

**FLUVANNA COUNTY PLANNING COMMISSION
REGULAR MEETING MINUTES**

**Carysbrook Performance Arts Center
8880 James Madison Hwy
Fork Union, VA 23055**

Tuesday, September 12, 2023

**Work Session 6:00 pm
Regular Meeting 7:00 pm**

MEMBERS PRESENT:

Barry Bibb, Chair
Howard Lagomarsino, Vice Chair
Mike Goad, Commissioner
Bree Key, Commissioner
Lorretta Johnson-Morgan, Commissioner
Patricia Eager, Board of Supervisors member

ABSENT:

None

STAFF PRESENT:

Eric Dahl, County Administrator
Kelly Harris, Assistant County Administrator
Douglas Miles, Community Development Director
Jason Overstreet, Senior Planner
Dan Whitten, Fluvanna County Attorney
Valencia Porter-Henderson, Administrative Programs Specialist

A. CALL TO ORDER, THE PLEDGE OF ALLEGIANCE AND A MOMENT OF SILENCE:

At 6:04 pm, Chair Bibb, called the September 12, 2023 Work Session to Order, led in the Pledge of Allegiance and then he conducted a Moment of Silence.

B. Small and Utility Scale Solar Facilities - Douglas Miles, Community Development Director

Dominion Energy Solar Programs in Virginia

Distributed Energy Resources (DER) Solar – Small Scale Solar is focused on less than 3 megawatts

- Array areas up to 75 acres interconnected at distribution level
- Projects smaller than 5 megawatts not eligible for siting agreements
- Projects are meant to meet Virginia’s Clean Economy Act

Utility Scale Solar Generation Facilities – Large Scale Solar is focused on developing solar projects larger than 3 megawatts.

- Array area is larger than 200 acres for utility – scale solar use
- Projects larger than 5 megawatts are eligible for siting agreements
- Project interconnection occurs at the transmission line level
- Projects are meant to meet Virginia’s Clean Economy Act

Fluvanna Solar generation facility Siting Policy considerations:

- Current practice and discussions with solar providers is to avoid siting solar facilities in the Zion Crossroads Urban Development Area (UDA) and five (5) Community Planning Areas (CPA) for future planned growth and development.
- Current practice and discussions with solar providers is to avoid siting solar facilities in or near commercial and industrial property unless it will be an accessory solar land use.
- Siting of a solar facility in areas planned to be serviced by public water and wastewater, as shown in Fluvanna County’s adopted Water and Wastewater Master Plan will not be recommended for approval by County Staff.
- In order to protect the integrity of agricultural soils, mass grading of solar sites shall not be permitted; especially on sites that contain steep slopes and we also encourage solar locators to avoid prime soils for farming and related farming operations in rural areas.

Solar Generation Facility Siting Policy

- Wildlife corridors and fencing should be considered in the layout and design with breaks in the security fencing and equipment storage areas.
- Design and support buildings and related structures shall use materials, colors, textures, landscaping and screening that are neutral to screen the facility from surrounding areas.
- Lighting shall be the minimum necessary for safety and/or security purposes and shall be shielded from adjacent homes and agricultural areas to maintain the rural character.
- Source: Dominion Energy website handout – September 2022

Planning Commissioner Comments

Mr. Goad: asked if Dominion Energy is saying that they see this as the ideal project or is this language taken from the State Code to be implemented by the solar site locators and the solar developers?

Mr. Miles: stated that Dominion Energy provides these general solar siting guidelines so that once they have taken solar projects through the local land use approval process and the state code review permitting process that they may acquire the project. As once it is reviewed and approved by Fluvanna County a solar project needs to be reviewed at the state and federal level by DEQ and Energy officials.

Mr. Goad: asked that during our September Work Session we talked about having a conversation and engaging with the community relative to utility-scale solar and on additional solar siting information.

Mr. Miles: stated that County Administration is interested in setting up another Coffee and Conversation Saturday session with the community near Lake Monticello. Similar to the one we conducted back on June 3rd at the Fluvanna Community Center in Fork Union and that may be one of the discussion items.

Ms. Johnson-Morgan: asked what the estimated timeframe would be on setting up the community conversation session and if there were any expected timeframe on additional solar siting information.

Mr. Miles: stated that definitely by the Fall and by working with the Planning Commission and with additional guidance through County staff's work at the Board level on solar tax revenue sharing, etc.

C. Adjournment: Chair Bibb closed the Work Session at 6:56 pm.

1. CALL TO ORDER, THE PLEDGE OF ALLEGIANCE AND A MOMENT OF SILENCE:

At 7:00 pm, Chair Bibb, called the September 12, 2023 Regular Meeting to Order, led in the Pledge of Allegiance and then he conducted a Moment of Silence.

2. DIRECTOR'S REPORT – Douglas Miles, AICP, CZA, Community Development Director

SUP 23:03 Reventon Farm LLC – Briery Creek Farm Camp Use

- The Albemarle County Planning Commission is conducting their September 12th Public Hearing tonight on Briery Creek Farm for a Boarding Camp use and Water Related uses through Special Use Permits with the applicant and they have not had many concerns.
- The Fluvanna County Planning Commissions plans to conduct our October 10th Public Hearings on Briery Creek Farm for a Camp use along with a separate Briery Creek Farm Event facility land use and on both Central water and Central sewer Special Use permits.
- **Note:** Water's Edge Barn would become a Maintenance facility and a new Event facility barn would be further back on Camp property for less noise and traffic related concerns.

VDOT Design Public Hearing – Route 600 at Route 618 Intersection Improvements

- VDOT Culpeper District and Residency staff will be hosting a design public hearing on Monday, September 25th from 5:00 pm to 7:00 pm at the Lake Monticello Fire and Rescue Department in the Maple Room to receive public comments on this project.
- VDOT plans to add a left turn lane on South Boston Road (SR 600) to gain access to Lake Monticello Road (SR 618) and then plans to regrade the slopes on Route 618 to improve the sight distances to make for a better and a safer intersection within Fluvanna County.

September 14th Technical Review Committee Meeting:

- WAWA at Zion Crossroads new Site Development Plans submittal.
- Village Oaks Commercial a resubmittal of Site Development Plans.
- Marina Point at Lake Monticello R-4 Text Amendment submittal to allow for residential

density for permitted uses between 2.9 to 5.0 units per acre by Special Use Permit.

- Marina Point at Lake Monticello Special Use Permit request to construct an additional ten (10) units at Marina Point Condos and the property is zoned R-4 and it contains a total of 5.138 acres.

Day	Date	Time	2040 Comp Plan and CIP Plan Work Sessions	Location
TUES	SEPT 12	6:00 pm	Planning Commission Work Session and Meeting	Carysbrook Theatre
TUES	OCT 10	6:00 PM	Planning Commission Work Session and Meeting	Carysbrook Theatre
WEDS	NOV 8	6:00 PM	Planning Commission Work Session and Meeting	Carysbrook Theatre
TUES	DEC 12	6:00 PM	Planning Commission Work Session and Meeting	Carysbrook Theatre

3. PUBLIC COMMENTS #1

Chair Bibb opened the Public Comments at 7:32 pm by giving each public speaker a limit of five minutes to speak and asked that they state their name and address for the record. With no one wishing to speak in person or online, Chair Bibb closed the first round of Public Comments at 7:32 pm.

4. DRAFT MINUTES:

MOTION:	To Approve the minutes of the Planning Commission of August 8, 2023.				
MEMBER:	Bibb	Goad	Key	Lagomarsino	Morgan
ACTION:		Motion			Second
VOTE:	Aye	Aye	Aye	Aye	Aye
RESULT:	5-0 Approved, as presented				

5. PUBLIC HEARING:

None

6. PRESENTATIONS:

Siting Agreements for Solar Projects or Energy Storage Projects – Dan Whitten, County Attorney

Legislative History

- HB 1675 (2020) required applicants intending to locate a solar facility in an opportunity zone to negotiate a siting agreement with the locality. Clarified that the provisions of this act shall not apply to any solar facility that has received zoning and site plan approval, preliminary or otherwise, from the locality on or before January 1, 2020.
- HB 2201 (2021) amended the Code to also require applicants for an energy storage project to negotiate a siting agreement with the locality. The General Assembly also required the siting agreement even if the solar facility or energy storage project was located outside of an opportunity zone. Clarified that the provisions of this act shall not apply to any energy storage project that has received zoning and site plan approval, preliminary or otherwise, from the host locality before January 1, 2021.

Exemptions from Siting Agreement

- Definition of solar facilities in Virginia Code §15.2-2316.6 exempts any solar project that is (i) described in §56-597, 56-594.01, 56-594.02, or 56-594.2, or (ii) five megawatts or less.
- § 56-594 and 56-594.01 – Net Energy Metering
- § 56-594.02 – Power Purchase Agreements
- § 56-594.2 – Small agricultural generators

Virginia Code §15.2-2316.7. Negotiations; siting agreement.

- Any applicant for a solar project or an energy storage project shall give to the County written notice of the applicant’s intent to locate in the county and request a meeting. Such applicant shall meet, discuss, and negotiate a siting agreement with the County.
- The siting agreement may include terms and conditions, including (i) mitigation of any impacts of such solar project or energy storage project; (ii) financial compensation to the County to address capital needs set out in the (a) capital improvement plan adopted by the County, (b) current fiscal budget of the County, or (c) fiscal fund balance policy adopted by the County; or (iii) assistance by the applicant in the deployment of broadband, as defined in § 56-585.1 :9, in the County.

§ 15.2-2316.8. Powers of host localities.

- The Board shall have the power to:
 1. Hire and pay consultants and other experts on behalf of the County in matters pertaining to the siting of a solar project or energy storage project;
 2. Meet, discuss, and negotiate a siting agreement with an applicant; and
 3. Enter into a siting agreement with an applicant that is binding upon the Board and enforceable against it and future governing bodies of the County in any court of competent jurisdiction by signing a siting agreement pursuant to this article. Such contract may be assignable at the parties’ option.
- Once the parties agree to the terms and conditions, the County shall schedule a public hearing to consider the agreement.

§15.2-2316.9. Effect of executed siting agreement; land use approval.

- Does not exempt the applicant from requirements to obtain approvals and permits under federal, state, or local ordinances and regulations.
- An applicant may file for appropriate land use approvals for the solar project or energy storage project, at or after the time the applicant submits its notice of intent to site a solar project or energy storage project.
- Does not affect the authority of the County to enforce its ordinances and regulations to the extent that they are not inconsistent with the terms and conditions of the siting agreement.
- Approval of a siting agreement by the Board shall deem the solar project or energy storage project to be substantially in accord with the comprehensive plan of the host locality, thereby satisfying the requirements of § 15.2-2232.
- The failure of an applicant and the Board to enter into a siting agreement may be a factor in the decision of the Board to enter into a siting agreement may be a factor in the decision of the Board in the consideration of any land use approvals for a solar project or energy storage project, but shall not be the sole reason for a denial of such land use approvals.

7. SITE DEVELOPMENT PLANS:

None

8. SUBDIVISIONS:

SUB 23:34 Mountain Hill - A Sketch Plan request for a rural cluster major subdivision with respect to 25.5 acres of Tax Map 50 Section A Parcel 33. The applicant is proposing 9 cluster lots with one residual parcel of 16 acres designated as the open space parcel. The subject property is located off of Mountain Hill Road (SR 650) with a proposed, state-maintained road to be constructed in the 50 foot access easement to serve the rural cluster lots.

Recommended Conditions:

Staff recommends Acceptance subject to these recommended conditions:

1. The rural cluster subdivision will contain no more than nine (9) separate residential lots, as shown on the revised Sketch Plan dated June 5, 2023;
2. Prior to final plat approval, the applicant shall meet all VDOT requirements;
3. Prior to final plat approval, the applicant shall meet all VDH requirements;
4. Preliminary and Final Subdivision plat approvals shall be granted for the use;
5. Site Development Plan and E&SC Plan approvals shall be granted for the use.

MOTION:	I move that the Planning Commission Accept SUB 23:34 Mountain Hill, a Sketch Plan request for a rural cluster major subdivision with respect to 25.5 acres of Tax Map 50 Section A Parcel 33 and subject to the five (5) conditions listed in the staff report.				
MEMBER:	Bibb	Goad	Key	Lagomarsino	Morgan
ACTION:		Motion			Second
VOTE:	Aye	Aye	Aye	Aye	Aye
RESULT:	5-0, Recommended Acceptance with the conditions				

9. UNFINISHED BUSINESS:

None

10. NEW BUSINESS:

Fluvanna County Planning Commission
BYLAWS AND RULES OF PRACTICE AND PROCEDURES
September 12, 2023

VII. PARLIAMENTARY PROCEDURE. The County Attorney shall serve as the Parliamentarian for the purpose of interpreting these Bylaws and Rules of Procedure and Robert's Rules of Order as may be directed by the Chair, or as required as a result of a point of order raised by any one or more Commission members. If the County Attorney is unavailable, the Community Development Director shall serve as the Parliamentarian.

IX. PUBLIC SESSIONS.

A. Except as otherwise directed the regular public meeting of the Commission shall be held on the 1st Tuesday after the 1st Wednesday of the month at 7:00 p.m. The meetings shall generally be held in the ~~County Administration Building in the Morris Room~~ **Carysbrook Performing Arts Center** in Palmyra, VA.

X. MEETING AND ATTENDANCE.

A. All meetings and business shall be conducted in accordance with these Rules, Robert's Rules of Order Newly Revised, 11th **12th** Edition, and the law of Virginia. In the event of conflict, the law of Virginia shall govern.

XI. POLICY FOR REMOTE PARTICIPATION OF MEMBERS OF THE FLUVANNA COUNTY PLANNING COMMISSION AT MEETINGS OF THE COMMISSION

A. Authority and Scope

1. **This policy shall govern participation by an individual member of the Planning Commission of Fluvanna County, Virginia, by electronic communication means in public meetings of the Planning Commission of Fluvanna County, Virginia, and any closed session of the Commission held in accordance with applicable law, from and after the date of adoption of this policy.**
2. **This policy is adopted pursuant to the authorization of Va. Code § 2.2-3708.3 and is to be strictly construed in conformance with the Virginia Freedom of Information Act (VFOIA), Va. Code § 2.2-3700 et seq.**
3. **Any reference to a specific provision of federal, state, or local law referenced in this policy shall mean such provision of law, as amended from time to time, or as set forth in any successor provision dealing with substantially the same subject.**

B. Definitions

1. **"Member" means any member of the Planning Commission.**
2. **"Remote participation" means participation by an individual member of the Commission by electronic communication means in a public meeting where a quorum of the Commission is physically assembled, as defined by Va. Code § 2.2-3701.**
3. **"Meeting" means a meeting as defined by Va. Code § 2.2-3701.**
4. **"Notify" or "notifies," for purposes of this policy, means verbal or written notice that is reasonable under the circumstances, with written notice, such as by email or letter, being the preferred means of notice. Notwithstanding the foregoing, notice does not include text messages or communications via social media.**
5. **"VFOIA" means the Virginia Freedom of Information Act, Va. Code § 2.2-3700, et seq.**

C. Mandatory Requirements

Regardless of the reasons why the member is participating in a meeting from a remote location by electronic communication means, the following conditions must be met for the member to participate remotely:

1. A quorum of the Commission must be physically assembled at the primary or central meeting location; and
2. Arrangements have been made for the voice of the remotely participating member to be heard by all persons at the primary or central meeting location. If at any point during the meeting the voice of the remotely participating member is no longer able to be heard by all persons at the meeting location, the remotely participating member shall no longer be permitted to participate remotely.

D. Process to Request Remote Participation

1. On or before the day of the meeting, and at any point before the meeting begins, the requesting member must notify the Commission Chair (or the Vice-Chair if the requesting member is the Chair) that such member is physically unable to attend a meeting due to (i) a temporary or permanent disability or other medical condition that prevents the member's physical attendance, (ii) a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance, (iii) such member's principal residence location more than 60 miles from the meeting location, or (iv) a personal matter and identifies with specificity the nature of the personal matter.
2. If the requesting member is unable physically to attend the meeting due to a personal matter, the requesting member must state with specificity the nature of the personal matter and that such matter renders the requesting member unable physically to attend. Remote participation due to a personal matter is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. There is no limit to the number of times that a member may participate remotely for the other authorized purposes listed in (i) - (iii) above.
3. The requesting member is not obligated to provide independent verification regarding the reason for such member's nonattendance, including the temporary or permanent disability or other medical condition or the family member's medical condition that prevents the member's physical attendance at the meeting.
4. The Chair (or the Vice-Chair if the requesting member is the Chair) shall promptly notify the requesting member whether the request is in conformance with this policy, and therefore approved or disapproved.

E. Process to Confirm Approval or Disapproval of Participation from a Remote Location

When a quorum of the Commission has assembled for the meeting, the Commission shall vote to determine whether:

1. The Chair's decision to approve or disapprove the requesting member's request to participate from a remote location was in conformance with this policy; and
2. The voice of the remotely participating member can be heard by all persons at the primary or central meeting location.

F. Recording in Minutes

1. If the member is allowed to participate remotely due to a temporary or permanent disability or other medical condition, a family member's medical condition that requires the member to provide care to the family member, or because the member's principal residence is located more than 60 miles from the meeting location the Commission shall record in its minutes (1) the foregoing circumstance due to which the member is participating remotely; (2) the Commission's approval of the member's remote participation; and (3) a general description of the remote location from which the member participated.
2. If the member is allowed to participate remotely due to a personal matter, the Commission shall record in its minutes (1) the specific nature of such personal matter that renders the requesting member unable to attend stated by the requesting member; (2) how many times the member has attended remotely due to a personal matter; (3) the Commission's approval of the member's remote participation; and (4) a general description of the remote location from which the member participated.
3. If a member's request to participate remotely is disapproved, the disapproval, including the grounds upon which the requested participation violates this policy or VFOIA, shall be recorded in the minutes with specificity.

G. Closed Session

If the Commission goes into closed session, the member may continue to participate remotely in the closed session, and shall ensure that no third party is able to hear or otherwise observe the closed meeting.

H. Strict and Uniform Application of this Policy

This Policy shall be applied strictly and uniformly, without exception, to the entire membership, and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting. Unless independently received by County staff, the Chair (or Vice-Chair) shall provide County staff with copies of the member's written request to participate remotely and the written response, as applicable, if the request or response is in writing, to be retained by County staff for a period of one year, or other such time required by records retention laws, regulations, and policies.

I. Meetings Held Through Electronic Communication Means During Declared States of Emergency

1. In addition to the foregoing, pursuant to the Code of Virginia Section 2.2-3708.2(A)(2) the Planning Commission may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with the Code of Virginia Section 44-146.17, or Fluvanna County has declared a local state of emergency pursuant to Code of Virginia Section 44-146.21, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to address the emergency provide for the continuity of operations of the Commission or the discharge of its lawful purposes, duties, and responsibilities. The Planning Commission when convening a meeting in accordance with this subdivision (I) shall:
 - a. Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the Planning Commission conducting the meeting;
 - b. Make arrangements for public access to such meeting through electronic communication means;

- c. Provide the public with the opportunity to comment at those meetings of the Commission when public comment is customarily received;
 - d. Otherwise comply with the provisions of the Code of VFOIA; and
 - e. State in its minutes the nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held.
- J. Nothing in this Section XI shall be construed to prohibit the use of interactive audio or video means to expand public participation.
11. **PUBLIC COMMENTS #2:**
Chair Bibb opened Public Comments #2 at 8:16 pm by giving each speaker a limit of five (5) minutes to speak and asked that they state their full name and property address for the record. With no one coming forward wishing to speak in person or online, he closed the Public Comments period at 8:16 pm.
12. **ADJOURNMENT:**
Chair Bibb adjourned the Planning Commission meeting on September 12th at 8:17 pm.

Minutes were recorded by Valencia Porter-Henderson, Administrative Programs Specialist.

Barry Bibb, Chair
Fluvanna County Planning Commission