



Clarke County Planning Commission

MEETING MINUTES – Business Meeting

Friday, May 6, 2022 – 9:00AM

Berryville/Clarke County Government Center – Main Meeting Room

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

E – Denotes electronic participation

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 9:03AM.

1. Approval of Agenda

The Commission voted 9-0-1 to approve the agenda for May 6, 2022 as presented by Staff.

Motion to approve the May 6, 2022 Planning Commission Business Meeting agenda as presented by Staff:			
Ohrstrom (Chair)	AYE	Glover	AYE
Buckley (Vice-Chair)	AYE	Hunt	AYE
Bass	AYE	Kreider	AYE (Seconded)
Caldwell	AYE	Lee	AYE
Dunning	ABSENT	Malone	AYE (Moved)

2. Approval of Minutes

March 29, 2022 Work Session

The Commission voted 9-0-1 to approve the March 29, 2022 Work Session meeting minutes as presented by Staff.

Motion to approve the March 29, 2022 Planning Commission Work Session meeting minutes as presented by Staff:			
Ohrstrom (Chair)	AYE	Glover	AYE
Buckley (Vice-Chair)	AYE	Hunt	AYE
Bass	AYE	Kreider	AYE
Caldwell	AYE (Moved)	Lee	AYE
Dunning	ABSENT	Malone	AYE (Seconded)

April 1, 2022 Business Meeting

The Commission voted 9-0-1 to approve the April 1, 2022 Business Meeting minutes as presented by Staff.

Chair Ohrstrom asked for clarification regarding Solar Farm Regulations discussed under “Other Business” on page 10 of 17. He questioned Mr. Stidham’s statement about new siting agreement regulations in the Code of Virginia and asked for more information on the comment, “He explained that it is written broadly so that the county can almost accept cash proffers without the limitations on negotiating cash proffers.” Mr. Stidham explained that the siting agreement process is very similar to rezoning cash proffer negotiations except there are no limitations on how you can approach the applicant. Currently, he said, there are certain approaches to the applicant that are acceptable so as not to suggest an illegal proffer and cloud the review of the application. Chair Ohrstrom pointed out another line for clarification that reads, “if a payment deal with the solar company along with a siting agreement is accepted, it essentially deems the solar project to be in accord with that county’s comprehensive plan.” Mr. Stidham explained that the siting agreement negotiation process would be done parallel to but independent of the zoning review. He further explained that the legislation says if the siting agreement is accepted, it also deems the project to be in accord with the Comprehensive Plan and that the Board of Supervisors is the ultimate body to approve and accept the siting agreement. Additionally, he said that the application could not be turned down based on the grounds that it is not in accordance to the Comprehensive Plan, however, it can be denied on technical grounds. Chair Ohrstrom, Commissioner Malone, and Commissioner Lee agreed that it was confusing.

Motion to approve the April 1, 2022 Planning Commission Business Meeting minutes as presented by Staff:			
Ohrstrom (Chair)	AYE	Glover	AYE
Buckley (Vice-Chair)	AYE	Hunt	AYE
Bass	AYE	Kreider	AYE
Caldwell	AYE (Moved)	Lee	AYE
Dunning	ABSENT	Malone	AYE (Seconded)

Public Hearings

3. TA-22-01, Unpaid Taxes and Charges

Mr. Stidham presented the Staff Report on this text amendment. Chair Ohrstrom asked if this amendment would only include county liens and not contract liens and Mr. Stidham replied yes. There were no further questions or comments from the Commissioners and no one from the public was present to speak.

The Commission voted 9-0-1 to recommend adoption of TA-22-01, Unpaid Taxes and Charges as presented by Staff.

Moved to recommend adoption of text amendment <u>TA-22-01</u>, Unpaid Taxes and Charges as presented by Staff:			
Ohrstrom (Chair)	AYE	Glover	AYE
Buckley (Vice-Chair)	AYE (Seconded)	Hunt	AYE
Bass	AYE	Kreider	AYE (Moved)
Caldwell	AYE	Lee	AYE
Dunning	ABSENT	Malone	AYE

4. TA-22-02, Mergers and Dwelling Unit Right (DUR) Accounting

Mr. Stidham presented the Staff Report for this text amendment. There were no questions from the Commissioners and no one from the public attended the meeting.

The Commission voted 9-0-1 to recommend adoption of TA-22-02, Mergers and Dwelling Unit Right (DUR) Accounting as presented by Staff.

Moved to recommend adoption of <u>TA-22-02</u>, Mergers and Dwelling Unit Right (DUR) Accounting as presented by Staff:			
Ohrstrom (Chair)	AYE	Glover	AYE
Buckley (Vice-Chair)	AYE	Hunt	AYE
Bass	AYE	Kreider	AYE
Caldwell	AYE (Moved)	Lee	AYE (Seconded)
Dunning	ABSENT	Malone	AYE

5. Board and Committee Reports

Board of Supervisors (Matthew Bass)

Commissioner Bass announced that the Board of Supervisors adopted the budget. He said there were no major changes but there were expected increases to transient occupancy tax, cigarettes, and meals to take advantage of revenue sources that the state has permitted. He said that the overall picture is to keep things like real estate taxes down.

It was noted by Commissioner Bass that one issue discussed was regarding county-owned land called the Kohn Property. He said the property was purchased with the idea of walking trails for public use, however, the trails are close to adjacent properties which has neighbors concerned. He said it may need a special use permit but that he was not clear what will happen as there are various alternatives. Commissioner Hunt asked if it was a large property and Mr. Stidham replied that it was 40-50 acres. Chair Ohrstrom commented that there is a conservation easement on it and said it was donated with the idea that it would be a passive recreation area for County residents. Mr. Stidham added that once features for public use are involved, a special use permit and site plan are needed. Chair Ohrstrom asked if that was a conflict with the existing easement. Mr. Stidham replied that passive use elements were contemplated when the easement was done and that it was a matter of as new ideas come up to compare these against the deed of easement.

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

Nothing to report

Board of Zoning Appeals (Anne Caldwell)

Mr. Camp notified the Commission that the Legge case had a court hearing on April 20th and that the County won the argument. He said Mr. Legge has until Friday, January 13th to come into compliance and that he is working on a proposal to alter the garage to the proper setbacks or tear down the building. Commissioner Glover asked how far off the setbacks the garage is to which Mr. Camp replied that it was 14.1 feet encroaching into the setback off the highway. Mr. Stidham and Commissioner Bass said Mr. Legge could appeal the court's decision and Commissioner Caldwell asked where that would lead. Commissioner Bass replied the case would go to the State Court of Appeals. Chair Ohrstrom added that Mr. Legge would have 30 days to appeal. Mr. Camp confirmed and said that our attorney does not believe that will happen but that Mr. Legge does have that right within that period of time. Commissioner Glover asked how big the garage was to which Mr. Camp answered he was not sure of the exact measurements but that the garage was fairly large. Commissioner Caldwell commented that it was just a corner of the building that invades the setback requirement. Mr. Stidham commented that the part that has yet to be addressed is the fact that the building is also in violation of the approved design that was originally approved by the Historic Preservation Commission (HPC). He said Mr. Legge originally provided a surveyed site sketch and also architectural renderings that the HPC approved but the final outcome did not relay either.

Historic Preservation Commission – HPC (Bob Glover)

Commissioner Glover noted the last meeting was in March and that the annual HPC Award ceremony coming up in May.

Mr. Camp said the consultants continue to work on the Battle of Berryville and that they plan to address the HPC's comments at the end of May. He added that Ms. Kalbian continues to work on her book which is due in July.

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

Chair Ohrstrom said the CEA has been discussing a pending easement where the owners want to donate but also want to add a covered riding ring. He said CEA has one of the most lenient impervious surface per square foot calculations. He added that the Land Trust of Virginia has a 1% cap, the Virginia Outdoors Foundation has a 2% cap but is on a sliding scale and dependent on how big the property is, and that he thinks Piedmont Environmental Council (PEC) has a 2% cap. He said if the riding ring was added, it would be much more than 2%. He commented that while he is not certain what will be the outcome of this but noted the CEA does want this property under easement.

Commissioner Buckley commented the property discussed at the last meeting in the northwestern part of the county was moving forward.

Broadband Implementation Committee (Brandon Stidham)

Mr. Stidham said he believes all the boards of supervisors of the partnering counties have adopted their agreements. He said there were some concerns from Rappahannock County about their underserved areas map and also that they would not have a direct contractual arrangement with the vendor. Mr. Stidham believes they have worked through these issues and agreed to the project. He said the remaining tasks are now getting the agreement signed between the Regional Commission and All Points Broadband and also working everything out with the Department of Housing Community Development which is the agency

responsibility for ensuring the project forward. He said we should be hearing in the next month or so an announcement regarding timelines.

Other Business

6. Continued Discussion, 2022 Clarke County Comprehensive Plan (Final Draft)

Mr. Stidham said this was added to the agenda so as not to miss an opportunity to discuss the draft. He said it sounds like the Commission is interested in June 29th as the date for the special meeting for public hearing. Chair Ohrstrom thanked Staff and Committee for their hard work and encouraged the Commission to read it over the next month. Commissioner Glover said he wants to ensure nothing is missing from the document such as anything that might come in the next five-to-ten years that is not currently on the radar.

Commissioner Bass mentioned “Other Relevant Plans and Studies” on page 3-19 and asked if the Commission thought it was worth including a “Cost of Community Service Study.” Chair Ohrstrom noted the study was completed by an outside contractor and was not a county-generated document. He said he thought it would be a good addition and is relevant information but is not certain how quickly the data becomes outdated due to tax formulas and tax differences. Additionally, he said, he had no problem adding it as an informative study. Commissioner Bass said he had no strong feeling about it but thought he would mention it. Mr. Stidham said after thinking on it, he thinks it would be a good idea to include it. Commissioner Caldwell agreed. Chair Ohrstrom asked if the Commission needs to make a motion for the addition. Mr. Stidham said as this is still in draft mode and will hold a public hearing draft based on comments, edits, or additions. He said he would circulate the information via email to the Commission so everyone can review it.

Commissioner Glover noted public comments regarding the rapid growth in Clarke County and Berryville and asked if there was a map of the actual annexation or some information as to when it was approved that could be added. Commissioner Bass commented that there is some backstory information within the Berryville Area Plan. Chair Ohrstrom said at some point in the near future, the Berryville Area Plan will need to be reviewed again as growth is imminent but believes Berryville is close to being out of developable area. He added that he does not think this is technically part of the County Comprehensive Plan but it could be an add-on potentially. Mr. Stidham said it is not commonly understood how residential development can occur. He said it is very common that the developer go through a phased process to include a rezoning process, a subdivision plat review process, various phases are established, and then it sits for years until they have the capital to be able to put the next sections in place.

Commissioner Bass asked how often we have references to the Berryville Area Plan within the document. Mr. Stidham responded that there is a full description within chapter 3, the summary description within the introduction, and also within the goals and objectives. Commissioner Bass suggested adding some of the development maps. Mr. Stidham said the annexation map could be added, however, it is due to be updated. Commissioner Glover suggests using a simple map or paragraph explaining that the development was approved 20 years ago. Mr. Stidham noted an annexation area map on page 3-10 that could be replaced with the current Berryville Sub-Area Map. Commissioner Glover said anything to help the citizens better understand that it is not rapid development would be helpful. Vice-Chair Buckley, Commissioner Malone, and Chair Ohrstrom agreed. Chair Ohrstrom pointed out that the Berryville Area Plan is about to change so he is not certain it should be included at this point. Mr. Stidham said the plan description could be re-envisioned at the beginning to better explain that the plan is to put all of the high-density allowable

residential, commercial, business, park, and public services within the Town. He said some maps could be added to show the different subdivisions and when they came in but he is worried that it may clutter the document. Vice Chair Buckley suggested doing a Facebook or newspaper write-up. Commissioner Bass said he thought it could be a good idea to do a public service announcement in advance of the Public Hearing as various subdivisions are coming about. He suggested adding a sentence or short paragraph at the end of the first paragraph on page 3-7 in chapter 3 when addressing the Berryville Area Plan regarding the adoption of the plan and the annexation area and even a map. Mr. Stidham suggests replacing map 11 with the current Sub-Area Map. Commissioner Caldwell agreed with Mr. Stidham and Commissioner Bass that verbally emphasizing that Clarke County has not changed, the plans have been in the works for a long time, and it is simply a reflection of the economy. Mr. Stidham wanted to make it clear by saying Clarke County is unique from surrounding counties in that we are controlling where the growth takes place versus growth throughout the County. Chair Ohrstrom said this was part of the County's philosophy and that it even states as such in the Comprehensive Plan and other documents but it could be reiterated in a small paragraph or sentence in this section as well. Mr. Stidham said he would write a draft.

Mr. Camp provided a summary of his findings on "glamping." He said he was invited by Loudoun County to attend an upcoming pre-application meeting that he can better understand how they operate and do things. Separately, he said he and Mr. Stidham met with the owner of a proposed project which is in the early planning stages. The owner explained the idea is to have a number of houses on his property for corporate retreats and the owner also mentioned geo-domes and treehouses as well. Mr. Camp said the proposed project does not currently meet the County's criteria for a campground, however, he might be able to do this project as a country inn if designed as a single-family dwelling that had other single-family dwellings. Mr. Camp told the property owner that if there is anything proposed on the Clarke County side, that he will have to meet ordinance requirements. Chair Ohrstrom asked if the property had closed yet to which Mr. Camp responded that it had not. Chair Ohrstrom commented that if the project takes place in Loudoun County, it is fully up to them whether or not this goes through. He said if it the project takes place on the Clarke County side it would go through a special use process at a minimum and that Clarke cannot "block" Loudoun from approving it but we could certainly raise comments about it. He added that surrounding counties such as Fauquier would most likely have the same concerns as Clarke. Vice Chair Buckley asked about access to Loudoun from Clarke on Route 50 or Route 601 for this particular project. Mr. Camp responded that VDOT would have to approve that but that it was a rather steep on the Route 50 side. Vice Chair Buckley asked if Clarke has any control over the access to which Mr. Camp responded that it depends on where they are proposing improvements. Mr. Stidham commented that if any part of the access road is in Clarke, we would consider it part of that use which is not allowed. He added that the applicant was surprised to learn that the project had been revealed by Clarke residents as he had asked for the details to remain undisclosed since the project is in the early stages. Mr. Stidham said he and Mr. Camp also explained the traffic situation on Route 601 to the applicant as well. The applicant said he may return to Warren County for his proposed project.

Commissioner Caldwell remarked that this situation may prompt us to revisit our campground regulations. Mr. Stidham said that if the Commissioners are looking into campgrounds and other uses they may have concerns with, that an option is to remove it from the ordinance altogether. Chair Ohrstrom suggested that it may be time for the Policy Committee to rewrite a text amendment in such a way that it is considered allowable with acceptable regulations.

Adjournment:

The Commission unanimously voted to adjourn the May 6, 2022 Planning Commission Business Meeting at 10:02AM.



Randy Buckley (Vice-Chair)



Kristina Maddox (Clerk)