

**King & Queen County
Planning Commission Minutes
April 1, 2013**

The King & Queen County Planning Commission met on Monday, April 1, 2013, at 6:00 p.m. in the King & Queen County Courts and Administrations Building in the Court Room for their regular monthly meeting.

Planning Commission Members Present:

John Roane
Milton Watkins
David Campbell
James Guess

William Herrin
Shelia Morton
Hunter Richardson

Also in Attendance:

Thomas J. Swartzwelder, County Attorney
Donna E. Sprouse, Assistant Zoning Administrator

Call to Order

Chairman, Mr. Richardson called the meeting to order.

Roll Call/Determination of Quorum

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

March 4, 2013 – Regular Meeting

After brief review of the minutes, a motion was made by Mr. Herrin to approve the minutes as written, second by Mr. Watkins.

Voting For: Watkins, Roane, Campbell, Herrin, Morton, Richardson, Guess

Voting Against: None

Abstain: None

Citizens Comment Period

Mr. Richardson opened the floor for public comment period, hearing no comments from the public, citizens comment period was closed.

New Business

No New Business

Unfinished Business

A. Aquaculture & Working Waterfronts – Draft Ordinance (Public Hearing)

Mr. Richardson opened the public hearing to hear zoning text amendment ZA13-01, Article 4, Permitted Uses, amending the proposed revised zoning ordinance and permitted use table to include Aquaculture Uses and ZA13-02, Chapter 6, Definitions, amending the proposed revised Chapter to include an Aquaculture definition. Mr. Richardson opened the floor for public comment, hearing none; Mr. Richardson closed the public hearing. Mr. Richardson asked the Commission if they had any comments or questions. Hearing no comments from the Commission, Mr. Herrin made a motion recommending the approval of ZA13-01 & ZA13-02 as presented, second by Mr. Watkins. Hearing no further comments, Mr. Richardson asked Mr. Campbell to take vote by roll call.

Voting For: Watkins, Roane, Campbell, Morton, Richardson, Herrin, Guess

Voting Against: None

Abstain: None

B. Dunes & Beach Ordinance – Open Discussion *(Tabled from their March meeting)*

Mr. Richardson stated that the discussion pertaining to the Dunes & Beach Ordinance was tabled from their last meeting. A motion was made by Mr. Roane to take the item off of the table for further discussion, second by Mrs. Morton. The vote was ratified by all present members stating “Aye”. Mr. Richardson noted that he has had the opportunity to speak with constituents in his district who own property on the York River. During his discussions with these property owners, two general views emerged. Two separate procedures (speaking of the Dunes and Beach Ordinance and the Wetlands Ordinance) provide an inefficient permit system when a property owner may have both dunes and tidal wetland impacts on the same property. Moreover, to what satisfaction does King & Queen County gain by managing a Dunes & Beach Ordinance and a Wetlands Ordinance if the state is equipped and now currently manages both for another locality (Chesapeake). Mr. Richardson asked if the Commission had any additional comments or questions.

Mr. Watkins stated that this is the third time that the Commission has heard this request and feels that the Commission has made the correct decision the first two times around. He noted that he has not heard anything to change his opinion.

Mr. Roane stated that after listening to staff during their comments at the last meeting, and feels that the Commission should continue with the way things are presently.

Mrs. Morton stated that she didn’t see where it was needed and we certainly do not need the expense at this time.

Mr. Richardson stated that he wanted to share something else that occurred to him during his conversations with the County Wetlands Board and staff. He noted our local Wetlands Board only deals with tidal wetlands. County staff and/or the Corp of Engineers address all other wetland projects or impacts in the County. Mr. Richardson stated that his constituents noted that it is odd that certain situations you may have to go to VMRC for the Dunes and Beach Ordinance and the King & Queen Wetlands Board for the tidal wetland project. Mr. Richardson noted that it is his understanding that the Wetlands Ordinance is not a state mandate that requires the locality to adopt just as the Dunes and Beach Ordinance. He noted that there is an expense to the tax payers for having adopted and manage the Wetlands Ordinance and wonders if it is needed at all. Mr. Richardson stated that if the County were to do away with the Wetlands Ordinance and dissolve the Wetlands Board, applicants will go to VMRC to get both their Dunes and Beach approval and their

wetlands permit in one place, at no cost to the County. He noted that when he spoke with Mr. James Kelly Tucker, Mr. Tucker noted that he had to go to VMRC for the Dunes & Beach Ordinance and to the Wetlands Board for the wetlands permit, when he could have obtained both while in Newport News before the VMRC Board.

Mr. Richardson stated that it seems that this Commission, once again, does not wish to recommend adoption of the Dunes & Beach Ordinance to the Board of Supervisors, he feels it is odd that we have a Board that assembles and meets to address matters through the adoption of one ordinance. Furthermore the State of Virginia does not require local adoption of this ordinance.

Mrs. Sprouse stated that her office received an email from Randy Owens with VMRC noting the number of localities that had or had not adopted the Dunes & Beach Ordinance and/or Wetlands Ordinance. She noted that she noticed that the City of Chesapeake repealed their Wetlands Ordinance. Mrs. Sprouse stated that she then contacted the City of Chesapeake and inquired why they repealed their Wetlands Ordinance. She noted that the City Chesapeake repealed their Wetlands Ordinance because of the expense and for budgeting purposes. In fact, they noted in their response that the adoption of such an ordinance is not a State mandate. Not only does VMRC handle all of their Dunes & Beach permitting, but now also their wetland permits.

Mrs. Sprouse noted that the current process for someone to appear before the local Wetlands Board requires that the complete application be submitted 45 days prior to the meeting date. The 45 days allow for time to visit the site by staff, VMRC and the Wetlands Board. It also allows staff time to review the Joint Permit Application (JPA), other necessary applications, prepare a power point presentation, notify required State agencies and adjoining property owners, and time to prepare the notice for the papers. Mr. Richardson asked Mrs. Sprouse if she knew how long it takes VMRC to hear an application. Mrs. Sprouse noted that she couldn't say for sure, however she does know that the state code says it must be heard within 60 days once a complete application is received. She also stated that in the email between Mr. Swartzwelder and Mr. Owens, pertaining to the City of Chesapeake, they had an application to be heard on their agenda for the upcoming meeting (they meet every month). Mrs. Sprouse added that there may be cases that the applicant will have to wait until the following monthly meeting but no case longer than 60 days according to code.

Mr. Richardson asked if VMRC is handling the City of Chesapeake's Dunes and Beach permitting and Wetlands permitting. Mrs. Sprouse replied that VMRC is handling both for the City of Chesapeake.

Mr. Richardson stated that he feels that both should be kept in the same location and if the Dunes and Beach permitting will be handled by VMRC, then it would be recommended that the tidal wetland permitting for the County be handled by VMRC.

Mr. Richardson asked, given this new information, what was the pleasure of the Commission. Mr. Herrin stated that it seems to him, and based on what he has heard, he feels that the Commission should recommend to the Board to get rid of the Wetlands Ordinance and Wetlands Board. He noted that this responsibility should be given back to VMRC. He imagines that there will be some push back from folks who have been before the Wetlands Board and they may be upset driving to Newport News to obtain their permits.

Mr. Richardson said if the Commission feels that there is no need for additional information, now is the time to place a motion on the table for consideration. Mr. Herrin stated that he has all of the information that he needs. Mr. Guess stated that until this becomes a state requirement, he sees no need in the County managing tidal wetland permitting. Mr. Richardson asked Mr. Herrin if his comments were in the form of a motion. Mr. Herrin made a motion to recommend to the Board of Supervisors that they repeal the Wetlands Ordinance and the Wetlands Board. Mr. Guess second Mr. Herrin's motion. Mr. Richardson asked if there was any further discussion on the motion.

Mr. Richardson asked Mrs. Sprouse if it was true that the applications that have come before Wetlands Board up to this point been denied. Mrs. Sprouse asked Mr. Richardson to take a look at the email in their packet that outlines the past permits that went before our local Wetlands Board (according to Mr. Owens) and the permits that also received VMRC approval. She used Mr. Hild owner of Anderson's Neck on the York River as an example. She noted that his VMRC permit was approved in Newport News by VMRC for his oyster operation. Mr. Richardson stated that in Mr. Hild's case, he needed VMRC approval for his oyster operation. He then could be required to go before the County Wetlands Board should he wish to make improvements to his riverbank.

Mr. Richardson reminded the Commission that they had a case not too long ago where Mr. Tuthill was denied his Chesapeake Bay Exception to have his patio pavers and walkway in the RPA. Mr. Tuthill was required to have the impervious cover removed. However, the Wetlands Board allowed Mr. Tuthill to keep his enclosed shed on his pier over the area of their wetland jurisdiction, actually in an area of joint jurisdiction (RPA buffer). Mr. Richardson said that here we have the Planning Commission requiring this property owner to remove his patio and walkways and the Wetlands Board allowed him to keep his enclosed shed on his pier up by the riverbank. Mr. Richardson noted that in a case like that, there were two King & Queen bodies that made two very different decisions and he noted that was an odd way for the County to operate.

Mr. Richardson asked for a roll call vote on the motion and second that is on the floor.

Voting For: Watkins, Roane, Campbell, Morton, Herrin, Guess, Richardson

Voting Against: None

Abstain: None

Mr. Swartzwelder said that the Commission and then the Board of Supervisors will have to hold a public hearing to repeal an ordinance. Mr. Swartzwelder stated that the State agencies have handed us one too many unfunded mandates.

Staff's Comments

Mrs. Sprouse informed the Commission that they will return to working on the Comprehensive Plan. She asked the Commission members to please bring their workbooks with them during the upcoming meetings.

Mrs. Sprouse informed the Commission of what has been brought to her attention pertaining to conservation easements placed by Virginia Outdoors Foundation. She noted that there are several properties proposed to be placed in conservation easement that are located within an existing major subdivision zoned Agriculture. She also noted that there is another parcel that is tied to a business license to operate a land clearing/trucking business from the property. Mrs. Sprouse questioned what development rights are these property owners giving up. She noted that with some easements, you may be able to build a home and operate a business. Then when these properties are placed in conservation easements, the property owner obtains a 40% real estate tax reduction and a state tax deduction. Mrs. Sprouse asked what does this do to the county's revenue. With that said she asked the Commission to think about where we would not want conservation easements in the County so it may be included in the updated Comprehensive Plan.

Mrs. Sprouse also noted that during the Board of Supervisors next meeting, the Board will hold a public hearing for the zoning text amendments that the Planning Commission recommended back in 2011.

Commissioner's Comments

Mr. Richardson stated that he was informed that Mrs. Harvey has resigned her post on the Commission and would like to recognize her and thank her for her time on the Commission.

Adjournment

A motion was made by Mr. Watkins, seconded by Mr. Guess to adjourn the meeting. There being no further business the meeting was adjourned.

Hunter Richardson, Chairman