

**King & Queen County
Planning Commission Minutes
January 6, 2020**

The King & Queen County Planning Commission met on Monday, January 6, 2020, at 6:00 p.m. in the King & Queen County Courts and Administrations Building in the General District Courtroom for their regular monthly meeting.

Planning Commission Members Present:

Sheila Morton	David Campbell
Milton Watkins	William Herrin
James Guess	James Burns
Robert Coleman, Jr.	Barbara Hudgins

Also in Attendance:

Donna E. Sprouse, Director of Community Development
Thomas J. Swartzwelder, County Attorney

Call to Order

Vice Chairman, Mr. Watkins called the meeting to order.

Roll Call/Determination of Quorum

Mr. Campbell took roll call and determined that a quorum was present.

Election of Officers for 2020

Mr. Watkins asked if there were any nominations for Secretary. Mrs. Hudgins nominated Mr. Campbell as Secretary, seconded by Mr. Burns.

Voting For: Watkins, Hudgins, Morton, Coleman, Herrin, Guess, Burns
Voting Against: None
Abstain: Campbell

Mr. Watkins asked if there were any nominations for Vice Chair. A nomination was made by Mrs. Hudgins to have Mr. Watkins serve as Vice-Chair, seconded by Mr. Coleman.

Voting For: Campbell, Hudgins, Morton, Coleman, Herrin, Guess, Burns
Voting Against: None
Abstain: Watkins

Mr. Watkins asked if there were any nominations for Chair. A nomination was made by Mrs. Hudgins to have Mr. Richardson serve as Chair, seconded by Mr. Guess.

Voting For: Campbell, Hudgins, Morton, Coleman, Herrin, Guess, Burns, Watkins
Voting Against: None

Abstain: None

**Approval of Minutes
December 2, 2019**

After review of the minutes, a motion was made by Mr. Burns to accept the minutes as written, seconded by Mr. Coleman.

Voting For: Watkins, Morton, Guess, Campbell, Hudgins, Coleman, Herrin, Burns

Voting Against: None

Abstain: None

Citizens Comment Period

Mr. Watkins opened the floor for citizens comment period. Hearing no comments, citizens comment period was closed.

New Business

E. CUP18-01 and SP18-04 – Open Road Renewables - Walnut Solar I, LLC *(public hearing – Continued from December 2, 2019)*

Milton Watkins stated that he will reconvene the public hearing for CUP18-01 and SP18-04, Open Road Renewables, Walnut Solar I, LLC. He asked Mrs. Sprouse to please read the request into the record.

Mrs. Sprouse noted that the applicant is requesting approval of a Conditional Use Permit (CUP18-01) and Level 3 Preliminary Site Plan (SP18-04) for a 110 MW utility scale solar energy facility. The subject properties are located south of Lewis B Puller Memorial Highway, north of Taylorsville Road, east of Pear Tree Avenue, and east of York River Road, consisting of approximately of 1,698 acres, in the Buena Vista Magisterial District, County Tax Map Numbers 1623-134R-650, 1623-134R-650D, 1623-134R-199, 1623-65L-222, 1623-134R-653, 1623-134R-637A, 1623-134R-637C, 1623-134R-653A, 1623-134R-637B, 1623-134R-637, 1623-134R-638, 1623-134R-639, 1623-134R-649, 1623-134R-649A1, 1623-134R-183C, 1623-134R-454, 1623-134L-454B, 1623-134R-649A, 1623-134R-637D.

Mrs. Sprouse said that public notice was provided to all adjacent property owners via certified return receipt mail. The public notice ran in the Tidewater Review and the Rappahannock Times for 2 consecutive weeks on November 13, 2009 and November 20, 2019. The public notice was also posted in the Country Courier in their November 13, 2019 publication.

Mrs. Sprouse reminded the Commission and noted for the benefit of the public that during the December Planning Commission meeting, the Commission held a public hearing for Walnut Solar I, LLC's Substantial in Accord Review and request for their site plan amendment waiver. She noted that during the December Planning Commission meeting, the Commission opened the public hearing for CUP18-01 and SP18-04 however before closing the hearing, decided to recess and reconvene tonight. Mrs. Sprouse also noted that the applicant and staff now agree on the proposed conditions as submitted should the Conditional Use Permit be approved.

Mr. Watkins noted that the applicant made their full presentation and power point during the December 2, 2019 meeting.

Mr. Chip Dicks, counsel for Walnut Solar I, LLC noted that if it was the pleasure of the Commission to hear from the public during public comment period, that he would like the opportunity to respond to comments made from the public.

Mr. Watkins asked if the Commission had any questions for the applicant or staff.

Mrs. Hudgins asked the applicant how much water they would need for the project because she was told at the last meeting that water would be trucked in, however Mr. Coleman was informed that a well would be installed for the proposed water tanks. She asked for clarification.

Mr. Rick Thomas with Timmons Group noted that the project would not need any water, however it may need water for dust control.

Mr. Patrick Buckley with Open Road Renewables stated that the 50,000-gallon tank may utilize a well, however the site location has not yet been determined and the details of such would be reflected in the final site plan.

Mrs. Hudgins stated that it stated in a letter provided by the Department of Health that all existing wells shall be abandoned and not used. She wanted to know if that requirement would be adhered to.

Mr. Chip Dicks noted that if the Health Department stated that the wells currently on site could not be used, they would adhere to that.

Mrs. Hudgins asked if the Commission could add a condition to limit the water usage so that it's not drawn from King & Queen when trucked in, other than to fill the tank for EMS.

Mr. Chip Dicks said that it would have to be something that his team would have to discuss further as they are not prepared to make a decision on the fly.

Hearing no further comments, Mr. Watkins opened the floor for public comment period.

Ms. Arlene Taliaferro who resides at 627 Taylorsville Road in the Buena Vista Magisterial District noted that Walnut Solar is not in accord with the Comp Plan for King & Queen County. She noted that businesses such as the Dollar General and Dragon Run Brewery are businesses that help create jobs and bring in revenue to the County. The residences pay their taxes and will have their rights infringed upon. She added that school buses transport our children on these highways. It is our civil liability to relax in our environment. Parcels 8, 9 and 10 were once a forest. This project is not an appropriate scale. The hours of construction is 7 to 7, 6 days a week. Please stand firm with your decision against this project.

Hearing no further comments, Mr. Watkins closed public comment.

Mr. Watkins asked if the Commission had any additional comments.

Mr. Burns stated that he would like to see that 60 days is added to page 13, C3 to have the work completed in 60 days once permitted. Mr. Swartzwelder stated that if time allows and if that was the only condition they would like to make a change to, he would suggest taking a recess so both he and Mr. Dicks could work on the language before the Commission takes action.

Mr. Watkins called for a 5 minute recess.

Mr. Watkins called the meeting back in session.

Mr. Chip Dicks noted that the last sentence on page 13, in condition C3 has been removed and they agreed to add that within 60 days after obtaining VDOT approval, the Operator shall repair the damage.

Mr. Watkins asked if there were any more questions. Hearing none, he asked if there was a motion.

A motion was made by Mrs. Hudgins noting the following:

"There are serious issues with this project."

If we start with the Comprehensive Plan, it states, an effective economic development program's primary goal is to encourage compatible, high-quality industries offering semi-skilled, skilled and professional job opportunities. New industries meeting these characteristics will provide year-round, full-time jobs with benefits and raise the standard of living in our community. There is no indication anyone from the county will be hired for this project in the short term, during construction; and it has already been established no one from the county will be hired for long-term maintenance or upkeep. Therefore, this project does not hold with our economic goals.

It will not provide enhanced property values, improved allocation of land uses and density, or a higher quality of life for the community's citizens; all components of Smart Growth as listed in the Comprehensive Plan.

This project is not sensitive to either our rural community or natural environment; and does not preserve or protect our forest, timber, agricultural, or prime farmland.

As mentioned at our December meeting, the scale of this project is excessive. To put it in perspective, William & Mary's campus is 1200 acres, Christopher Newport University is 260 acres, and VCU is 180 acres, excuse me, 150 acres. Added together, these three school campuses do not add up to overall project area of 1700 acres. Of course, the argument would be the project is not that big because there are 10 smaller fields ranging from 37 acres to 141 acres. For comparison, at about 6.1 million square feet, the largest field has approximately the same square footage found in all five floors of the Pentagon. The scale of this project is not a good fit for the county.

The type of solar panels to be used has not been addressed. Wells are the only source of water in the county, therefore the types of solar panels should be addressed to minimize the chance of contamination from toxic chemicals. While Telluride helps to stabilize Cadmium, it does not change the carcinogenic nature of the element, so Cadmium Telluride (or Cad Tel) panels should be limited or prohibited.

GenX technology is worse. The EPA recently announced plans to evaluate GenX chemical contamination. These chemicals are part of a large group of man-made substances, and animal studies have shown GenX chemicals adversely affect the liver, kidneys, thyroid, blood, immune system, as well as developing fetuses. Panels using GenX technology and/or chemicals should be prohibited, and there should be mandatory testing to ensure compliance. Chemical contamination is a substantial concern, not only at the site of the solar power plant, but also throughout the county if damaged panels end up in our landfill. In addition, due to the unknown dangers of emerging solar technologies, the applicant should only be permitted to use approved panel compositions, both now and going forward. This project is supposed to last at least 40 years, which means the panels will need to be replaced at some point. By creating a list of acceptable technology now, there will be some protection provided for residents and businesses when panels are replaced in the future.

The applicant has given no indication about water usage for this project. The 500 MW S-Power project in Spotsylvania County anticipates using about 100,000 gallons of water a day during construction. If this amount is scalable, we should expect the Walnut Solar project will use about 22,000 gallons of water a day. Consider this, a geology study done for the Spotsylvania project by GEO SEER concluded that their local aquifer was not robust enough to sustain industrial taps to supply water to a solar power site of their proposed magnitude. Without it being addressed in the conditions, we do not know how the Walnut Solar project will truly source water. Currently, we only have their word that they intend to truck in all water and not source any from the county. If this project is allowed to source county water, it is possible there will be significant impact to future development and water access. This must be addressed before proceeding.

Traffic congestion is another issue. The applicant has not provided a traffic projection with their revised application. Staff said they anticipate traffic, at a minimum, to increase by 13% on Route 33 and by 47% on Route 14 for the duration of construction. There are current problems identified in the Comprehensive Plan for three of the main intersections on Route 33 that will be impacted by this project:

- *At York River Rd at Sunnyside Market, they have safety deficiencies, the right turn is inadequate, and there are site issues because of the knoll in the median.*
- *At The Trail, Route 14 at Shacklefords Post Office. While there will be no large trucks from this project turning at the intersection, there will be construction crews turning right, just over a knoll, adding a new, potentially dangerous, dynamic of right turning traffic to the problems already present due to the large number of trash trucks navigating the intersection.*
- *At Buena Vista Rd, Route 14 at Shacklefords Forks has inadequate turn lanes from either direction and the intersection at a less than desirable angle.*

This list of current problems does not address two new issues. That being the impact of a new turn, next to Nicks, near the Centerville Rd intersection or new right and left turn entrances on Route 14, just a few hundred feet from the intersection at Shacklefords Forks. Traffic congestion will expand significantly, which will increase traffic hazards for everyone traveling through the lower part of the county.

Noise is also a concern. According to staff's conditions dated 12/23/2019, the OSHA standard for noise levels will be used so that construction or maintenance shall not exceed 85 db over an 8-hour weighted average. This is not the same as the maximum noise level being 85 decibels. This is also a different position than the applicant stated at the December meeting, when they said noise will be insignificant after construction is complete. One large contributor to the noise level will be pile driving. There is a significant difference between metal-on-metal pile driving and that which uses some type of noise dampener such as rubber caps. The sound from pile driving can and should be managed to ensure minimum impact to surrounding properties. There should also be concern for how this noise will affect pets and farm animals outside of the project area, because moving them during the term of construction may be a costly or impossible situation. Noise limits for family living environments should not be the same as OSHA's safety limits for heavy industrial work environments. This project is planned for a rural area, not an industrial one; and people on properties outside of the project area will not be afforded the same noise protection that the workers will be given. There is going to be excessive noise over an extended period. Based on what was included in staff conditions, significant noise should be expected during construction, and during maintenance. Not addressed in the conditions is the noise that will be associated with the necessary, large-scale replacement of panels at some point in the future.

And, of course, this commission has previously determined this project is not in accord with the Comprehensive Plan.

As the proposal stands, the applicant is basically asking us to give them a blank check, to do as they please, inside the project area.

This is a decision that will affect the county for more than 40 years and at this time we have not been presented enough information to reasonably ensure a positive outcome for the county.

For these reasons, I move that the Conditional Use Permit (CUP18-01) and Preliminary Site Plan (SPI8-04), requested by Walnut Solar I, LLC, the Applicant, along with the recommended conditions, be denied."

Mrs. Hudgins motion was seconded by Mr. Guess.

Mr. Watkins asked if there was any discussion.

Mr. Coleman noted that the applicant has gone through a large extent in working with staff and agreeing on a set of conditions, which are extensive. A lot of work has gone in the project to bring it before the Commission. The area along Rt 33 has been defined as an area to be developed and he feels that this project does have potential and he believes that the Commission should take a good look at the use of this land for a project of this nature.

Mr. Burns stated this area for the proposed project is outside of the Economic Development Corridor. This is the most densely populated part of the county and this project will be smack dab in the middle of it. No other part of the County has as many people per square mile as this area here. The size and the scope of this, yes they took out some but are basically saying that 110 MW is the same thing. That has been the biggest thing for him, the size of the project and its impact on wildlife. He added that he has talked with the applicant about habitat and what they plan to do and that they plan to address some additional things with the Board of Supervisors. Can this be done safely and economically and effectively, yes it can but at what cost to the citizens. The size, the scope, the noise, the traffic, yes it can be managed to make it work. The type of panels that will be utilized, he would like to know more about them. In the panels he has researched, the amount of metals is so small and insignificant that a tractor rotting in the field or in the woods puts more hazardous metals in the ground than solar panels do, however there are other materials that Mrs. Hudgins spoke about that he would like to look into as technology changes every day.

Mrs. Morton noted that she is still not convinced that if you remove all of the top soil that the land can be turned back to usable land for anything else. She read that in South Hampton County they had removed the top soils and they have not been able to do anything with that at this point. So she has concerns about that.

Hearing no further comments, Mr. Watkins asked Mr. Campbell to please take a roll call vote.

Voting For: Watkins, Morton, Guess, Campbell, Hudgins, Burns, Herrin

Voting Against: Coleman

Abstain: None

Staff's Comments

Mrs. Sprouse updated the Commission on Census 2020 and emphasized on the importance of participating and how it affects funding in many ways. She asked the Commission to share with their neighbors, church members, other organization groups the importance of participating.

Mrs. Sprouse also shared the VCU Rt. 33 Study with the Commission and thanked Ms. Taliaferro for her efforts in collecting the surveys to help provide results for the students to use within the study.

Commissioner's Comments

Mrs. Morton noted that she was glad to see that they are done with solar, for now.

Mr. Burns thanked everyone for their work. He noted that he has not heard the last of it. He has no idea what the Board of Supervisors will do. Mr. Burns thanked Mrs. Hudgins for her work and research, which he would like to get more information from her. He was pleased to work with the Commission and Mrs. Sprouse. Mr. Burns noted that Mr. Swartzwelder knows how he feels.

Mr. Coleman thanked the elected officers for their willingness to serve another year.

Mrs. Hudgins noted that she thinks that she has said enough tonight.

Mr. Campbell thanked the Commission of their confidence in him as secretary again this year. The Solar project is something to think about, just not in this area.

Mr. Herrin noted that Mrs. Sprouse and Mr. Swartzwelder did a lot of work in helping the Planning Commission make a sound decision. He will not call it a solar farm but an industry. He believes that a smaller scale could be considered.

Mr. Guess thanked Mrs. Sprouse for having to deal with this project and the developer for so long. He added that he was not sure how she felt about the project and their decision.

Adjournment

Mr. Watkins noted that the Commission will meet February 3, 2020 at 6 p.m.

There being no further business, a motion was made by Mr. Guess to adjourn the meeting, seconded by Mr. Burns. The meeting was adjourned by all present members stating "Aye".

Milton Watkins, Vice Chairman