

MINUTES
PAGE COUNTY PLANNING COMMISSION
September 25, 2018

Members Present

Bernie Miller, District 1	Paul Otto, District 1
Donnie Middleton, District 2	Steve Atkins, District 2
James Turner, District 3	Keith Weakley, Vice Chairman, District 3
James Holsinger, Secretary, District 4	Duane Painter, District 4
Craig Lancto, District 5	Jonathan Comer, Chairman, District 5

Members Absent

None

Staff Present

Tracy Clatterbuck
Nathan Miller, County Attorney

Call to Order

Chairman Comer called the September 25, 2018, Page County Planning Commission work session to order in the Board of Supervisors Room at the Page County Government Center, 103 S Court Street, Luray, Virginia, at 7:00 pm. The call to order was followed by *The Pledge of Allegiance* and a *Moment of Silence*.

Adoption of Agenda

Mr. Otto made a motion to accept the agenda as presented. The motion was seconded by Mr. Holsinger. The motion passed unanimously.

Public Hearing

None

New Business

None

Unfinished Business

- A. **Whether Cape Solar, LLC and Dogwood Solar, LLC, solar projects are in substantial accord with the Page County Comprehensive Plan pursuant to § 15.2-2232 of the Code of Virginia, as amended.**
- Mr. Turner began by stating that these applications have become a high profile issue that has gathered a lot of attention, rightfully so, as it is a pretty intense use of land in Page County. There have been a lot of concerns, including environmental, property value, tourism impacts, etc., a lengthy list of concerns from citizens, which, in his opinion, are valid. In the end, he said, the impacts are really unknown. What he has tried to do, he said, is look at the facts. The applicants have done a pretty good job of presenting what they want to put here. As far as weighing the applications, that must be done in comparison to the Comprehensive Plan (Comp Plan or Plan) that has been adopted by Page County. The Comp Plan is a guiding tool of where we are, where we want to go, how we get there, and what we want to preserve and protect. Mr. Turner stated he had given a lot of consideration to this, and felt he has done due diligence on behalf of the county and the applicant. After serious review of the Comp Plan, he said that it was his opinion that the applications were not substantially in accord with the Comp Plan based on element after element that highlights relevant points to solar farms.

Mr. Weakley said that he wanted to go back to a conversation that had taken place a few weeks ago, mainly for clarification purposes for the citizens. The commission had begun to have discussions about how and whether these applications fit into the Comp Plan, about which he had emailed the commission his opinion. If you hadn't read those comments, he said, it would have appeared that his opinion was that the applications were in accordance with the plan but that is not what he had written. What he was looking for was the following: Is there anything in the Comp Plan that prohibits these types of applications, and the answer is no. Is the applications substantially in accord with the Comp Plan, and that is what the commission is determining now. The other part to this process is the definition of the word "temporary." We don't get to re-define words. Temporary means non-permanent. As the applications have been presented, this is a temporary use. A permanent use would be if this land was developed with houses, chicken houses, etc. There are mitigating factors to that definition, such as these facilities are eventually or generally sold to public utilities. Public utilities don't get taken down. They are permanent. The commissions charge is simply to look at the facts and disregard the emotions. We have to make fact based decisions.

Mr. Lancto began by stating that the Comp Plan does not speak to solar because solar wasn't a thing when the plan was adopted. The plan does say that we want to avoid "sprawl" and maintain the rural character. The proposed uses are not permanent, and the panels will not last any longer if a utility owns them or Urban Grid owns them. We have had citizens around these proposed locations say that if it were a housing development, that would be fine, but these (panels) are too tall. He said that a housing development would be twice as tall as the panels. We also know by-right they owners could have chicken houses or raise hogs, which he said he suspected the neighbors wouldn't feel any more kindly too. There has been a lot of passion related to these projects but it has been mostly from the people in the immediate vicinity, with the exception of the Shenandoah National Park (SNP). Mr. Lancto noted that one of the very first questions he asked which was how this project would affect viewsheds. Mr. Lancto stated he was convinced that these projects would not make a significant difference to the viewsheds. Although the people in the direct vicinity have been very vocal and organized, the people at his end of the county have not expressed reservations about the project. They have all been very much in favor of solar. Even if we have 100 people that are speaking against this, there are approximately 24,000 people in the county, and he doesn't think the commission should be persuaded by a small number of vocal people when there are so many others that might be affected as well.

Mr. Otto noted that he agreed with Mr. Weakley when he said once these projects are owned by a public utility, they will become permanent, and there will be nothing to preclude that utility from replacing panels as they become obsolete. It will be a continuing, ongoing, and perpetual facility. Beyond all that and the emotion, what bothers him most is that Page County is not ready for projects of this magnitude. These aren't panels that serve private residential needs. This is a utility scale project, which could be with us for a long time. We have never experienced projects such as these. We do not have any safeguards in place. We have heard what the applicant and public as said we can expect, but we really don't know what to expect. We have not commissioned any independent studies. We don't have an independent environmental study. We don't have an independent economic study. We only have what the applicant has provided us. We haven't studied the decommissioning plan. We need an independent study by experts to tell us what should be in the decommissioning plan so that the county is protected. There is a lot of information that we need that we don't have. One concern is will these projects cause other projects similar to this use, to begin popping up around the county. We have been told by the applicants that there won't be enough room on the transmission lines to support many projects like the proposed, but we don't have any proof of that. He reminded the commission that he specifically asked the applicants engineer and he was told that he could get that information but he hasn't received it yet. We need a lot more information to protect the county. In addition, there is a preponderance of evidence offered that these projects are not in substantial compliance with the Comp Plan. The applicant has suggested that there are areas in the Comp Plan that prove these

applications are substantially in accordance with the Comp Plan, and Mr. Otto stated in some of these cases he agreed, but the preponderance of goals and objectives compared to the proposed use, do not support the plan.

Mr. Lancto noted that in his opinion, the applicant had provided all documentation that the commission had requested, but Mr. Otto disagreed. Mr. Lancto pointed out that the land does remain under an agriculture use. Just because we approve a special use permit (SUP) for 75 years doesn't mean that it goes on and on. When it expires, it expires, and then there would be another decision about whether the use could continue. As far as Page County not being ready for these types of projects, he said he would not presume to speak for the county, but "we've never done it before" has never been a good reason not to allow progress. We do have an economic independent study that was provided to us. As far as the decommission plan, wasn't that approved by the state? Mr. Roger Bowers (applicant attorney) replied that the state has looked at the decommissioning plan as part of PBR submissions and have accepted that. It is not an express approval as it is a part of the application which shows they are committed to the removal of and means to dismantle the site to include security funding. Mr. Lancto also reminded the commission that as far as these facilities popping up all over the county, the commission would review those applications just as they are currently reviewing these.

Mr. Holsinger stated that it was his opinion that the plan allows for this type of use, as "temporary" is a relative term. Even if you put housing on this it would be far more permanent. There is a protective device, in the requirements of the SUP. This type of use is not by-right like a poultry house, confined feeding, etc. The plan itself does recognize the difficulty that we've seen but he feels it allows it as this appears to be temporary. A SUP runs with the land. He suggested the commission disregard the thought that once a public utility takes ownership of the projects that conditions will not have to be met. The conditions will apply whether the company or a public utility owns the project. Mr. Holsinger stated he agreed that they were not ready, but questioned who we should penalize for the county not being ready. The applicant?

Mr. Turner said they certainly didn't want to penalize the citizens of Page County, because that is what was important to him. If there is a will to put solar farms in the county, then the Comp Plan needs to be amended, and we need an ordinance wrote specifically to address the use.

Mr. Lancto said that he believed there was likely no expectation of other projects such as the proposed in the county; however, he had read Rockingham County's solar ordinance and their ordinance is less restrictive that the drafted conditions for these projects.

Mr. Turner stated it was not relevant right now, but Rockingham County is currently in litigation for approving a SUP that was not in accordance with their Comp Plan.

Mr. Lancto responded that he didn't feel that was a relevant discussion.

Mr. Otto noted that they are the commission, and along with the Board of Supervisors (BOS), they do speak for Page County. We need safeguards in place before we proceed with any projects like this. We need to modify the Comp Plan, and adopt an ordinance to regulate these types of projects. We need it before we go any further with these applications. We did not recruit the applicant. The applicant came to us.

Mr. Holsinger questioned if the county hadn't promoted development, and Mr. Otto replied they have not promoted this type of development. We will get on the band wagon when we are ready. We shouldn't let the applicant write the book for us.

Mr. Bernie Miller stated the only thing he seen as temporary was Urban Grid. We don't know how long they will be here. Everything he has heard from them, seems to be open ended. We don't know how long the

panels will actually last. They could last 40-50 years. The very first solar panel that was created 60 years ago is still operating today. There is nothing in their application packet that specifies when it will be decommissioned. Nothing can be confirmed that has been presented. Mr. Miller stated he felt the county, and potentially the landowners, could be hurt in this deal. It only takes one single broken panel to possibly contaminate the ground. Their decommissioning plan allow them to simply replace the panel and throw the broken one in the landfill. What happens to the soil? There is nothing here that protects the county, our future, or children's futures.

Mr. Weakley stated he had referenced one single panel leaking. What about the ones that are there now on residential property? He said. Should we put a moratorium on panel installation in the county? If one single panel can do that much damage (water concerns related to runoff, cancer, etc.), then the water should be properly disposed of as a hazardous waste. If they can blind pilots then they should all be draped. We should look at all solar panel installation based on Mr. Miller's concerns stated above. There are people opposed to this project who have solar panels on the roofs of their homes. They aren't worried about the rain water that is currently dripping off.

Mr. Miller stated he was simply trying to protect the county, soils, landfill, etc.

Mr. Lancto stated the Department of Environmental Quality (DEQ) has approved these projects. They have done, and will require, more studies than we have.

Mr. Painter stated he had been back and forth on these projects. What he has heard tonight is that we want to keep Page County growing, but Page County is not growing. What we have in our Comp Plan, will not support our budget. While he is for solar, there needs to be an ordinance over this type of use. He supports solar. There is a haze over the valley. You can't have panels out there without regulations. We are not ready for this. Where do we go from here? They recruited us but we recruited them as well. The EDA has recruited them. There is no mystery to why the fees were reduced so that we could possibly benefit from these projects. We can't do something that we will regret in 5-10 years because we've done that enough. He also felt that the family that owned the proposed Dogwood site, did a really good job of representing their land at the public hearing. It is consistent with what they've done with the dam in that area. There are a lot of positives here. We just can't move forward with the way it is now with no regulation. Since being on the commission, he has noticed that things draw out longer than what they need to. If we are going to do something, we need to do it right and timely, or we shouldn't do it at all. He asked how we get an ordinance put into place, if that is what is holding us back on getting these projects moved along.

Chairman Comer explained they did not have time to draft an ordinance, take it to public hearing, etc. before a recommendation is due to be sent to the BOS. Historically, they only act on things that the BOS request that they study.

Mr. Middleton noted he was born in Page County and had been here his whole life. He believes that if someone owns property they should be able to do what they want as long as it doesn't cause hardship to the life, health, and happiness of others. These projects will interfere with a lot of people's happiness and lifestyles. This will be a burden to our grandchildren and great-grandchildren.

Mr. Weakley said again the commission needed to look at the facts. There are panels in our county now. He stated there were probably people [at the hearing] who think he will be voting a certain way. He is very receptive to green energy. His first thought was what this will look like from the Skyline Drive. That this could be the precedent- setting situation has him concerned, and because of that, with no current regulation, he is not in favor of the projects.

Mr. Lancto stated he agreed that a precedent-setting is a concern but he didn't see why they wouldn't go forward with these projects, and then use the SUP conditions as the basis for considering an ordinance. He also felt that solar farms would have "minimal adverse effects" as the Comp Plan requires.

Mr. Otto made a motion that the Planning Commission recommend to the BOS that the applications are not substantially in accord with the Comp Plan, and that further applications for such utility scale solar facilities not be accepted until the Comp Plan has been modified to specifically address such facilities, an ordinance has been adopted to regulate the same, and that the BOS provide funding for professional assistance to facilitate and expedite the process.

Chairman Comer clarified that if the vote is yes, you are agreeing that these applications are not in compliance with the Comp Plan as Mr. Otto has stated. If you vote no, then you think the applications are in compliance with the Comp Plan.

Mr. Painter asked what kind of time frame Mr. Otto had in mind. Mr. Otto replied that it would depend on the professional assistance received. The motion was seconded by Mr. Bernie Miller. The motion passed by a roll call vote of 6-4 (Yes: Weakley, Middleton, Painter, Otto, Miller, and Turner. No: Holsinger, Atkins, Lancto, and Comer).

B. The application of Dogwood Solar, LLC for a special use permit

Mr. Turner made a motion to recommend to the BOS that the Dogwood Solar, LLC special use permit application be denied based on the fact that the request is not substantially in accord with the Comp Plan. The motion was seconded by Mr. Otto. The motion passed by a roll call vote of 6-4 (Yes: Weakley, Middleton, Painter, Otto, Miller, and Turner. No: Holsinger, Atkins, Lancto, and Comer).

C. The application of Cape Solar, LLC for a special use permit

Mr. Otto made a motion to recommend to the BOS that the Cape Solar, LLC special use permit application be denied based on the fact that the request is not substantially in accord with the Comp Plan. The motion was seconded by Mr. Bernie Miller. The motion passed by a roll call vote of 6-4 (Yes: Weakley, Middleton, Painter, Otto, Miller, and Turner. No: Holsinger, Atkins, Lancto, and Comer).

D. Comp Plan Committee Report

Mr. Otto stated the committee was still working on updates to the plan. They are waiting to schedule the next meeting until data is received from the GIS Department. Chairman Comer asked if the committee planned to address solar in the upcoming amendments. Mr. Otto stated that his personal opinion would be that once they get the go ahead from the BOS, they would immediately start working on a modification to the plan to specifically address these types of projects.

E. Subdivision Committee Report

No Report

Chairman's Report

Chairman Comer stated that the recommendations regarding the solar projects would be forwarded to the BOS for further review, possibly at one of their meetings in October. He thanked the commission for their hard work on this topic.

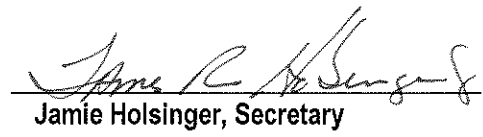
Clerk's Report

No Report

Adjourn

Chairman Comer adjourned the meeting at 7:58 pm


Jonathan Comer, Chairman


Jamie Holsinger, Secretary