

*Note from Clerk: These minutes are written as the agenda was presented. Some votes may appear out of order.*

## **SMYTH COUNTY PLANNING COMMISSION**

### **Thursday, March 23, 2023**

The Smyth County Planning Commission met in their regular meeting on Thursday, March 23, 2023, at 6:30 P.M. in the Smyth County Office Building.

**Commissioners Present:** Hazel Wagoner, Chairperson, Atkins District; Graham Davidson Jr., Vice-Chairman, Chilhowie District; David Spence, Saltville District; Tony Dean, Royal Oak District; Paul Shepherd, Rye Valley District; and Robert Campbell, North Fork District

**Commissioners Absent:** Park District, Vacancy

**Staff Present:** Becca Creasy

At approximately 6:30 p.m. Mrs. Wagoner called the meeting to order.

**Adoption of Agenda:** Mrs. Wagoner opened the floor for motions to approve the agenda as presented. Mr. Spence made a motion which was seconded by Mr. Shepherd, with the following vote recorded.

Vote: 6 yeas	Campbell, Davidson Jr., Dean, Shepherd, Spence, and Wagoner
1 absent	Park District Vacancy

**Appointment Update:** Ms. Creasy notified Mr. Spence of the Board's approval to amend his reappointment for a two-year term instead of four years as he requested.

**Minutes:** Mr. Spence made a motion to approve the minutes of the Thursday, January 26, 2023, meeting. Mr. Dean seconded the motion, and the following vote was recorded.

Vote: 6 yeas	Campbell, Davidson Jr., Dean, Shepherd, Spence, and Wagoner
1 absent	Park District Vacancy

**Comp Plan Update:** Ms. Creasy informed the Commission of the remarkable participation of individuals in all eight of the focus groups which were held on two separate days (March 9 and 23). She explained Hill Studio will incorporate the focus groups' comments into a draft and meet with each group again in May to review.

**Citizens' Time:** No citizens were present.

**Other Business:** None.

**Questions/Comments for the Commissioners:** None.

**Recess:** At approximately 6:35 p.m. Mrs. Wagoner recessed the Planning Commission's meeting until their 7:00 p.m. public hearing.

## **JOINT PUBLIC HEARING WITH BOARD OF SUPERVISORS**

**Board Members Present:** Charlie Atkins, Chairman, Atkins District; Lori Deel, Vice-Chairperson, Rye Valley District; Roscoe Call, Saltville District (electronically); Kris Ratliff, Park District; Phil Stevenson, North Fork District; Michael Sturgill, Chilhowie District; and Courtney Widener, Royal Oak District

**Board Members Absent:** None

**Commissioners Present:** Hazel Wagoner, Chairperson, Atkins District; Graham Davidson Jr., Vice-Chairman, Chilhowie District; David Spence, Saltville District; Tony Dean, Royal Oak District; Paul Shepherd, Rye Valley District; and Robert Campbell, North Fork District

**Commissioners Absent:** Park District, Vacancy

**Staff Present:** Shawn Utt, County Administrator; Lisa Richardson, Assistant County Administrator - Operations; Clegg Williams, Assistant County Administrator - Development; Scot Farthing, County Attorney; Becca Creasy and Auna Louthian, Administrative Assistants

**Others:** Stephanie Porter Nichols of Smyth County News and Smyth County Sheriff's Office deputy.

**3/23/2023 7:06 PM** Charles Atkins, Chairman of the Board of Supervisors, and Hazel Wagoner, Chair of the Planning Commission, called the joint public hearing to order. Shawn Utt read the advertisement as placed in the Smyth County News and Messenger.

#### **NOTICE OF JOINT PUBLIC HEARINGS**

In compliance with the Code of Virginia of 1950, and amendments thereto, the Smyth County Board of Supervisors and the Smyth County Planning Commission will conduct multiple public hearings to consider Amendments to the Smyth County Code of Ordinances as described below. The Board of Supervisors and the Smyth County Planning Commission shall hear comments from citizens concerning these amendments to the Smyth County Code of Ordinances:

- 1) To consider an amendment to the Zoning Ordinance to exempt Accessory Buildings proposed on a vacant tract of land from obtaining a special use permit when the adjoining tract has a principle building and both tracts are in single ownership. Also being considered are increased setback and size limitation requirements for accessory buildings meeting the proposed exemption.
- 2) To consider adopting an addition to the Zoning Ordinance to allow Solar Energy Facilities by Special Use Permit in the A, A/R, C, and I Districts and to amend Article IV to include additional regulations for Solar Energy Facilities.

The public hearing shall be held on Thursday, March 23, 2023, beginning at 7:00 p.m., or as soon thereafter as may be heard, in the Board Room of the Smyth County Office Building, 121 Bagley Circle, Marion Virginia, to receive comments on the above-described amendments.

All interested persons may express their views by emailing [alouthian@smythcounty.org](mailto:alouthian@smythcounty.org) prior to the scheduled public hearing. Written comments may also be mailed or delivered to County Administrator, 121 Bagley Circle, Suite 100, Marion VA 24354, or by fax to (276) 783-9314. All emails, written comments and faxes must be received by 2:00pm on Thursday, March 23, 2023.

A copy of the proposed amendments being considered are on file in the County Administrator's and Zoning Administrator's offices located at 121 Bagley Circle, Marion Virginia or online at [www.smythcounty.org](http://www.smythcounty.org) for public review.

In compliance with the provisions of the Americans with Disabilities Act, persons requiring special assistance to attend and participate in these public hearings should contact Clegg Williams, ADA Coordinator at (276) 706-8315, at least twenty-four (24) hours prior to the public hearings.

BY ORDER OF THE SMYTH COUNTY BOARD OF  
SUPERVISORS AND THE PLANNING COMMISSION

Shawn M. Utt, County Administrator  
Hazel Wagoner, Chairperson of the Planning  
Commission

**3/23/2023 7:09 PM** Clegg Williams briefly explained the current zoning regulations for *Electric Generating or Booster Facilities* and the proposed additional text to allow *Solar Energy Facilities* by Special Use Permit in the Agricultural, Agricultural/Rural, Commercial, and Industrial Districts and to amend Article IV to include additional regulations for Solar Energy Facilities.

**3/23/2023 7:11 PM** Supervisor Phil Stephenson inquired about which districts would allow Solar Energy Facilities by Special use Permit. He discussed his concerns about rumors and is pleased to see restrictions being proposed, especially decommissioning.

**3/23/2023 7:13 PM** Commissioner Tony Dean asked if battery storage facilities are included in the proposed text amendment. Mr. Williams stated battery storage facilities would fall under the current definition for *Electric Generating or Booster Facilities*. Mr. Dean expressed his opinion that similar requirements be considered for battery storage facilities. Mr. Williams suggested adding wind and gas fired facilities as well.

**3/23/2023 7:15 PM** Commissioner Bobby Campbell shared statistics for AEP energy from coal usage and feels fields of solar panels might decrease coal usage slightly.

**3/23/2023 7:16 PM** Supervisor Mike Sturgill spoke favorably on the proposed text amendment and wants to see the amendment done right and wants it to address everything to ensure everyone is protected.

**3/23/2023 7:17 PM** Supervisor Stephenson inquired about Erosion and Sediment Control measures. Mr. Williams explained any proposed development is required to comply with the County's Erosion and Sediment Control Ordinance.

**3/23/2023 7:18 PM** Supervisor Courtney Widener inquired about the minimum size requirement utility scale companies usually pursue. Mr. Williams stated companies typically search for 100-acre, or more, tracts of land. Mr. Widener specifically wants confirmation that companies are typically not interested in small acreage tracts.

**3/23/2023 7:19 PM** Supervisor Stephenson and Mr. Williams discussed single-family dwellings would not be included in this particular section of the Zoning Ordinance as they would not meet the definitions for small or large facilities.

**3/23/2023 7:21 PM** Supervisor Roscoe Call voiced his main concerns about appearance and the fact farmers simply have to decline offers from the solar companies if they are not interested.

**3/23/2023 7:22 PM** Supervisor Stephenson stated his opinions about individuals supporting agricultural uses but also supporting solar energy facilities being a contradiction.

**3/23/2023 7:23 PM** Chairman Atkins inquired whether bonds for decommissioning are adjusted annually. County Attorney Scot Farthing addressed Mr. Atkins stating bonds for decommissioning are generally reviewed every five years and may be adjusted accordingly.

**3/23/2023 7:24 PM** Vice-Chairperson Lori Deel stated the marketing materials she has seen for solar facilities have pictures of livestock in fields with solar panels, wondering about the benefits

to farmers. Supervisor Stephenson spoke of financial benefits and stated farmers needed to consider their neighbors and the appearance.

**3/23/2023 7:26 PM** Supervisor Call spoke on the tax effects for land being taxed as land use. Mr. Williams voiced his opinions that "land use tax" may be affected but didn't feel "Conservation" lands would be affected. Mr. Farthing suggested these tracts may no longer qualify for "land use."

**3/23/2023 7:27 PM** Supervisor Stephenson pointed out the Special Use requirements need to be met to avoid judicial proceedings and recommends the Planning Commission place every possible restriction on any future approvals.

**3/23/2023 7:28 PM** Chairman Atkins stated he didn't feel citizens were concerned considering none were present.

**3/23/2023 7:29 PM** At the closing of discussion on *Solar Energy Facilities*, Mr. Williams proceeded with the next proposed text amendment exempting Accessory Buildings proposed on a vacant tract of land from obtaining a Special Use Permit when the adjoining tract has a principal building and both tracts are in single ownership as well as considering increased setback and size limitation requirements for accessory buildings meeting the proposed exemption.

**3/23/2023 7:30 PM** Chairman Atkins shared his concerns about individuals selling lots with accessory buildings before houses are constructed on the adjoining lots.

**3/23/2023 7:31 PM** Mr. Williams discussed some of the issues surrounding jurisdictions are dealing with such as Mr. Atkins' comment and "exempt" accessory buildings being converted into single family dwellings.

**3/23/2023 7:31 PM** Supervisor Widener asked if specific language needs to be amended. Mr. Williams explained the language is the original language placed in the Zoning Ordinance at its first adoption. Mr. Widener asked Mr. Williams if the proposed amendment will affect non-dwelling units which are not accessory structures, to which Mr. Williams confirmed it will not.

**3/23/2023 7:34 PM** Mr. Williams gave an example of a vacant lot located across from Applewood Subdivision which is zoned Residential. The applicant applied for a SUP and was ultimately approved. The neighborhood requested the application be denied at the public hearing because the applicant was a dirt track race car driver, and the "accessory building" was going to be used as a garage to work on race cars.

**3/23/2023 7:35 PM** Supervisors Stephenson and Deel both voiced their opinions that landowners should be allowed to build on their property if they own it.

**3/23/2023 7:36 PM** Considering no citizens were present to speak and no other comments being made, Mr. Atkins and Mrs. Wagoner closed the joint public hearing. Mr. Atkins adjourned the Board's public hearing.

**3/23/2023 7:36 PM** Mr. Williams informed the members of US Cellular's request to withdraw their application for a SUP to construct a Communications Tower on Lead Mine Road due to the project being "cancelled" and further stated the St. Clair's Creek Road tower approved in January has been placed "on hold" due to funding and environmental reasons. Several members expressed their disappointment.

**3/23/2023 7:38 PM** Chairperson Hazel Wagoner reconvened the Planning Commission's meeting to make recommendations on the proposed text amendments.

**3/23/2023 7:40 PM Recommendation on proposed text amendment to Zoning Ordinance to allow Solar Energy Facilities by SUP in the A, A/R, C, and I Districts and to amend Article IV to include additional regulations for Solar Energy Facilities** Mr. Williams reiterated the requirements for a SUP as stated in the legal ad. Chairperson Wagoner called for a motion. Mr. Spence made a motion to recommend approval of the text amendment and additional regulations as presented for Solar Energy Facilities, which was seconded by Mr. Shepherd and the following vote was recorded.

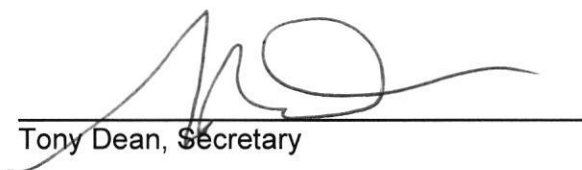
Vote:	5 yeas	Davidson Jr., Dean, Shepherd, Spence, and Wagoner
	1 nay	Campbell
	1 absent	Park District Vacancy

**3/23/2023 7:42 PM Recommendation to exempt Accessory Buildings proposed on a vacant tract of land from obtaining a SUP when the adjoining tract has a principle building and both tracts are in single ownership. Additionally, setback and size limitation requirements for accessory buildings meeting the proposed exemption.** Mr. Williams briefly reiterated the proposed text amendment as stated in the legal ad. After brief discussion, Mr. Williams confirmed the consensus of the Planning Commission was to exempt accessory buildings as stated above, no size limitations, and to follow current zoning setbacks pertaining to front, back and sideyard for principal buildings. Chairperson Wagoner called for a motion on the proposed text amendment as stated above. Mr. Spence made a motion to recommend approval of the text amendment as confirmed by Mr. Williams. The motion was seconded by Mr. Dean, and the following vote was recorded.

Vote:	5 yeas	Campbell, Dean, Shepherd, Spence, and Wagoner
	1 abstain	Davidson Jr.
	1 absent	Park District Vacancy

**3/23/2023 7:48 PM** Mrs. Wagoner called for a motion to adjourn. Mr. Spence made a motion to adjourn which was seconded by Mr. Campbell and the following vote was recorded.

Vote:	6 yeas	Campbell, Davidson Jr., Dean, Shepherd, Spence, and Wagoner
	1 absent	Park District Vacancy



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Tony Dean, Secretary