



# Clarke County Planning Commission

MINUTES – Business Meeting

Friday, November 4, 2022 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

ATTENDANCE:			
George L. Ohrstrom, II (Chair/Russell)	✓	Ronnie “Ron” King (Buckmarsh)	X
Randy Buckley (Vice-Chair/White Post)	✓	Scott Kreider (Buckmarsh)	✓
Matthew Bass (Board of Supervisors)	✓	Frank Lee (Berryville)	✓
Buster Dunning (White Post)	✓	Gwendolyn Malone (Berryville)	✓
Robert Glover (Millwood)	✓	John Staelin (Millwood)	✓
Pearce Hunt (Russell)	X	Doug Lawrence (BOS alternate)	X

**STAFF PRESENT:** Brandon Stidham (Director of Planning), Jeremy Camp (Senior Planner/Zoning Administrator), Kristina Maddox (Office Manager/Zoning Officer), Chris Boies (County Administrator)

**OTHER PRESENT:** None.

**CALL TO ORDER:** By Chair Ohrstrom at 9:00AM.

## 1. Approval of Agenda

The Commission voted 9-0-2 to approve the agenda as presented by Staff.

Motion to approve the November 4, 2022 Planning Commission Business Meeting agenda as presented by Staff:			
Ohrstrom (Chair)	AYE	King	ABSENT
Buckley (Vice-Chair)	AYE (moved)	Kreider	AYE
Bass	AYE	Lee	AYE
Dunning	AYE	Malone	AYE (seconded)
Glover	AYE	Staelin	AYE
Hunt	ABSENT		

## 2. Approval of Minutes

### A. October 4, 2022 Work Session

The Commission voted 9-0-2 to approve the October 4, 2022 Work Session meeting minutes as presented by Staff.

<b>Motion to approve the October 4, 2022 Planning Commission Work Session meeting minutes as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	King	<b>ABSENT</b>
Buckley (Vice-Chair)	<b>AYE (seconded)</b>	Kreider	<b>AYE</b>
Bass	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (moved)</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>
Hunt	<b>ABSENT</b>		

**B. October 7, 2022 Business Meeting**

The Commission voted 9-0-2 to approve the October 7, 2022 Business Meeting minutes as presented by Staff.

<b>Motion to approve the October 7, 2022 Planning Commission Business Meeting minutes as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	King	<b>ABSENT</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE</b>
Bass	<b>AYE</b>	Lee	<b>AYE (moved)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (seconded)</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>
Hunt	<b>ABSENT</b>		

**PUBLIC HEARING**

- SUP-22-03/SP-22-04, Hecate Energy Gun Barrel Road Solar, LLC; Hecate Energy, LLC (applicants)/Debra Diane Davis, Administrator of the Estate of Montie Wood Gibson, Jr. (owner-deceased)**

Mr. Camp presented the staff report for the special use permit and site plan application. He said there are concerns regarding the decommissioning plan to protect the county and taxpayers interest in having to incur any cost associated with decommissioning. He added there is now a code requirement to include a landscape maintenance guarantee that the applicant needs to address in addition to providing more details surrounding the leaching of heavy metals. He noted the draft SUP condition changes including the more strict revocation requirements which include a shorter timeframe for the applicant to begin and complete construction, and the monitoring of stormwater. He concluded that Staff recommends deferral to the December meeting based on outstanding issues to be addressed by the applicant as presented.

As there were no questions or concerns from the Commission, Chair Ohrstrom opened the public hearing. There were no questions from the public.

The Commission voted 9-0-2 to continue the Public Hearing and defer SUP-22-03/SP-22-04, Hecate Energy Gun Barrel Road Solar, LLC; Hecate Energy, LLC (applicants)/Debra Diane Davis, Administrator of the Estate of Montie Wood Gibson, Jr. (owner-deceased) to the December 2 meeting.

<b>Motion to continue the Public Hearing and defer SUP-22-03/SP-22-04, Hecate Energy Gun Barrel Road Solar, LLC; Hecate Energy, LLC (applicants)/Debra Diane Davis, Administrator of the Estate of Montie Wood Gibson, Jr. (owner-deceased) to the December 2 meeting:</b>			
Ohrstrom (Chair)	AYE	King	ABSENT
Buckley (Vice-Chair)	AYE	Kreider	AYE (moved)
Bass	AYE	Lee	AYE
Dunning	AYE	Malone	AYE (seconded)
Glover	AYE	Staelin	AYE
Hunt	ABSENT		

**4. 2022 Double Tollgate Area Plan**

Mr. Stidham presented the proposed revision to the 2022 Double Tollgate Area Plan from the staff report.

Chair Ohrstrom asked for clarification on local zoning regulations in Sub Area B and C and asked if anyone could rent or lease from the state agency that owns them and do as they please. Mr. Stidham responded that as long as the property is under state ownership, the Code of Virginia preempts the County from applying local zoning regulations. However, it does not preempt the county from applying other types of pressures to ensure that objectionable uses or activities are not supported by the state on these properties. He said state agencies will often forward the county site plans for review and they generally do try to comply with our regulations within reason.

Commissioner Bass asked Mr. Stidham could tell the Commission what to expect in the next three to five years. Mr. Stidham replied that it will be heavily driven by the ability of all parties involved in the arrangement including Clarke, Frederick, landowners, developers to work together and reach an agreement as to how water and sewer will be extended from Frederick County. He said it will take an extensive amount of money to start the initial project but that there can be a number of different funding options. He continued that it is very important that the Commission review this plan every five years as required by the Code of Virginia to keep abreast of any changes. There were no further questions from the Commission.

Chair Ohrstrom opened then closed the public hearing as there were no questions from the public on this matter.

The Commission voted 9-0-2 to recommend adoption of the revised 2022 Double Tollgate Area Plan November 4, 2022 public hearing draft, subject to changes listed in the staff memo dated October 26, 2022.

<b>Motion to recommend adoption of the revised 2022 Double Tollgate Area Plan November 4, 2022 public hearing draft, subject to changes listed in the staff memo dated October 26, 2022:</b>			
Ohrstrom (Chair)	AYE	King	ABSENT
Buckley (Vice-Chair)	AYE (moved)	Kreider	AYE (seconded)
Bass	AYE	Lee	AYE
Dunning	AYE	Malone	AYE
Glover	AYE	Staelin	AYE
Hunt	ABSENT		

**5. TA-22-05, Waterworks and Sewerage System and Treatment Works Regulations.**

Mr. Stidham presented the staff report on this text amendment with no questions or comments from the Commission.

Chair Ohrstrom opened the public hearing and was closed shortly after as there were no questions or comments from the public.

The Commission voted 9-0-2 to recommend approval of TA-22-05, Waterworks and Sewerage System and Treatment Works Regulations as presented by Staff.

<b>Motion to recommend approval of <u>TA-22-05, Waterworks and Sewerage System and Treatment Works Regulations</u> as presented by Staff:</b>			
Ohrstrom (Chair)	AYE	King	ABSENT
Buckley (Vice-Chair)	AYE	Kreider	AYE (moved)
Bass	AYE	Lee	AYE
Dunning	AYE	Malone	AYE (seconded)
Glover	AYE	Staelin	AYE
Hunt	ABSENT		

**6. TA-22-06, Structures Permitted in Required Setback Areas**

Mr. Stidham reviewed the text amendment changes that were discussed in the work session and provided within the staff report. There were no questions from the Commission.

Chair Ohrstrom opened the public hearing and then closed the public hearing as there were no questions or concerns from the public.

The Commission voted 9-0-2 to recommend adoption of Zoning Ordinance TA-22-06, Structures Permitted in Required Setback Areas as presented by Staff.

<b>Motion to recommend adoption of <u>TA-22-06, Structures Permitted in Required for 2022 Double Tollgate Area Plan</u> as presented by Staff:</b>			
Ohrstrom (Chair)	AYE	King	ABSENT
Buckley (Vice-Chair)	AYE (moved)	Kreider	AYE
Bass	AYE	Lee	AYE (seconded)
Dunning	AYE	Malone	AYE
Glover	AYE	Staelin	AYE
Hunt	ABSENT		

**MINOR SUBDIVISION APPLICATIONS**

**7. MS-22-09, L Seven Farm L.C., c/o Thomas Moore Lawson, Manager.**

Vice Chair Buckley read the conflict of interest statement, “I disqualify myself from participating in the matter of MS-22-09, L Seven Farm, L.C., c/o Thomas Moore Lawson, Manager before the Planning Commission as I have a personal interest in said matter by reason of my ownership interest in M.S. Buckley and Son, Inc., which company performs work for the applicant and the company may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action taken by the Planning Commission on the application.”

Mr. Camp reviewed the minor subdivision that was previously discussed in the Work Session and said Staff recommends approval.

The Commission voted 8-0-3 to approve MS-22-09, L Seven Farm L.C., c/o Thomas Moore Lawson, Manager as presented by Staff.

<b>Motion to approve <u>MS-22-09</u>, L Seven Farm L.C., c/o Thomas Moore Lawson, Manager as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	King	<b>ABSENT</b>
Buckley (Vice-Chair)	<b>ABSTAINED</b>	Kreider	<b>AYE (moved)</b>
Bass	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (seconded)</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>
Hunt	<b>ABSENT</b>		

**8. MS-22-10, 624 Old Waterloo Road, LLC**

Mr. Camp reviewed the staff memo on this minor subdivision that was also previously discussed at the Work Session. He said Staff recommends approval of the application. There were no questions or concerns from the Commission.

The Commission voted 9-0-2 to approve MS-22-10, 624 Old Waterloo Road, LLC as presented by Staff.

<b>Motion to approve <u>MS-22-10</u>, 624 Old Waterloo Road, LLC as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	King	<b>ABSENT</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE (seconded)</b>
Bass	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>	Staelin	<b>AYE (moved)</b>
Hunt	<b>ABSENT</b>		

**Board and Committee Reports**

**9. Board and Committee Reports**

**Board of Supervisors (Matthew Bass)**

Commissioner Bass said the Board of Supervisors held a legislative lunch the week before where a few issues were discussed including limiting the spreading of fill dirt. He said mental health concerns were discussed as it pertains to both school context and to the broader context of law enforcement where they are

essentially acting as guardians having to transport and also watch over people undergoing mental health crisis in the emergency room. He said they encouraged the legislators to take action and put pressure on the necessary entities to change the course of action. He said they also discussed what they perceive to be inequities in nutrient credit trading and the composite index that unfavorably impacts smaller counties like Clarke and emphasized the ability for localities to maintain their own planning and zoning control.

Commissioner Bass said the Board had an open house for the courthouse landscape plan which was well attended and that they look forward to the redesign and renovation of the ground improvements.

Lastly, Commissioner Bass said they are taking up the Capital Improvement Plan at their next work session.

**Board of Septic & Well Appeals (George L. Ohrstrom, II)**

Nothing currently pending.

**Board of Zoning Appeals (Jeremy Camp)**

Nothing to report.

**Historic Preservation Commission – HPC (Bob Glover)**

Nothing to report.

**Conservation Easement Authority - CEA (George L. Ohrstrom, II)**

Chair Ohrstrom said the HPC has a couple of interesting easements that they are getting ready to approve. He also noted they had a very nice thank you party for easement and monetary donors.

**Broadband Implementation Committee (Brandon Stidham)**

Mr. Stidham said that while there is nothing new to report, All Points Broadband will be giving a presentation to the Board of Supervisors in person next month.

**OTHER BUSINESS**

**10. 2023-2028 Capital Improvement Plan**

Mr. Stidham noted there are no items to review on this particular agenda item and that all the projects were previously reviewed in the Work Session. Chair Ohrstrom commented that the Commission's purpose in reviewing the CIP is to ensure everything is in accordance to the Comprehensive Plan. There were no questions or comments from the Commission.

The Commission voted 9-0-2 to recommend adoption of the 2023-2028 Capital Improvement Plan as presented by Staff.


<b>Motion to recommend adoption of the 2023-2028 Capital Improvement Plan as presented by Staff:</b>			
Ohrstrom (Chair)	<b>AYE</b>	King	<b>ABSENT</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE (moved)</b>
Bass	<b>AYE</b>	Lee	<b>AYE (seconded)</b>
Dunning	<b>AYE</b>	Malone	<b>AYE</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>
Hunt	<b>ABSENT</b>		


Mr. Stidham reviewed the agenda items for December and noted upcoming meetings.

**Adjournment:**

The Commission voted 9-0-2 to adjourn the November 4, 2022 Planning Commission Business Meeting at 10:05AM.

<b>Move to adjourn the November 4, 2022 Planning Commission Business Meeting:</b>			
Ohrstrom (Chair)	<b>AYE</b>	King	<b>ABSENT</b>
Buckley (Vice-Chair)	<b>AYE</b>	Kreider	<b>AYE</b>
Bass	<b>AYE</b>	Lee	<b>AYE</b>
Dunning	<b>AYE</b>	Malone	<b>AYE (moved)</b>
Glover	<b>AYE</b>	Staelin	<b>AYE</b>
Hunt	<b>ABSENT</b>		

  
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 George L. Ohrstrom, II (Chair)

  
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 Kristina Maddox (Clerk)