poor surface conditions where ruts and soft ground were evident. He expressed his concern over vehicular traffic getting stuck, deficient ingress and egress patterns, and storm water retention problems. He also stated that the temporary facility is located in District 3 to serve District 4 residents.

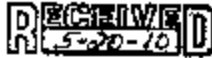
Commissioner Coker asked what the distance was to the nearest facility for residents of the area. Ms. Nunez explained that one facility is 6 miles to the north in Birdsnest and the other is located in the Bayview to the south approximately 5 miles away. She also noted that another facility that is not fully manned is available.

Commissioner Kabler inquired as to when the property had last been utilized for industrial activity. Ms. Nunez stated that it has been used sporadically to store gravel according to Mr. Larry Lemond of Bay Coast Railroad.

Commissioner Kellam asked if the entire parcel would be utilized for the temporary facility. Ms. Nunez replied yes. Ms. Benson stated that the commission can make a different recommendation to the Board as to how much of the property should be rezoned and utilized for the facility.

Commissioner Meyers asked if any demographic information was available as it appears that quite a few children are in the neighborhood. He stated that a public school bus stop is located at the end of the lane where the facility is proposed. He expressed his concern over additional traffic creating safety issues. Ms. Nunez acknowledged that no area study or polls had been conducted.

The Chair then called for public comments limited to three minutes. Ms. Shelley Beasley, a resident of Rockefeller Lane, spoke in opposition and read the following comments. Ms. Beasley also presented a petition of opposition signed by 32 county citizens.



Mr. Chairman and commissioners:

I am here tonight to speak in opposition of the rezoning and special use permit that the County is requesting for the railroad property located at Eastville Station for the purpose of placing dumpsters there.

In the Comprehensive Zoning Ordinance; Section 154.002 Intent & Purpose
Subsection B Purposes

- It partially states in #2 Reduce or prevent congestion in Public Streets.
#3 Facilitate the creation of a convenient, attractive and harmonious community.
#5 Protect against destruction of or encroachment upon historic areas
#6 Protect against danger & congestion in travel & transportation, etc...

My Concerns:

1. The smell from not only the trash but from fish and animal carcasses that will be dumped, I have seen first hand at the dumpsters deer carcasses and drum fish carcasses discarded. Which will then attract flies, buzzards and seagulls.
2. The dogs and cats that will be dropped by people no longer wanting them. Eastville Station will be overrun by feral cats and wild dogs.
3. The wild animals the dumpsters will attract looking for food. Such as rodents, rabid raccoons, foxes. Do we really want to take that chance in residential neighborhood filled with children?
4. Eastville Station floods fairly easily. With just a couple inches of rain it sits for days. So then the water from the dumpsters mixed with the rain water would drain into the bay.
5. The unnecessary traffic that would go up and down Rockefeller Lane; which is a dead end street.
6. Do you the commissioners realize that at that very corner of Rockefeller and Willow Oak or Indian Town Road that it is a bus stop for Elementary and High

School children? Why would the County want children getting on and off school buses next to dumpsters?

7. People hanging out around the dumpsters. Before the Bayview dumpsters were removed and replaced with a convenience center which is manned during operational hours people used to sit out near the dumpsters in chairs and you could ride by there and see them making drug deals. We the citizens of Eastville Station do not the chance of that happening in our community.

If this rezoning and special use permit are passed it will be a serious safety and health issue for our neighborhood and especially our children. Do we really want to take that chance? I don't!

Please think about our children and the citizens when you make your recommendation to the Board of Supervisors. Please make this a recommendation of denial.

Sincerely,


Shelley M. Beasley

Ms. Nunez stated that the former facility located on Courthouse Road is a bus stop area as well.

Mayor Jim Sturgis acknowledged the difficult task that the county is facing and thanked Ms. Nunez for trying to locate a temporary facility for local residents. However, the Eastville Town Council is asking that an alternative site be used. Concerns were noted about how the facility could negatively impact this developed residential area that is slated to become part of the town with the next boundary adjustment approval.

Mr. M. E. Duff stated his concerns about stormwater runoff issues and poor drainage causing flooding and standing water for days at a time in the immediate area. The installation of green boxes could possibly intensify the flooding situation that he had witnessed first-hand at the Beasley residence.

There being no other public comments the Chair closed the public comments portion of the hearing.

Ms. Benson then read a letter submitted by Ms. Denise Drayton, a resident at 16495 Rockefeller Lane, who asked that the following letter be submitted as part of the official record.

May 16, 2010

From: Denise M. Drayton
P. O. Box 792
16495 Rockefeller Lane
Eastville, VA 23347

received
5/20/10

To: Sandra G. Benson, AICP
Department of Planning Commission and Zoning
16404 Courthouse Road
P. O. Box 538
Eastville, VA 23347

Subject: Temporary public waste collection center

Dear Ms. Benson:

I received a certified letter recently dated May 5, 2010 regarding A. Zoning Map Amendment 10-03: The Northampton County Board of Supervisors has filed to rezone 3.80 acres from TE-1 Town Edge-1 District to TE-2 Town Edge-2 District and B. Special Use Permit 10-06: The Northampton County Board of Supervisors has filed to operate a temporary public waste collection center on property described as Tax map 58A2, double circle A, parcel 60. The property is owned by Canonie Atlantic Company.

I have quite a few concerns because I live at 16495 Rockefeller Lane which is located on a no outlet road. I am not in favor of having a public waste collection center so close to residences on Rockefeller Lane and Indiantown Road in the area know as Eastville Station. The volume of traffic would increase tremendously in this residential community creating a safety hazard for residents. There are children in the neighborhood and also a daycare center located on the street. The speed limit is 35 mph on Willow Oak Road, near the daycare center and increases to 45 mph on Indiantown Road. There would be an increase of litter and trash on this property. It would attract wild and stray animals to the area endangering children. The summer heat is fast approaching, therefore; there would be an increase of trash and garbage smells. Another concern is the property is low lying and does not drain. In the summer months when there is a lot of rain you would have unsanitary conditions and poor access.

I ask how long is temporary? Temporary could be any period of time and I think the residents deserve some assurance of just how long this temporary situation would last. A temporary public waste collection center is open 24 hours a day and 7 days a week with loud collection trucks that come late at night or early in the mornings to empty the green boxes. On holidays and weekends the green boxes would overflow. What if someone wanted to sell their house or property before the center is removed - what impact would it have on land value with a temporary public waste collection center at the corner of the road.

I recognize a need for a public waste collection center in the Eastville/Machipongo area but I do not think the corner of Rockefeller Lane and Indiantown Road is a safe or sanitary alternative. I do oppose the Zoning Map Amendment 10-03 and the Special Use Permit 10-06.

Sincerely,

Denise M. Drayton
Denise M. Drayton

Please Enter Into Record!
Thanks

cc: J. Williams

Commissioner Meyers asked Mayor Sturgis if he and local residents had conversed about the need for another facility. Mayor Sturgis replied yes, that one such conversation had occurred, but he did not know if that person had contacted the county.

Commissioner Kabler elaborated on what he considered as the pros and cons of the proposed facility. Positive aspects are: (1) the facility would be adjacent to the railroad; (2) the location is a former industrial site; (3) the railroad tracks act as an area speed bump slowing vehicular traffic; and (4) the location would be convenient for local residents. Negative aspects are: (1) a rezoning of the entire parcel is needed to accommodate the use; (2) at least 35 houses exist within sight of the location based on his observation; and (3) the rezoning could be considered spot zoning surrounded by a TE-1 Town Edge-One District creating an island of TE-2 Town Edge-Two District. At this point, Ms. Benson interjected that any rezoning from TE-1 will result in spot zoning because that was the intent when the Town Edge District concept was developed. Commissioner Kabler continued listing negative aspects as: (4) property values may be adversely impacted due to heavier traffic; and (5) without fencing to secure the property or someone to monitor the site, trash would be emptied onto the ground attracting wild and feral animals as witnessed in the past. He expressed his opinion that the commission has been placed in an unfortunate position of being pressured to deal with this situation deemed as an "emergency" when it was evident that no stormwater plan had been submitted for an area prone to flooding nor a plan of development outlining the construction of the ingress and egress. It was evident to him that the matter had not been thoroughly investigated for all concerned and that he was not in favor of supporting a recommendation to approve, but did recommend that a permanent location be found as soon as possible for fear that this temporary location could become permanent once approved.

Agreeing with Commissioner Kabler, Commissioner Kellam noted that the commission has the responsibility to protect the health, safety and welfare of the county's citizenry. She stated that an open drop-off waste facility is less desirable than a manned and secured one and that a green box facility is not conducive to residential neighborhoods due to its negative impact to the quality of life of nearby residents. She, too, could not support a recommendation to approve for the same reasons stated by Commissioner Kabler. She added that the county may already own property that could provide a more suitable permanent location for such a facility.

Ms. Benson stated that the county intends to monitor the proposed facility daily.

Commissioner Coker agreed with Commissioners Kabler and Kellam and would recommend denial to the Board. She also recognized the safety and health issues involved as stated previously and added that it would take significant cost to make this property usable for such a facility while the county may already possess property better suited with little or no upgrading required.

Commissioner Meyers also agreed with Commissioners Kabler, Kellam and Coker about their concerns and those expressed by Ms. Beasley. He suggested that the southeast corner of the county complex in Eastville located close to the storm water ditch be utilized. He noted that this location would be ideal to serve the residents of Eastville and District 4 and would be under the scrutiny of the county police force. Commissioner Meyers then proposed that the commission suggest the courthouse property as an alternative temporary location to the Board.

Commissioner Miller suggested that the TE-2 rezoning may not present a problem but questioned if any adverse impacts to the local residents could be sufficiently mitigated through the special use permit process. She suggested that the former Northampton Middle School property may be a better alternative and that the proposed emergency facility operating under a special use permit had not been vetted thoroughly enough to gain her support at this time.

Motion was made by Commissioner Meyers to recommend denial of the two applications to the Board and that the commission suggests to the Board that two alternative properties, the southeast corner of the courthouse complex or Machipongo Middle School property, be investigated as more suitable locations.

Ms. Benson noted that separate motions are needed on both applications.

Action

Motion to recommend denial of Zoning Text Amendment 10-03 was made by Commissioner Meyers and was seconded by Commissioner Kellam. The motion carried 7 to 0 with Commissioner Wescoat abstaining.

Motion to recommend denial of Special Use Permit 10-06 to the Board was made by Commissioner Kellam and seconded by Commissioner Meyers. The motion carried 7 to 0 with one abstention from Commissioner Wescoat.

Motion was then made by Commissioner Meyers that the commission recommend two properties, the courthouse complex area and the Northampton Middle School parking lot, as alternative locations to serve the residents of District 4. Second was made by Commissioner Coker. However, by consensus the commission agreed that such a motion was unnecessary and it was withdrawn.

Ms. Benson informed the commission that waste collection sites are not allowed by right anywhere in the zoning ordinance use chart. No matter what location is chosen a rezoning will be required – even on county owned property.

Matters from the Public.

No matters were presented from the public.

Consideration of Minutes.

The minutes of the April 6, 2010 were approved unanimously with the following corrections: page 3, first paragraph, line 7, the words, "in which it is located" should be deleted and the words, "as a" should be added just before the words, "special use"; in the same paragraph, the next to the last sentence should begin, "In this instance..."; page 5, the third sentence from the top should be re-worded for clarification purposes. Motion to approve as corrected was made by Commissioner Meyers and seconded by Commissioner Wescoat.

The minutes of the April 20, 2010 recessed joint meeting with the Board of Supervisors were approved unanimously as submitted upon proper motion by Commissioner Miller and second by Commissioner Coker.

Unfinished Business.

The commission continued its discussion of Zoning Text Amendment 10-05 to amend the Northampton County Code §154.084 *Statements of Intent for Floating Zone Districts*, specifically subsection (B); and §154.175 *Floating Districts* and also to add a new §154.179 *Solar Energy District (SED)*.

Discussed first was Section 154.179 A (2) (a) that stipulates that all stormwater runoff must be contained.

Commissioner Kabler expressed his view that such a standard would set people or solar projects up for failure.

Commissioner Wescoat stated his opinion that detention and nutrient management should be the priority as it is impractical to demand permanent retention of stormwater for the majority of acreage in the county.

The Chair noted that requiring adequate vegetation would provide the kind of filtering that would produce high quality runoff.

Commissioner Kellam stated that the objective should be to prevent high-velocity, nutrient-laden stormwater runoff. She noted that one solar energy developer had informed her that on-site retention should not pose a problem for their project.

Commissioner Miller recalled that the commission had reached a previous conclusion that well-vegetated fields result in a great amount of stormwater uptake that helps to prevent runoff.

Discussion followed on how calculations are made. Commissioner Kabler stated that calculations are dictated by the characteristics of individual properties. The Chair agreed noting

that consideration must be given to soil types, slopes, contours, vegetation, etc. In other words, calculations are made once all factors are looked at quantitatively and can determine if post development runoff would be greater than pre-development runoff.

Commissioner Kellam expressed her opinion that it would be almost impossible to retain all stormwater runoff on site. She stressed that the addressing the quality of runoff is a necessity and that the factor of impervious surface needed to be discussed.

The Chair then distributed his written draft language on impervious surface that would aid in discussion. He reminded the commission that the Board had directed them to provide language on lot coverage requirements; therefore, the commission should develop some sort of standard for the Board's consideration.

Commissioner Meyers stated that proposed SED standards require that all areas be vegetated and this should be the standard presented. In his opinion the SED standard is a better alternative than trying to micro-manage each solar energy project.

Ms. Benson added that if vegetation is not maintained then it would result in a zoning violation according to county regulations. When asked, she noted that plasti-culture runoff would not be used when calculating storm water runoff base conditions.

Commissioner Wescoat stated that in his experience of managing 300 acres he has found it better to direct runoff to a single pond to reuse later as well as using off-site runoff. He expressed his opinion that it is better to create vegetative and buffer standards than requiring total retention.

Commissioner Kellam suggested revising the language so that no stormwater discharge causing a discharge of pollutants or degradation or discharge of pollutants to county waters is allowed. However, she questioned if the county could guarantee such standards are maintained. Ms. Benson stated that the county does have a staff member who is qualified as an erosion and sedimentation inspector.

Commissioner Kellam also noted her desire to add performance standards along with the 50-foot wide buffer requirement and expressed her concerns about "channeling" effects caused by stormwater sheeting flows off solar panels. She added that there should be room to add more buffer requirement if warranted. Commissioner Meyers stated his opinion that it is easier to loosen or amend standards later, but for now the county should maintain a very tight standard until more experience occurs with this type of project.

Commissioner Kellam stated again that turbidity and sedimentation are real problems and there should be standards to simply state that one cannot pollute. Motion was made by

Commissioner Kellam that the following language be substituted for Section 154.179 A (2) (a), “No stormwater discharge that causes a discharge of pollutants to or degradation of county or state waters is permitted.” Second was made by Commissioner Coker and carried unanimously.

Motion was made by Commissioner Meyers to recommend Zoning Text Amendment 10-03 to the Board as amended and that this language is submitted as the commission’s official response to the solar energy lot coverage issue for the Board’s consideration. However, Commissioner Miller noted that there should be two separate motions in her opinion. The motion was withdrawn.

Motion was made by Commissioner Meyers to recommend approval of Zoning Text Amendment 10-03 to the Board with revisions as discussed on May 4 and May 20 by the commission. Second was made by Commissioner Miller and carried 6 to 2 with Commissioners Kellam and Ward opposed.

While reviewing those prior revisions to the Solar Energy District (SED) language it became evident that clarification and uniformity were needed in order to provide consistency throughout the zoning ordinance.

Motion was made by Commissioner Miller to recommend that the Board of Supervisors consider submitting §154.133 for public hearing, to move solar energy definitions to Section 154.003, to delete the rest of the section, and also to delete references to large-scale solar energy facilities in Appendix A. Second was made by Commissioner Meyers and carried with Commissioners Ward and Kellam opposed. .

The commission then discussed large scale solar energy facility lot coverage considerations. It was Commissioner Miller’s opinion that the previous motion as approved should be sufficient for the Board as related to this matter. However, Ms. Benson stated that a specific motion on the Board’s directive to address lot coverage by June was in order and warranted. Commissioner Kellam agreed that lot coverage policy should be discussed and presented to the Board in case the Board does reject the SED language.

Motion was made by Commissioner Meyers that the commission use the SED language as proposed to replace the need for lot coverage regulations. Ms. Benson noted that the commission could send a statement to the Board that specifies the SED language could replace lot coverage regulations. However, if the Board rejects the SED language then the commission does need to make another recommendation as an alternative to satisfy lot coverage issues.

Referring to Ms. Benson’s memo of February 24, 2010, Commissioner Kellam suggested that the commission add a new subparagraph to be known as (2) (c) The surface area of solar panels must be considered for stormwater calculations.

The draft lot coverage provisions as written in the February 24th memo and presented for planning commission consideration at the March 2, 2010 meeting is as follows.

(1) §154.104 (A) Lot Coverage Ratio Established.

Add a new paragraph: (3) Lot coverage standards for large-scale solar energy facilities are set forth in §154.113 (E) (3) of this chapter.

(2) §154.113 Standards for Solar Energy Facilities

Add a new paragraph: (E) (3) The area occupied by any equipment structures and the panel support structures shall be considered impervious for the purpose of determining compliance with the lot coverage requirements of §154.104 (A) of this chapter. The ground surface beneath the solar panels shall be considered pervious for the purpose of determining compliance with the lot coverage requirement of §154.104 (A) of this chapter provided that the following standards are met, in addition to all applicable erosion and sediment control and stormwater management requirements:

(a) The lowest surface of any panel shall be a minimum of four (4) feet above grade for each five (5) feet of panel width to minimize shading of the ground underneath the panel.

(b) A shade-tolerant and drought-resistant grass or ground cover must be maintained year-round beneath all panels in order to preserve the capacity of the ground to absorb runoff and nutrients.

Commissioner Miller stated that she did not accept the premise that only poles and equipment structures are impervious. During discussion Commissioners Meyers and Miller voiced their concern that cantilevered decks, etc., could be claimed as impervious also.

Commissioner Kellam noted that “lot coverage” should probably be re-defined and a different standard or percentage established for solar installation.

Commissioner Miller added that panels are structures, albeit unique structures, and should be treated as such.

Ms. Benson stated her opinion that there was no need to re-define lot coverage for a particular use. For other uses other than solar projects lot coverage is regulated by district no matter what use is proposed and that is why the former language was presented to the commission as it is specific to large-scale solar energy projects.

There was continued discussion and several suggestions made concerning lot coverage percentages and evaluation standards with no consensus reached.

Adjournment.

Agreeing to continue this discussion and to carry over remaining agenda items to the June 1st meeting, the commission adjourned at 10:05 p.m. upon motion by Commissioner Meyers and second by Commissioner Kabler.

Chair

Secretary