

# Clarke County

## PLANNING COMMISSION BUSINESS MEETING MINUTES FRIDAY OCTOBER 4, 2019



A Business Meeting of the Planning Commission of Clarke County, Virginia, was held at the Berryville/Clarke County Government Center, Berryville, Virginia, on Friday, October 4, 2019.

### **Attendance**

**Present:** George L. Ohrstrom, II (Chair); Randy Buckley (Vice-Chair); Robina Bouffault; Anne Caldwell; Mary Daniel; Bob Glover; Scott Kreider; Doug Kruhm; Frank Lee; Gwendolyn Malone; and Pete Maynard

**Others:** Cathy Kuehner (Director of Public Information) and Mickey Powell (Winchester Star)

**Staff Present:** Brandon Stidham, Planning Director and Debbie Bean, Recording Secretary

### **Called to Order**

Chair Ohrstrom called the meeting to order at 9:00 a.m.

### **Approval of Agenda**

The Commission voted to approve the agenda.

**Yes:** Bouffault, Buckley (seconded), Caldwell (moved), Daniel, Glover, Kreider, Kruhm, Lee, Malone, Maynard and Ohrstrom

**No:** No one

### **Approval of Minutes**

The Commission voted to approve the Planning Commission Work Session Meeting minutes of September 3, 2019 with one correction to add an additional word to a sentence regarding the Boundary Line Adjustment.

**Yes:** Bouffault, Buckley (seconded), Caldwell (moved), Daniel, Glover, Kreider, Kruhm, Lee, Malone Maynard and Ohrstrom

**No:** No one

The Commission voted to defer the approval of these minutes until next month in order to make corrections that Commissioner Caldwell mentioned.

**Yes:** Bouffault, Buckley, Caldwell (moved), Daniel, Glover, Kreider, Kruhm, Lee, Malone (seconded), Maynard and Ohrstrom

**No:** No one

## **Continue Public Hearing Item**

**SUP-19-01/SP-19-01, Crown Castle.** Request approval of a Special Use Permit (SUP) and Site Plan to construct a new 185-foot Class 4 Wireless Communication Facility (WCF) that would replace an existing 84-foot monopole per §3-A-2-a-3-r of the Zoning Ordinance. The property is located on the west side of Mt. Carmel Road (Rt. 606) approximately 450 feet from its intersection with U.S. 50/17 (John Mosby Highway), Tax Map #39-A-74, is 84.55 acres in size, and is zoned Forestal-Open Space-Conservation (FOC).

Mr. Stidham explained that Staff received an email from Tracy Themak, representative for the applicant, formally requesting the Planning Commission to defer the hearing today for one month to allow time for them to speak with the landlord. He said he presumes that this would be the VanKeurens, the property owners. He stated that she did acknowledge in this email that this would stop the 150 day review clock and extend that review period by one month. He said that she hopes to have the items ready for review by the Commission for the November meeting if the Commission grants that deferral request.

He stated that a couple of items that were brought to their attention is that we reminded them that the Zoning Ordinance requires any revised materials be provided to Staff within 10 days prior to the continued Public Hearing. He said if they have additional changes that they want to make they will need to be in to Staff by October 22<sup>nd</sup>. He stated that we have noted that the Board of Zoning Appeals variance was denied and we have not received any feedback as to how they intend to resolve that. He said that Staff supports granting the deferral request and extending the review clock by one month. He stated that if the Commission does approve this deferral, Staff would also recommend to continue the Public Hearing until the next meeting of the Commission on November 1<sup>st</sup>. Mr. Stidham said he will answer any questions you may have.

Chair Ohrstrom asked the Commission if they have any questions. There being no further questions the Chair called for a motion.

The Commission voted to defer action and continue the public hearing on this request until the November 1, 2019 Planning Commission meeting.

**Yes:** Bouffault (moved), Buckley, Caldwell, Daniel, Glover, Kreider, Kruhm, Lee, Malone (seconded), Maynard and Ohrstrom

**No:** No one

## **Board/Committee Reports**

### **Board of Supervisors (Mary Daniel)**

Commissioner Daniel stated that the issue of closing Route 9 was addressed and have an alternative plan has been proposed. She said that the Board of Supervisors was not a part of that discussion and has not received the full details on this plan. She said that it only involves closing Route 9 on certain days at certain times based on the construction schedule. She said it has not been approved by the VDOT Commissioner and he has the final approval. She said that the Board of Supervisors are still looking at things we have been concerned about but it is not our responsibility to come up with the right plan. She said that the Route 7 safety audit that that Board of Supervisors requested back in January arrived last

month and it is on the County website. She said the audit is about what the case may be, not what it already is. She said that there are improvements to be made to Route 7 by VDOT.

Chair Ohrstrom said that he knows someone at VDOT and he asked him why the nearby counties were not informed about this going on with Route 9. He said he was told that VDOT never tells the counties until a contract is made due to the potential for upsetting the public.

Commissioner Bouffault stated that if VDOT does a revised study and takes whatever they decide into account would it have a financial impact on the County and is there any legal way to have the County to claim expenses for that. Commissioner Daniel stated that she does not think that the State allows for recouping our expenses based on a VDOT project. She stated that we have our own budget with VDOT and we are welcome to prioritize that money for Clarke County. She said that we have been promised additional State Police specifically on Route 7 and Route 340. She said that the Lieutenant of the State Police has made this pledge. She stated that the additional State Police will be on Route 7 and Route 340 east bound in the morning between Clarke and Warren and west bound in the afternoon.

She stated on the mountain where people thought the County line is not exactly where they thought it as. She said that the County Planning Directors and the County Administrators have come up with a new line that puts people where they thought they were. She said that the subdivisions were done so long ago and there was not a whole lot of concern at the time and the surveying equipment has gotten much better now. She stated that this has been in the works for a while. She stated that when everyone is satisfied with a final plan it will go through public hearings and all the proper procedures. She said that this is strictly the line between Clarke and Warren Counties.

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

No Report.

#### **Board of Zoning Appeals (Anne Caldwell)**

Commissioner Caldwell said that the Board of Zoning Appeals denied the variance that Crown Castle applied for. She said that it was discussed at some length at the Work Session meeting.

#### **Historic Preservation Commission (Doug Kruhm)**

Commissioner Kruhm stated that the Historic Preservation Commission approved a Certificate of Appropriateness for Edward Alex Lee at 24 Tannery Lane to construct a deck to a workshop. He said another Certificate of Appropriateness for Brian Legge at 140 White Post Road to build a garage in the front of his home and the request was denied. He said the applicant is now applying for another Certificate of Appropriateness for another area and a smaller garage.

#### **Conservation Easement Authority (George Ohrstrom, II)**

Chair Ohrstrom stated that there is a party this evening thanking everyone who has made donations to the Conservation Easement Authority and anyone else that wants to come is invited. He said we currently have several easements in the works. He said that Alison Teetor has sent out letters to land owners to see if they would be interested in putting their land in easement and we are getting a lot of responses. Commissioner Buckley said that they have closed on an easement on Wrights Mill Road which protects the Opequon.

### **Broadband Implementation Committee (Mary Daniel)**

Commissioner Daniel stated that the Committee has not met but we are looking at updating the Clarke Connect website. Commissioner Bouffault said she is looking at what other counties are doing. She said she was talking to Fauquier County and they are going with a company called Segra. She said she looked at the Segra website and they are all down the east coast and they lay dark fiber. She said that what she discovered is that have a dark line the full length of Route 7 in Clarke County. She stated that once it gets to the mountain in Bluemont it does not continue on Route 7 it drops down to go to Middleburg on two side roads. She said then it goes to Fauquier County and in this particular area a lot of people are well funded. She said she thinks the Broadband Implementation Committee she look into this as a way of improving some of our broadband in the Route 7 area. She stated that we should start looking at this to improve our broadband and possibly get grants for it.

Commissioner Daniel said that Tim Kaine was in Winchester on Wednesday and she was able to talk to him specifically about rural broadband. He was so optimistic and he said that everyone sees the problem and they are working on an omnibus infrastructure bill and it is their intention to include high speed internet.

### **Other Business**

Mr. Stidham said that this is the continued discussion of the Economic Strategic Plan 5 year review. He said that there two documents for this item and one is on yellow paper which is a revised draft of Staff's Resolution to initiate review of the Clarke County Economic Development Strategic Plan and this is the version that first came to the Commission in September and per our discussions at the Work Session meeting on Tuesday.

Chair Ohrstrom called for a motion.

The Commission voted to approve this Resolution.

**Yes:** Bouffault (moved), Buckley, Caldwell, Daniel, Glover, Kreider, Kruhm, Lee, Malone (seconded), Maynard and Ohrstrom

**No:** No one

The Commission voted to approve the 2nd amended resolution.

**Yes:** Bouffault (moved), Buckley, Caldwell, Daniel, Glover, Kreider, Kruhm, Lee, Malone, Maynard (seconded) and Ohrstrom

**No:** No one

Chair Ohrstrom asked if there is any discussion on this Resolution.

Commissioner Kreider stated that he is against this resolution and he feels this is in opposition to what we agreed to do when we reviewed the Comprehensive Plan we were not going to do ad hoc amendments in this form.

Commissioner Bouffault stated she believes this is up to the Board of Supervisors. She said that they have two resolutions and they can choose what they want.

Vice Chair Buckley stated that he does not want to discount the work of the Comprehensive Plan Committee for their work on this. He said that he is not satisfied that we are following our own procedure. He said he does not believe it is in our best interest to add what Commissioner Bouffault described as a band-aid to the Comprehensive Plan when it is our plan to review the entire Comprehensive Plan in the next few months. He said his plan is to vote no on this resolution.

Commissioner Caldwell stated that she has very significant and serious concerns about the entire process which has been followed here. She said that we have never received a formal letter from the Industrial Development Authority (IDA) or the Economic Development Advisory Committee (EDAC) approving this draft Strategic Plan and as far as she can determine the draft Strategic Plan was never actually discussed formally in an EDAC meeting or an IDA meeting. She said that contacting the members in an email about the draft plan does not constitute a formal meeting for approval of that draft plan. She said that is not the way things get done. She said the Commission itself has spent 2 months saying I am confused about the process and we have discussed the process and the details of what has gone on but we have never discussed the content of this draft Strategic Plan. She stated that to say that we as a Planning Commission want to forward this to the Board of Supervisors with our approval again is way outside the normal process of how things should go. She said she has very significant concerns that this is just not an appropriate process for getting this done. She said she thinks there are many other issues that need to be addressed and we need to follow the formal process. She said that she has had the good luck to run into a few people on the EDAC in the last few days and ask them about this. She stated that they said to me they have significant concerns about the process and the content of this draft Strategic Plan. She said that obviously there is no unanimous thinking on the EDAC about this draft Strategic Plan. She said it is needed to be discussed in an open meeting with all the members present before it is forwarded to us. She said she will vote no on this resolution.

Chair Ohrstrom stated that he has concerns about this. He stated that he would love to see a note in the file from the IDA and the EDAC on their stationary that they have agreed to this proposal and then are ready to forward it to us. Commissioner Bouffault asked Chair Ohrstrom if he does not consider Len Capelli's memo on behalf of the EDAC. Chair Ohrstrom stated that he saw the July minutes from the EDAC and it was not even mentioned in that document. Commissioner Bouffault stated that it was approved in May. Chair Ohrstrom said that he did not see the May minutes from the EDAC. Commissioner Bouffault suggested that she could amend it to say that we recommend the approval but we send it forward as per the original request without any recommendation at all. Chair Ohrstrom said we could do that but he does not see where that does much good for us. He said we could also table it until the EDAC gives us a piece of paper saying we approve this.

Commissioner Daniel said what we discussed was that the EDAC Director was not on his own to update the plan. She said that rather than trying to do anything in a bubble in this building there would be others included. She stated that she does not know that a memo in government from a Staff member is an official document. She said that the strength of Clarke County is that we plan and if we do not plan we lose our strength. She stated that this is an implementing component plan and everyone needs to be on the same level and she is not seeing that. She said one thing she would like to mention is that

Mr. Stidham goes through process and procedure and he makes sure it is in accordance with the requirements and he has thought it through.

Commissioner Bouffault stated that in the resolution she literally took the language in the minutes from the Board of Supervisors meeting. She said that she took it word for word.

Commissioner Buckley said he wants to reiterate that he is not comfortable that we have followed the proper procedure. He said that particularly since we have adopted a work plan and we have a goal of visiting the Comprehensive Plan. He said he believes in 20-20 and he is not confident in the fact that the EDAC has reached a conclusion given their minutes of September 18<sup>th</sup> or their draft minutes all there is are comments from the EDAC members in regards to the plan.

Commissioner Bouffault said you are saying that they never formally voted on it.

Commissioner Buckley said he does not think they have and he does not believe they have ever agreed or disagreed that they approved it.

Vice Chair Buckley said if it is appropriate I would like to call for the question.

Chair Ohrstrom called for a vote.

The Commission voted 10-opposed and 1-abstention against this Resolution.

**Yes:** No one

**No:** Buckley (moved), Caldwell, Daniel, Glover, Kreider (seconded), Kruhm, Lee, Malone, Maynard and Ohrstrom

**Abstain:** Bouffault

On motion by Commissioner Caldwell and seconded by Commissioner Kruhm the meeting was adjourned at 9:41 a.m.

---

George L. Ohrstrom, II

---

Debbie Bean, Recording Secretary