

Minutes

Northampton County Planning Commission

August 2, 2011

This was a regular meeting of the Northampton County Planning Commission held on Tuesday, August 2, 2011, in the auditorium of the former Northampton County Middle School located at 7247 Young Street, Machipongo, Va.

Those present were Vice-Chair Martina Coker, Severn Carpenter, David Kabler, Roberta Kellam, John Wescoat, Jr., and Michael Ward. Those absent were Chair David Fauber and Mary Miller.

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

Due to the absence of the Chair the Vice-Chair called the meeting to order at 7:00 p. m. and established a quorum present.

The agenda was reviewed and motion made by Commissioner Kabler to accept the agenda as presented. Second was made by Commissioner Carpenter and carried 6 to 0.

Public Hearings: none.

Public Comments: none.

Consideration of Minutes

The minutes of the July 5, 2011, meeting were approved with one correction to page 5, in the sixth paragraph, the second sentence should be revised to read, "She noted that 95 percent of migrating birds that use these zoned areas for resting and feeding are young of the year." Motion to approve as corrected was made by Commissioner Ward and seconded by Commissioner Kabler. The motion carried unanimously 6 to 0.

The July 20, 2011, minutes were approved as presented upon motion by Commissioner Carpenter and second by Commissioner Ward. The motion carried unanimously 6 to 0.

New Business

Ms. Benson informed the commission that a procedural error had occurred at the July 20, 2011, meeting pertaining to action taken on Zoning Text Amendment 2011-09 (ZTA 2011-09). Ms. Benson provided written comments in memo form for clarification purposes as follows.

It has come to my attention that there was no Commission action at the recessed meeting last Wednesday evening to take the matter referenced above off the table before your vote on a

*recommendation to the Board of Supervisors. I have consulted the County Attorney's Office and been advised that in the absence of clear guidance in **Robert's Rules** concerning consequences of an inadvertent failure to follow the letter of the procedural requirements, it may be assumed that the commissioners present at the meeting implicitly agreed to take the matter off the table. This assumption is based on the absence of any objection to discussion of the matter and the willingness of all present to vote on the subsequent motion that was made. If you wish to proceed based on this assumption and want to revisit the matter, there may be a motion to rescind the prior motion or to amend something previously adopted.*

If you wish to correct the procedural oversight, then the prior action would be considered null and void and there must be a motion made, duly seconded and voted on to take the matter off the table in order for further discussion to be undertaken.

Discussion followed with the commission agreeing that the matter should be taken off the table in order to proceed with discussion. Referring to Item B under New Business, Commissioner Kabler expressed his opinion that since Commissioners Ward and Kellam are presenting revisions to language known as ZTA 2011-09 the matter should be re-opened and expedited.

Ms. Benson reiterated that the appropriate motion would be to rescind the motion made on July 20th and the new revised language could stand in the place of the former language that was acted upon.

Commissioner Kellam noted that the revised language has two major differences than the former as discussed on July 20th which are: (1) no height restrictions for any turbine; and (2) a Wind Energy Test Facility (WETF) would be considered a single project requiring only one special use permit approval as long as performance standards are met. This would alleviate the requirement that each individual WETF turbine have its own separate special use permit.

After further discussion, Ms. Benson stated that the cleanest way to alleviate the procedural issue would be to take ZTA 2011-09 off the table and then rescind the July 20th motion.

Motion was made by Commissioner Kabler to keep the original July 20th motion. The motion failed as there was no second.

Ms. Benson noted that the commission still needs to rescind the motion of July 20th that was approved or take ZTA 2011-09 off the table and start discussion and then amend what was previously approved.

Motion was made by Commissioner Wescoat to take ZTA 2011-09 off the table which was seconded by Commissioner Carpenter. The motion carried 6 to 0.

When asked by Commissioner Wescoat, Ms. Benson clarified that the new revised language, if deemed less restrictive, would not need to be re-advertised and would not require another

public hearing. She added that if the commission wishes to recommend more restrictive language tonight then the matter would be re-advertised and another public hearing scheduled.

Motion was then made by Commissioner Ward to offer the new revised language as an amendment or substitute of the language that was previously recommended for approval on July 20th. He clarified that the commission could consider the newly revised language as an amendment to the advertised version for discussion purposes. The motion was seconded by Commissioner Wescoat.

The Vice-Chair called for the vote and the motion carried 6 to 0.

At this time the commission discussed Item B, Alternative Regulatory Proposal for Large-Scale Wind Energy Facilities and Wind Energy Test Facilities, as submitted by Commissioners Kellam and Ward. Ms. Benson then distributed a version of the same language that contained formatting notes and comments. It is noted that the commission had received in their agenda packets this new version without side notes and comments.

Several revisions and corrections were made during review and discussion as follows:

1. All typos are to be corrected
2. Numbering is to be corrected
3. Page 3, Use Regulations section, next to the last sentence, delete "permission for" and insert "authorization"
4. Affirmed that on page 4 Item 8 is to be deleted in its entirety
5. Page 5, Item 10, the word, "prevent", shown as struck out, is to be replaced with the word, "limit"
6. Page 6, Item 20, is to be re-worded for simplicity

During discussion of page 6, Item 20, Ms. Benson questioned the action that would result from this requirement. Commissioner Kellam stated that cumulative impacts of turbine locations should be considered especially when trying to coordinate future projects that propose to be located in close proximity to those already existing.

The Vice-Chair questioned if the noise analysis could actually be done as described in Item b on page 8. Commissioner Kellam stated that it should be feasible based on initial lab testing.

Also, it was determined that with the prohibition of guy wires there is no need to require bird and bat deflectors in the language.

Motion was made by Commissioner Kellam and seconded by Commissioner Carpenter to recommend the new language of ZTA 2011-09 as amended tonight to the Board of Supervisors. The motion carried unanimously 6 to 0.

The commission then reviewed Variance/Exception 2011-06 as filed by Honesto & Juanita Vargas to construct a new home in the Vaucluse Shores Subdivision. Given the limited dimensions of the legally recorded lot and the requirement that the septic system be located outside of the resource protection area buffer a hardship was determined.

Motion to recommend approval to the Board of Zoning Appeals was made by Commissioner Kabler and seconded by Commissioner Wescoat. The motion carried 6 to 0.

Unfinished Business

At this time, Ms. Benson reviewed her written memo on other procedural matters as outlined below.

Attached please find a copy of the Code of Conduct signed by all members in December 2010. Staff is requesting that members review the document. We are requesting review of the Commission's by-laws by the County Attorney's Office, and once we have a written opinion from them, we will bring that document forward for review and potential revision.

It has appeared in recent months that the submission of materials at meetings with some expectation of action at that time hampers effective functioning of the Commission. Therefore, staff requests discussion of establishing a deadline for submission of materials pertaining to upcoming agenda items and also establishing a policy for introducing new agenda items.

Ms. Benson pointed out that making early motions is permissible and can help focus discussion. Based on his experience at other types of meetings, Commissioner Kabler agreed that early motions could help expedite discussion.

Ms. Benson also suggested that the commission consider having a staff person serve on subcommittees when needed. Commissioner Kellam expressed her approval of that concept as it would provide vetting of draft documents and amendments early on.

The commission was asked to consider all suggestions for future discussion and possible implementation.

When asked Ms. Benson explained that the county attorney does not review each and every document that comes from the planning commission unless specifically asked to do so. However, a complete Board agenda packet is provided to the county attorney for information and review purposes.

Communications

It is noted that the commission had received an agenda for the July 28, 2011, meeting of the Cape Charles Town Council.

Reporting on the Town of Exmore, Ms. Benson noted that she and Artie Miles, Town Manager, have had no recent communications concerning their Town Edge (TE) plan.

Commissioner Ward reported that the Cheriton Town Council has amended its zoning ordinance related to yard sales and approved an update of their comprehensive plan. He noted that council is still working on a boundary adjustment proposal.

There was no report given for the Town of Eastville due to the absence of Commissioner Miller.

Commissioner Kellam had nothing new to report for the Town of Nassawadox.

Committee Reports/Presentations: none.

Director's Report

Ms. Benson noted that she has not reviewed the new material received from Cape Charles Town Manager, Tom Bonadeo, but hopes to present a written report in time for the regular September meeting.

The Director's written report to the commission was presented as follows.

- 1. Cape Charles update: I have not yet reviewed the revised draft Historic Town Entrance Corridor Overlay District received from Town Planner Tom Bonadeo. He and I will recommend a process for moving forward with this matter once I have had the opportunity to review the material and discuss it with him.*
- 2. Exmore Town Edge Planning: I have not heard back from Interim Town Manager Artie Miles concerning this matter since the time of my last report to the commission.*
- 3. Board/Town Action on Zoning Matters: On July 12, 2011, the Board of Supervisors approved the Agricultural and Forestal District additions and renewal of Elkington AFD as recommended by the Planning Commission on July 5, 2011. Action on Zoning Text Amendment 2011-08 Wind Energy Overlay District was tabled until an accompanying zoning map amendment can be processed. Action on Zoning Text Amendment 2011-09 was tabled due to lack of a recommendation from the Planning Commission. At that time it was the consensus of the Board that wind energy test facilities likely pose a more viable possibility for a project that comes to fruition than wind farms, and comments were made encouraging the Commission to focus on developing regulations for test facilities.*

4. Comprehensive Plan Review: Staff will provide a revised schedule for the review of the comprehensive plan at the August 2, 2011, regular meeting. At this time I am attempting to schedule a meeting of the Board-appointed Comprehensive Plan Advisory Committee.

Ms. Benson informed the commission that September's agenda will include the Wind Energy Overlay Zoning Map Amendment, a zoning text amendment related to private swimming pools, and possibly a special use permit application.

It was noted that staff will be meeting with the Comprehensive Plan Advisory Committee next week.

A revised timeline for the comprehensive plan review and update was distributed to commissioners for their information. Ms. Benson informed the commission that staff will be undertaking completion of the first round of updates which will then be presented to the commission for review.

When asked by Commissioner Kellam, Ms. Benson noted that updating the economic development section is not considered as a priority on the Board's formalized work list according to Katie Nunez, County Administrator. However, the Board has directed that all TE District plans be completed as soon as possible.

Commissioner Kellam asked that data used by staff to update the comprehensive plan be provided to the commission.

When asked, Ms. Benson indicated that other zoning text issues dealing with low-impact commercial uses (micro-business)/home businesses will be put back on the September agenda.

By consensus the commission elected to have no recessed meetings in August.

Adjourn

Motion to adjourn was made by Commissioner Ward and seconded by Commissioner Carpenter at 8:12 p.m.

Chair

Secretary