

Regular Meeting, Wednesday, June 27, 2018, 7:00 p.m. Government Center, Verona, VA.

PRESENT: Gerald W. Garber, Chairman  
Carolyn S. Bragg-Vice Chairman  
Terry L. Kelley, Jr.  
Michael L. Shull  
Wendell L. Coleman  
Marshall W. Pattie  
Pam L. Carter  
Timothy K. Fitzgerald, County Administrator  
Jennifer M. Whetzel, Deputy County Administrator  
John Wilkinson, Director of Community Development  
Angie Michael, Executive Assistant

ABSENT: James R. Benkahla, County Attorney

VIRGINIA: At a regular meeting of the Augusta County Board of Supervisors held on Wednesday, June 27, 2018, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 242<sup>nd</sup> year of the Commonwealth....

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Chairman Garber welcomed the citizens present.

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Michael Shull led the Board of Supervisors in the Pledge of Allegiance.

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Michael Shull, Supervisor for the Riverheads District, delivered the invocation.

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AUGUSTA COUNTY CODE SECTION 25-303H -- AMENDMENT

This being the day and time advertised to consider an ordinance to amend Section 25-303H of the Augusta County Code to clarify that no more than one (1) floor of apartments may be added above a business, and add that additional floors may be permitted only by a Special Use Permit approved by the Board of Supervisors. The Planning Commission recommends approval.

**SECTION 25-303H OF THE  
AUGUSTA COUNTY CODE**

WHEREAS, the Augusta County Board of Supervisors has determined that additional conditions for apartments not on the ground floor in General Business districts should be added to allow for more than one floor of apartments above a business by a Special Use Permit by the Board of Supervisors.

NOW THEREFORE be it resolved by the Board of Supervisors for Augusta County that § 25-303H of the Augusta County Code is amended to read as follows:

**§ 25-303 Uses permitted by Administrative Permit.**

H. Apartments not on the ground floor.



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**AUGUSTA COUNTY CODE – CHAPTER 25 DIVISION A – AMENDMENT (CONT'D)**

land area, through a Special Use Permit in General Agriculture, General Business, and General Industrial zoning districts; and

WHEREAS, the Augusta County Board of Supervisors has deemed it desirable to permit solar energy systems, operating as a principal land use and occupying **one half acre or more** of total land area, through a Special Use Permit in General Agriculture and General Business zoning districts, **and not** in the General Industrial zoning districts.

WHEREAS, such reasonable provisions are set forth to promote and protect the public health, safety, and welfare of the community while promoting development of renewable energy resources.

NOW THEREFORE be it resolved by the Board of Supervisors for Augusta County that Division A of Chapter 25 of the Augusta County Code is amended to add Article VI.D. Solar energy system and read as follows:

**ARTICLE VI.D. Solar energy systems.**

**§ 25-70. Purpose**

**§ 25-70.1 Definitions.**

**§ 25-70.2 Applicability**

**§ 25-70.3 Use of Consultant**

**§ 25-70.3 Uses permitted by Special Use Permit by the Board of Zoning Appeals.**

**§ 25-70.4 Uses permitted by Special Use Permit by the Board of Supervisors.**

**§ 25-70.5 Applications and Procedures**

**§ 25-70.6 Location, Appearance and Operation of a Project Site**

**§ 25-70.7 Safety and Construction**

**§ 25-70.8 Decommissioning**

**§ 25-70.9 Bonding**

**§ 25-70. Purpose**

The purpose of this ordinance is to provide for the siting, development and decommissioning of solar energy systems, as a principal land use in Augusta County, subject to reasonable conditions that promote and protect the public health, safety and welfare of the community while promoting development of renewable energy resources. §

**25-70.1 Definitions.**

Applicant means the owner or operator who submits an application to the locality for a permit to install a solar energy system under this ordinance.

Disturbance Zone means the area within the site directly impacted by construction and operation of the solar energy project.

Integrated PV means photovoltaics incorporated into building materials, such as shingles.

Landowner means the person who owns all or a portion of the real property on which a solar energy project is constructed.

Non-participating landowner means a person who owns real property that may be affected by a solar energy project and is not under lease or other property agreement with the owner or operator of the solar energy system.

Operator means the person responsible for the overall operation and management of a solar energy system.

Owner means the person who owns all or a portion of a solar energy system.

Photovoltaic or PV means materials and devices that absorb sunlight and convert it directly into electricity by semiconductors.

Rated capacity means the maximum capacity of a solar energy project based on the sum total of each photovoltaic system's nameplate capacity.

Site means the area containing a solar energy system.

Small solar energy system. An energy conversion system, operating as a principal land use, consisting of photovoltaic panels, support structures, and associated control, conversion, and transmission hardware occupying less than one-half acre of total land area.

Large solar energy system. An energy conversion system, operating as a principal land use, consisting of photovoltaic panels, support structures, and associated control, conversion, and transmission hardware occupying one-half acre or more of total land area. Also known as solar energy arrays or solar energy farms.

**§ 25-70.2 Applicability**

This ordinance applies to all solar energy systems, operating as principal land uses, proposed to be constructed after the effective date of this ordinance. Solar energy systems constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance.

**§25-70.3. Use of consultant.**

The County reserves the right to employ the services of an energy consultant to review all applications. All applicable costs will be the responsibility of the applicant. The recommendations of the consultant will be considered by the Board of Supervisors in making their decision as to whether or not to issue a Special Use Permit for a solar energy system.

**§ 25-70.3 Uses permitted by Special Use Permit by the Board of Zoning Appeals.**

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### AUGUSTA COUNTY CODE – CHAPTER 25 DIVISION A – AMENDMENT (CONT'D)

The uses listed in this section shall be permitted within the General Agriculture, General Business, and General Industrial zoning districts only upon the issuance of a Special Use Permit by the Board of Zoning Appeals pursuant to the provisions of ARTICLE LVIII of this chapter.

A. General standards applicable to all Special Use Permits. No Special Use Permit shall be issued without consideration that, in addition to conformity with any standards set forth in this chapter for Special Use Permit uses, the following general standards will be met either by the proposal made in the application or by the proposal as modified or amended and made part of the Special Use Permit:

1. Conformity with Comprehensive Plan and policies. The proposal as submitted or as modified shall conform to the Comprehensive Plan of the county or to specific elements of such plan, and to official policies adopted in relation thereto, including the purposes of this chapter.
2. Impact on neighborhood. The proposal as submitted or as modified shall not have undue adverse impact on the surrounding neighborhood.
3. Small solar energy systems shall be permitted in General Agriculture (GA), General Business (GB), and General Industrial (GI) zoning districts subject to compliance with this article.

B. Standards applicable to small solar energy systems.

1. Setbacks. All equipment and accessory structures associated with the small solar energy system shall be setback twenty five (25') feet from side and rear property lines and fifty (50') feet from the right of way of any public or private street, **unless the Board of Zoning Appeals determines that a greater setback would more adequately protect adjoining land uses.**

Setback areas shall be kept free of all structures and parking lots.

- a. Setbacks shall not be required along property lines adjacent to other parcels which are part of the solar energy system; however, should properties be removed from the system, setbacks must be installed along all property lines of those properties remaining within the project and which are adjacent to a parcel which has been removed.
2. Ground-mounted systems shall not exceed fifteen (15) feet in height when oriented at maximum tilt.
3. Site control. The applicant shall submit documentation of the legal right to install and use the proposed system at the time of application.
4. Solar energy systems shall meet or exceed all applicable federal and state standards and regulations.
5. Signs. No signs or advertising of any type may be placed on the small solar energy system unless required by any state or federal agency.
6. The applicant shall submit documentation that the design of any buildings and structures associated with or part of the solar energy system complies with applicable sections of the Virginia Uniform Statewide Building Code (USBC) (13VAC5-63). This requirement includes all electrical components of the solar energy system.
7. Any glare generated by the system must be mitigated or directed away from an adjoining property or from any road when it creates a nuisance or safety hazard.
8. The parcel shall have frontage on a state maintained road or the expected traffic on a legal right of way can be accommodated by the intersection with the state maintained road per approval by the Virginia Department of Transportation.

#### **§ 25-70.4 Uses permitted by Special Use Permit by the Board of Supervisors**

The uses listed in this section shall be permitted within the General Agriculture and General Business zoning districts, **and not** in the General Industrial zoning districts, only upon the issuance of a Special Use Permit by the Board of Supervisors pursuant to the provisions of ARTICLE LVIII of this chapter. A. General standards applicable to all Special Use Permits.

No Special Use Permit shall be issued without consideration that, in addition to conformity with any standards set forth in this chapter for Special Use Permit uses, the following general

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## AUGUSTA COUNTY CODE – CHAPTER 25 DIVISION A – AMENDMENT (CONT'D)

standards will be met either by the proposal made in the application or by the proposal as modified or amended and made part of the Special Use Permit:

1. Conformity with Comprehensive Plan and policies. The proposal as submitted or as modified shall conform to the Comprehensive Plan of the county or to specific elements of such plan, and to official policies adopted in relation thereto, including the purposes of this chapter.
2. Impact on neighborhood. The proposal as submitted or as modified shall not have undue adverse impact on the surrounding neighborhood.

**B. Large Solar Energy Systems** shall be permitted by a Special Use Permit provided that:

1. The primary use of the system is electrical generation to be sold to the wholesale electricity markets and not used primarily for the onsite consumption of energy by a dwelling or commercial building.

### **§ 25-70.5 Applications and Procedures**

In addition to the requirements of article LXVII, “Site Plan Review”, and article LVIII, “Special Use Permits Procedures”, applications for a large solar energy system shall include the following information:

#### **A. Community Meeting**

Prior to submittal of an application, the applicant shall hold a meeting to inform the community about the planned solar energy system installation. Said meeting shall be open to the public. Notice of the date, time, and location of the meeting, as well as a contact name and phone number of the project representative and a summary of the request, shall be delivered by first class mail to all property owners as noted in the Augusta County tax records within one (1) mile of the perimeter of the project. Such notice shall be mailed so as to be delivered at least five (5) and no more than twenty-one (21) working days prior to the community meeting. Upon conclusion of the community meeting, a mailing list of property owners notified, a sign-in sheet from the meeting, an agenda from the meetings, and a written summary of the meeting shall be included with the application.

#### **B. Project description**

A narrative identifying the applicant and describing the proposed solar energy system, including an overview of the project and its location; approximate rated capacity of the solar energy system; the approximate number, representative types and expected footprint of solar equipment to be constructed; and a description of ancillary facilities, if applicable.

#### **C. Submission of a Cost Benefit Analysis**

An assessment of the impact on the immediate vicinity of the proposed solar energy system as well the greater Augusta County community shall be submitted by a professional. D. **Site plan.**

The site plan shall conform to the preparation and submittal requirements of article LXVII, “Site Plan Review,” including supplemental plans and submissions, and shall include the following information:

1. Property lines and setback lines.
2. Existing and proposed buildings and structures, including location(s) of the proposed solar equipment.
3. Existing and proposed access roads, drives, turnout locations, and parking.
4. Location of substations, electrical cabling from the solar systems to the substations, accessory equipment, buildings, and structures, including those within any applicable setbacks.
5. Additional information may be required, as determined by the Zoning Administrator, such as a scaled elevation view and other supporting drawings, photographs of the proposed site, photo or other realistic simulations or modeling of the proposed solar energy project from potentially sensitive locations as deemed necessary by the Zoning Administrator to assess the visual impact of the project, landscaping and screening plan, coverage map, and additional information that may be necessary for a technical review of the proposal.
6. Documentation shall include proof of control over the land or possession of the right to use the land in the manner requested. The applicant may redact sensitive financial or confidential information.
7. The application shall include a decommissioning plan and other documents required by Section 25-70.8 of this ordinance.

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8. The applicant shall provide proof of adequate liability insurance for a large solar energy system at the time of application.

**§ 25-70.6 Location, Appearance and Operation of a Project Site**

**A. Visual impacts**

The applicant shall demonstrate through project siting and proposed mitigation, if necessary, that the solar project minimizes impacts on the visual character of a scenic landscape, vista, or scenic corridor.

- B. Ground-mounted systems shall not exceed fifteen (15) feet in height when oriented at maximum tilt.

**C. Signage.**

Warning signage shall be placed on solar equipment to the extent appropriate. Solar equipment shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy project. All signs, flags, streamers or similar items, both temporary and permanent, are prohibited on solar equipment except as follows: (a) manufacturer's or installer's identification; (b) appropriate warning signs and placards; (c) signs that may be required by a state or federal agency; and (d) signs that provide a 24-hour emergency contact phone number. D. Noise.

Audible sound from a solar energy system shall not exceed 60 dBA (A-weighted decibels), as measured at any adjacent non-participating landowner's property line. The level, however, may be exceeded during short-term exceptional circumstances, such as severe weather.

**E. Setbacks.**

All equipment, accessory structures and operations associated with a large solar energy system shall be setback at least two-hundred feet (200') from all property lines and at least one thousand feet (1,000') from any residentially zoned properties; **unless the Board of Supervisors is satisfied that different setbacks are adequate to protect neighboring properties.**

1. Setbacks shall be kept free of all structures and parking lots.
2. Setbacks shall not be required along property lines adjacent to other parcels which are part of the solar energy system; however, should properties be removed from the system, setbacks must be installed along all property lines of those properties remaining within the project and which are adjacent to a parcel which has been removed.

**F. Ocular impact study.**

An ocular impact study shall be performed for airports within five miles of the project site, for public roads within sight of the system, and from scenic highways and overlooks. The analysis shall be performed using FAA Solar Glare Hazard Analysis Tool (SGHAT) to demonstrate compliance with FAA standards for measuring ocular impact.

**G. Buffering.**

A buffer yard shall be provided and maintained adjacent to any property line, except those property lines interior to the solar energy system, and landscaped in one (1) of two (2) ways. If a property ceases being used for the solar energy system, buffering will be required along all property lines adjacent to the property which has been removed. Alternative 1: A ten foot (10') wide strip of land with a six foot (6') opaque privacy fence, wall, berm or combination thereof. Opaque privacy fences shall be construction of good quality materials such as vinyl, pressure treated lumber, brick, stone, or similar materials approved by the Zoning Administrator. For the purposes of this chapter tarps, car covers tents, fabric, chain link fences with slats, or similar materials shall not be deemed to satisfy the requirements of opaque fencing.

Alternative 2: A twenty foot (20') wide strip of land with 2 evergreen trees, 2 canopy trees, 2 understory trees and 24 shrubs planted per fifty linear feet (50') of buffer. The trees shall be a minimum of six feet (6') at the time of planting and the shrubs shall be a minimum of eighteen inches (18'') at the time of planting.

- A. The applicant is free to choose from Alternatives 1 or 2. Buffers planted below overhead utility lines shall apply any of the allowed buffer alternatives, except that understory trees shall replace any canopy trees at a rate of two (2) understory trees per required canopy tree.
- B. Plant and structure location within buffer. The placement of required plants and structures shall be the decision of the applicant; however, they shall be located so as to achieve the maximum level of protection. Plant material shall meet the buffer requirements every fifty feet (50'). Buffer areas not retained in native habitat shall be seeded or sodded with lawn and maintained at a height of no more than 15 inches, established with ground cover, or mulched with organic mulch. Inorganic ground cover shall not exceed fifty percent (50%) of the total required area of the buffer.

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- C. Where a fence or wall is used as part of a buffer, the decorative side of the fence or wall shall be faced to the adjacent property.
- D. Permitted structures in buffer area.
1. Where walls are placed within any required buffer area:
    - a. No walls of exposed concrete block are permitted, whether painted or not.
    - b. The applicant shall be required to demonstrate provisions for access and maintenance of landscaping and the wall structure at the time of site plan approval.
    - c. Breaks in the wall may be provided for pedestrian and vehicular connections to adjacent developments.
  2. Where berms are placed within any required buffer area:
    - a. A berm or combination of materials such as a berm and a fence shall be a minimum six feet (6') in height.
    - b. Berms shall have slopes of not less than three feet (3') horizontal for each one foot (1') vertical.
    - c. Slopes in excess of three feet (3') horizontal for each one foot (1') vertical may be permitted if sufficient erosion control methods are taken and deemed by the Zoning Administrator to be maintainable.
  3. Where opaque privacy fences are placed within any required buffer area:
    - a. No reduction in buffer width shall be provided based on the provision of a chain-link fence.
    - b. Fences shall be a minimum of six feet (6') in height unless paired with a berm and in such case the combination of berm and fence shall be a minimum of six feet (6') in height.
    - c. Breaks in the fence may be provided for pedestrian and vehicular connections to adjacent developments.
    - d. Fences shall be maintained in a structurally safe and attractive condition and with finished faces located towards the adjacent property.
- E. Permitted use of buffer area. A buffer area shall not be used for anything except:
1. Passive recreation and picnic facilities, including pedestrian and bike trails.
  2. Other appurtenances which require high visibility and easy access, such as fire hydrants and utilities, public and emergency telephones, mail boxes, and bus shelters, or benches, are also permitted in a buffer. No screening of such appurtenances shall be required or permitted.
  3. Access ways when necessary to provide access to adjacent properties.
  4. A required buffer is encouraged to retain areas of native habitat and may incorporate water resources including stormwater management facilities. However, the minimum width of the buffer shall be preserved as a planting area and there shall be no reduction in buffer width based on the stormwater management facilities.
- F. Alternative compliance. The buffer requirements may be modified by the Board of Supervisors upon a finding that a modification would be consistent with the purpose of this ordinance, this section, and the adopted plans and policies of the county; that such modification would not adversely affect the land use compatibility or public interest; and that the subject parcel or modified buffer complies with one (1) or more of the following criteria:
1. The buffer is parallel and adjacent to an existing utility or drainage easement of at least one hundred feet (100') in width.
  2. The buffer is between uses that are to be developed under a common development plan or series of development plans.
  3. The buffer is parallel and adjacent to an existing railroad right-of-way;

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4. The topography of the parcel is such that buffering would not be effective;
5. The property is adjacent to an established industrial use;
6. There is existing vegetation either on this lot or the adjacent lot to provide the required buffer benefits.

Financial hardship due to meeting the requirements of this section shall not be sufficient justification for alternative compliance.

- G. Site Plan. Landscaping of buffer yards shall be shown on the site plan in accordance with the standards in Division J ARTICLE LXVII “Site Plan Review” and shall be provided and maintained in accordance with sound horticultural practices.

H. Fencing.

All property containing panels must be enclosed with chain link fencing seven feet (7') tall, topped with barbed wire, and secured with gates.

**§ 25-70.7 Safety and Construction**

A. Design

The applicant shall submit documentation that the design of any buildings and structures associated with or part of the solar energy project complies with applicable sections of the Virginia Uniform Statewide Building Code (USBC) (13VAC5-63). This requirement includes all electrical components of the solar energy project.

B. Construction and installation

In the construction and installation of a large solar energy system, the owner or operator shall install all electrical wires associated with the large solar energy system underground unless the applicant can demonstrate the necessity for aboveground installations as determined by the Board of Supervisors.

C. Ground water monitoring

Ground water monitoring to assess the level of groundwater contamination shall take place prior to and upon completion of construction of the project throughout the area of the solar energy system. Ground water monitoring shall take place every five (5) years of the operation of the project, and upon completion of decommissioning. Results from said monitoring shall be delivered to the Virginia Department of Health, Augusta County Department of Community Development and the Augusta County Service Authority. **Any adverse impacts identified will be mitigated by the owner of the solar energy facility to the property owner’s satisfaction.**

D. Traffic Impact Statement and/or Analysis (TIA)

As part of the project application, the applicant shall submit a traffic impact statement. If required by the Virginia Department of Transportation, the applicant shall submit a Traffic Impact Analysis found to be in compliance with the requirements of Chapter 527 (24VAC30-155).

**§ 25-70.8 Decommissioning**

A. Decommissioning plan

As part of the project application, the applicant shall submit a decommissioning plan, which shall include the following: (1) the anticipated life of the project; (2) the estimated decommissioning cost in current dollars; (3) how said estimate was determined; (4) the method of ensuring that funds will be available for decommissioning and restoration; (5) the method that the decommissioning cost will be kept current; and (6) the manner in which the project will be decommissioned and the site restored.

B. Discontinuation or Abandonment of Project

1. Thirty (30) days prior to such time that a large solar energy system is scheduled to be abandoned or discontinued, the owner or operator shall notify the Director of Community Development by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Any solar project that has been inoperable or unutilized for a period of 12 consecutive months shall be deemed abandoned and subject to the requirements of this section.
2. Within 365 days of the date of abandonment or discontinuation, the owner or operator shall complete the physical removal of the solar energy project and site restoration. This period may be extended at the request of the owner or operator, upon approval of the Board of Supervisors.
3. Decommissioning of discontinued or abandoned large solar energy systems shall include the following:
  - a) Physical removal of all solar energy equipment and above-ground appurtenant structures from the subject property including, but not limited to, buildings, machinery, equipment, cabling and connections to transmission lines,



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equipment shelters, security barriers, electrical components, roads, unless such roads need to remain to access buildings retrofitted for another purpose, or the landowner submits a request to the Board of Supervisors that such roads remain.

b) Below-grade structures, such as foundations, underground collection cabling, mounting beams, footers, and all other equipment installed with the system shall be completely removed; however, these structures may be allowed to remain if a written request is submitted by the landowners and a waiver is granted by the Board of Supervisors.

c) Compacted soils shall be decompacted as agreed to by the landowner.

d) Restoration of the topography of the project site to its pre-existing condition, except that any landscaping or grading may remain in the after-condition if a written request is submitted by the landowner and a waiver is granted by the Board of Supervisors.

e) Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local, state, and federal solid waste disposal regulations.

**§ 25-70.9 Bonding**

Prior to the issuance of a Building Permit for a solar energy system, the applicant shall:

A. Submit to the Zoning Administrator an itemized cost estimate of the work to be done to completely remove the entire solar energy system plus twenty-five percent (25%) of said estimated costs as a reasonable allowance for administrative costs, inflation, and potential damage to existing roads or utilities.

B. Submit a bond, irrevocable Letter of Credit, or other appropriate surety acceptable to the County in the amount of the estimate as approved by the Zoning Administrator shall:

1. Secure the cost of removing the system and restoring the site to its original condition to the extent reasonably possible; and
2. Include a mechanism for a Cost of Living Adjustment after ten (10) and fifteen (15) years.

C. The applicant will ensure the bond, irrevocable Letter of Credit, or other surety shall remain in full force and effect until the Community Development Department has inspected the site and verified that the solar energy system has been removed. At which time the Community Development Department shall promptly release the bond, irrevocable Letter of Credit, or other surety.

Mr. Wilkinson showed a PowerPoint that covered the Small Solar Energy Systems and Large Solar Energy Systems. The Planning Commission recommendations from the March 13 and June 12 meeting for the Solar Ordinance were shown as bullet points and was explained to the Board.

The Chairman declared the public hearing open.

Phil Martin, Director of Augusta County Service Authority, stated that as most know from serving on the Service Authority Board, the authority's primary mission is to plan for and support development objectives of Augusta County as stated in the Comprehensive Plan. The Service Authority has worked with the County over the years and focused on resources to supply utility service to the urban service areas that will be developed. Currently there is consideration regarding a solar farm in the Stuarts Draft area. In that area there is an urban service area that is approximately 11,000 acres. The proposed solar farm would use 1,700 acres of that which is about 15% of the urban service area. The waste water plant in Stuarts Draft has been upgraded and approximately \$26 million has been spent on the plant over the years. If the 15% is taken out of the urban service area, the waste water plant will not be used at its fullest capacity. That equates to approximately \$4 million that has been spent with no return on investment. The money comes from the rate payers so sound decisions are necessary on where the need is the greatest and will be most effective. When the Service Authority considers upgrades to the waste water plants, they look at areas that have potential for new industrial customers to that area. Mr. Martin requests the Board to consider the amount of rate payers or resident's money already spent and consider the future of expanded service to the upgraded plant.

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Lisette Briley is on the small area plan committee working on the small area plan for Stuarts Draft. The committee is aware of the limited infrastructure of sewer and water availability in Stuarts Draft. It doesn't make sense to allow a solar farm to occupy land that could utilize the waste water treatment plant. She urges the Board to support the setbacks and ground water monitoring in the proposed ordinance. The setbacks are not prohibitive. They protect the resident's property values and rural desirability. Without the setbacks, it would be difficult for the Board to resolve issues that may come up. The water testing makes perfect sense considering the water is uniquely clean and should be protected. The small area plan committee has worked to maintain the pastoral nature of the community and the resident's rural atmosphere in the plan as requested by the residents. A solar farm along a main artery in the community is definitely not in keeping with the plan. It would be appropriate to locate solar farms in locations less visible from the main arteries. There is plenty of land for that. The committee has also worked to consider what advantages the area may have to increase the tax dollar base. Solar farms do not generate a lot of tax income or jobs, but tourism does. Ms. Briley asked if there were any requirements for retention ponds or anything of that nature.

Mr. Wilkinson stated that DEQ has regulations in the Code of Virginia that the County must oversee. Each site will need an erosion control site plan.

Mark Poe is in favor of solar energy. Solar energy is the cheapest energy available and is clean energy. Solar is most efficient when it is privately owned. Private owned solar rays or rooftop solar reduce the cost of electricity for all electric power customers. Not only is solar a good deal for private homeowners, it's a good deal for commercial operations as well. Solar panels life expectancy is 75 years. The Board needs to work to support the citizens, not Dominion Energy. He encourages the Board of Supervisors to support solar energy by having regulations that encourage private solar, keep installation prices reasonable and protect the individual landowner and citizen rights to produce their own power. This needs to be considered for future generations.

Roger Willetts has been involved with the process since the beginning including both Planning Commission meetings. He owns 44 acres of land in Stuarts Draft on Route 909 and has been paying industrial taxes since the land was purchased. It was bought to develop. The land does not qualify for land use due to being zoned industrial. The County's Economic Development has helped him market the property. He has been unsuccessful at selling the property even after reducing the price. Mr. Willetts would like to do a solar farm. He has made application to Dominion to connect to their substation adjacent to his property. The application is first to be allowed to connect. If he can do a solar farm, it would be leased to the solar company, he would be paid \$1,500 per acre per year in rent. The 40 acres of land would produce approximately \$60,000 per year. This would be income he hasn't had the entire time of owning the property. It never occurred to him that solar energy would not be accepted for industrial use. When the ordinance was first brought to the Planning Commission the industrial use portion was taken out. It was then taken to the Board for approval and the ordinance was sent back to the Planning Commission for further review. The ordinance was then discussed with the Planning Commission a second time and they unanimously recommended that a solar facility could be placed on industrial ground. He questioned the Planning Commission at that time because he has been paying taxes on the property and there are lots of passive uses that do not require water or sewer and yet are allowed in an industrial zoning. He would be happy to put in industry on his property if someone was interested, but there is no interest. Mr. Willetts would like to know what he should compare a cost benefit analysis to. He has been paying taxes at \$6,000 per year and has not asked for any type of relief on it. Now he has a use for the property and feels it's an appropriate use. It's naturally buffered and will not bother anyone.

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Ms. Bragg clarified that he would need additional property to make this a viable project. Mr. Willetts stated that he has sufficient property available for this project.

Jim Brenneman of Stuarts Draft is in favor of a nominal well-groomed setback rather than a wide setback. A wide setback that is too narrow to farm and too wide to groom is an eye sore. Another point is 5,000 acres of industry in Stuarts Draft is not needed. There is a lot of land with potential. Use some of it and save some of it.

Wayne Nolde of Mount Sidney is a solar enthusiast. He owns 16 panels of solar and believes in rooftop solar. There needs to be a mix of all types of solar preferably not owned by Dominion. Any project that private developers can do and sell into the grid seems to be a reasonable use of the land. The cost benefit analysis is an extremely vague part of the ordinance. Who decides what's beneficial? Is it a cost benefit for the landowner or what revenue it may generate for the County? A 1,000 foot setback does not serve a purpose. The de-commissioning requirements seem excessive. That should be between the property owner and the developer. Why do you need a decommissioning plan or ground water monitoring? Would this be required of some other industry already permitted? It doesn't generate a lot of jobs once it's built, but the Atlantic Coast Pipeline doesn't either. He understands the Service Authority concerns about having areas developed that they may not get the revenue they expected. This is taking a benign use of the land and it's good for the environment. If there is enough solar development, there's a possibility of getting a company move in to Augusta County that manufactures panels. Solar energy needs to be encouraged. Take a look at what other uses that are permitted in this area and not make this harder for a benign use of the land because of what might be in the future.

James Kindig of 3546 Stuarts Draft Hwy owns approximately 100 acres that he would like to lease to the solar company for solar development. The setbacks are too great. For the property owner to make money, the developer has to make money and if there are unreasonable setbacks it will be difficult to make a profit. There are factories and strip malls that have little or no setbacks. Solar panels make no noise and have no traffic. There is not that much residential area where the project is planned to go. It's difficult to keep the property maintained and still make it profitable as far as taxes and upkeep on buildings and roads. When a portion of the property can be leased it helps pay the bills. This also allows the property to be better maintained.

Bob Pingrey of 306 Old Goose Creek Road suggests that the Board table the item due to the opposition that has been presented. He is a Civil Engineer and construction manager in real estate development. The restrictions on the ordinance is ridiculous. The County should be encouraging solar energy. It's for the future generations and will inspire young people for the future.

Kevin Comer works for a consulting firm in Harrisonburg. Roger Willetts approached him a couple of years ago with a similar story. He had industrial property adjacent to a Dominion substation and wanted to get some value from his property by putting solar on it. He looked at the property, which was naturally buffered. There is a railroad along the longest axis so it's pretty well isolated even though it is near a town. He agreed that the company would assist him with the project. The company has assisted in consulting on approximately thirty utility scale projects that have been built or are in construction to date not only in Virginia, but elsewhere. He agrees with the other speakers that the ordinance is very restrictive. Mr. Comer showed a PowerPoint of existing solar projects on various properties. The reason there aren't any projects in this area is there are more hills. Land values play a role and developers can't move forward until they are assured from the County as to what will be allowed. For a typical utility scale project, about 20 megawatts, remains approximately 140 acres. Just the setback area required is 26% to 69% of the total land area required to build the project

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according to the ordinance. Mr. Comer showed the site plan for Mr. Willetts property and the adjacent landowner's property. If the 1000 foot setbacks from residential and 200 foot setbacks from the adjacent property lines are enforced, he does not have enough land for a solar project. There are two provisions within the proposed ordinance that would not allow the project to move forward, the exclusion of industrial property and the setbacks. A similar use already permitted in the County is storage facilities. The storage buildings are much larger than what the solar panels are. He showed additional slides of examples for setbacks. There is more lighting associated with these types of projects and more traffic. It's surprising that a solar project would be prohibited more than a project such as storage buildings. Mr. Comer appreciates the effort put forth. The planning staff have been very helpful. The Planning Commission has made a good set of recommendations. The Board has a choice of whether or not to adopt what would be a good standard. Taking the proposed standards and applying the Planning Commission's recommendations would produce a better ordinance than Rockingham County. If it's adopted without the recommendations from the Planning Commission it will be the most restrictive, prohibitive solar ordinance.

Mr. Shull questioned the location of the property lines and setbacks on the PowerPoint slides.

Jack Barber stated that solar is an industry that is changing fast. The decisions made at this meeting may not be applicable in another six months or a year. In terms of land, Augusta County is the second largest in the state of Virginia. There are approximately ten thousand acres of industrial zoned land in the Comprehensive Plan in and around the Stuarts Draft area. Currently the County needs to be competitive and attract industry and jobs. Anything that can be done to get attention on a national or regional level that makes Augusta County attractive for industry to be here should be done. Increasing requirements for renewable energy for new businesses and new industrial centers keeps growing every year. If this commitment is made, a message will be given that Augusta County is open for business. Advantages cannot be ignored and Mr. Barber encourages the Board to adopt the Planning Commission's recommendations.

Tom Anderson is with Community Energy Solar and is involved with developing a solar energy project in Augusta County. His company has been active in the ordinance development process since January. The ordinance, along with the Planning Commission's recommendations, would form an excellent ordinance. The setbacks proposed in the advertised ordinance are excessive. The Planning Commission's recommendation of a 50 foot setback would work. Ground water monitoring is not necessary. DEQ has not found any indication that solar projects have a contamination risk to soils or ground water. Decommissioning should be between the developer and the landowner. The buffering standard is a good one, but a little overly restrictive. His company employs landscape architects as part of the development process and works with Community Development staff to design a buffer that fits the particular situation. The ordinance could be slightly improved by adding the statement of other buffer schemes would be reviewable and approved by the Board. Solar energy projects are a healthy low lying unobstructed use of land with no harm to the environment. The projects will measurably increase taxes from land parcels. There is not a need for this to be tabled and research continued. The Planning Commission's recommendation will create a workable solar ordinance.

Max Quillen represents Waynesboro Nursery and the associated Quillen families. One argument heard against solar would be rural character. Industry destroys rural character. With proper buffering, solar is a way to protect rural character. The other main argument was the existing infrastructure investments that have been made. That was a decision made several years ago and should not be considered today when an

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attractive opportunity arises. A number of citizens are upset with the Dominion pipeline. Landowners are being forced to sell out and Dominion gets the land. Solar energy landowners are voluntarily wanting to do the project.

Bob East is a landowner and is volunteering his land for a solar project. He owns a property management company and is very familiar with what a well-groomed set back looks like and what uncared for 1000 foot setbacks look like. He suggests driving by McKee or Hollister and see what a well-groomed real estate looks like.

There being no other speakers, the Chairman declared the public hearing closed.

Ms. Bragg thanked everyone for their comments and points. She will discuss the ordinance page by page. The Board is charged with putting together an ordinance that will apply to everywhere in the County. The ordinance has to also apply to any company that comes into Augusta County. There have been many conversations with Mr. Anderson and the Board has visited several of his projects and he is a part of an upstanding company, but it can't be said that the ordinance will be written because he states something is going to happen. The Board has to make clear that for any company that comes into Augusta County, the expectations of the County needs to be known. Ms. Bragg discussed the process that the solar ordinance has gone through so far. This is an ordinance that has been worked on diligently for a long time. The ordinance originally stated that a large solar project was allowed in general agriculture and general business, but industrial zoned was taken out. Many years ago the decision was made due to infrastructure that the urban service areas and the development areas of the County would be on the east side and the western side is the rural area. In the Stuarts Draft area there is a waste water plant with a four million gallon per day capacity and is less than one million capacity in use currently. When the industry came, a conscious decision was made that the area would be planned for industrial development. The Service Authority spent \$27 million to build a four million gallon per day plant and today that same plant would cost approximately \$44-\$47 million. If a large company would want to come into Augusta County, they would not be able to build in Craigsville, Middlebrook or Swoope for example because it would cost \$47 million or less to build a waste water plant.

Mr. Shull pointed out that gas and railroad are along the Stuarts Draft area. Even if the pipeline goes through the western side, the County will not get gas from the pipeline. That's why the focus is on the industrial areas. Keep in mind, the Board represents over 10,000 citizens in each district and expects the best to be done on their behalf. Mr. Shull supports solar, but the industrial side needs to be reviewed. Citizens don't want their taxes raised and the only way to keep from raising taxes on residential use is bring in more industry.

Ms. Bragg pointed out everything that Stuarts Draft has to offer for industry, water, sewer, rail and gas. The roads were widened for industrial use. If the Stuarts Draft area is not desirable, then Fishersville would have the capacity and the infrastructure for industry. There is very few zoned industrial properties in Fishersville, but the capacity is there. Mill Place is the next industrial zoned area. Those locations are the only areas in Augusta County suitable for industry. In Weyers Cave there are 500 acres zoned industrial with hopes for a big project one day. It does not have water and sewer capacity at this time. The Service Authority would have to determine whether to build a facility in order to have development. If a facility is built and then a solar farm wants to use the property, then a substantial amount of money has been spent that will not be recovered. There are many places in Augusta County that solar farms can go. Based on discussions, no one on the Board is opposed to solar farms. It's all about location. The industrial part of the ordinance was removed due to the lack of suitable property for industrial development. Originally the Planning Commission made no recommendations regarding a community meeting. The second time through the Planning Commission it was added as a requirement. The Ordinance Committee feels it's important to leave the community

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meeting requirement in the ordinance. The public needs to understand that it is large acreage amounts involved, 1,200, 1,500, or 1,700 acres of panels. The community needs to have the ability to understand the project and to understand the impact. The requirement for a community meeting is necessary to give the citizens an opportunity to talk to the companies and get a better understanding of the project. The cost benefit analysis is another questionable requirement. When you look at the impact on Augusta County as a whole, when you take an area that is potentially industrial, does it make sense to Augusta County? Site plans will follow the regular site plan process. Setbacks are also a concern. The sentence that has been left out all night long is, “unless the Board of Supervisors is satisfied the different setbacks are adequate to protect neighboring properties”. It says 200 feet from all property lines and 1000 feet from residentially zoned properties. When looking at Stuarts Draft, how many residentially zoned areas are we talking about? We are talking about subdivisions such as Ridgeview Acres, Teaverton, Emerald Hills and Rolla Mills. The Board has the ability to adjust the setbacks if the requirement doesn't make sense. Each parcel needs to be evaluated individually. Ms. Bragg understands Mr. Willetts concern on the 200 foot setback. If his solar farm is next to an industrial building, does it make sense to have a 200 foot setback? No, it doesn't and the Board has the ability to fix that requirement. This is a maximum standard and then it can be adjusted as necessary. There are options as far as buffering is concerned. The Board can consider existing tree lines.

Mr. Shull stated that setbacks could be less depending on the buffering being used.

Ms. Bragg stated that the ground water monitoring is for the landowner's protection. There is no way of knowing if there will be anything detrimental to the land, but we also do not know that there will not be thirty years from now. This is a Chesapeake Bay area and we are protective of the water. There have been many source water protection plans. Without this, will the landowner be held responsible for cleaning it up if there is contamination in the water? The ground water monitoring requirement is a protection for the landowners. The Traffic Impact Study is necessary because this isn't a simple project. It takes a lot of time and heavy equipment. The County believes it is important to decommission the low grade structures at the end of the 35 year contract. A 300 acre field with steel beams driven into the ground every 15 feet should not be left with the structures on them. However, the ordinance states that the structures may be allowed to remain if written request is submitted by the landowner and the waiver is granted. The decompacted soils was originally three feet and the Planning Commission disagreed. The ordinance states that the decompacted soils will be determined as agreed upon by the landowner and the solar company. The restoration of typography can be adjusted with written request. There is flexibility in the ordinance. The Board's job is to have the ability for growth, but still protect resources, investments and do what's right for the citizens in the area. There are areas that need to be re-evaluated in the Comprehensive Plan.

Mr. Coleman stated that when the discussion first started it was properties zoned industrial or property in the Comprehensive Plan to be zoned industrial went away. The only property that is on the table to be discussed is the property already zoned industrial. The Board is not anti-solar, it's where the solar farms are built. There is plenty of land in Augusta County that is suitable for a solar farm. The Board has a responsibility to 10,000 people in each district. He feels for the people that have bought land and cannot do anything with it. The Board has visited several large solar facilities and there are no homes anywhere near them.

Mr. Shull stated that people need to be informed of what's going on around them. If the citizens are not informed of what is being planned, the Board will hear complaints after the fact.

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Ms. Bragg and other Board members have visited other solar farms and the people of the area are angry at how close the farms are to the road. They also discovered that there are counties that after the solar farms were developed, the wording of their ordinance was re-evaluated.

Mr. Shull pointed out that when businesses come into the County the rate payers for the Service Authority are not always the one that pays for the upgrades. The Board will sometimes have to spend money on those new businesses as well, so all taxpayers assist in paying for it. It's better to have a solar panel on the side of a building and the power is going back into their grid or an individual's house or turkey farm. Walkers Creek Fire Department has a solar panel and their bill is reduced with Dominion Power. Mr. Shull is not totally against solar farms if it is developed in the right place.

Kevin Comer asked what Mr. Willetts options were if not approved for a solar farm.

Ms. Bragg stated that Mr. Willetts property is zoned industrial with water and sewer.

Mr. Willetts stated that it would have helped if this discussion would have been heard during the first and second time around with the Planning Commission when they unanimously said that industrial zoned properties should not be excluded. He understands the points heard, but would have liked to have heard it sooner.

Ms. Bragg stated that at the first Planning Commission meeting industrial zoning was still a part of the ordinance and there were no comments made. Then it went to a worksession. During that worksession, several members of the Planning Commission suggested that it be taken out after a lengthy discussion. Mr. Willetts received the minutes from that worksession meeting. The second time through the Planning Commission it was discussed.

There was lengthy discussion between Ms. Bragg and Mr. Willetts regarding when the industrial zoning portion of the ordinance was discussed and removed.

Mr. Kelley likes the fact that requested changes come back to the Board for approval. He understands that industrial zoned property is off of the table. He sees what the Board is attempting to protect. There are a lot of areas where the power grids are located. There's one at Expo that is a big farm field with a lot of land. There is one beside his house with a lot of land. There are a number of places the solar farms could be in the County. The interest of all citizens of Augusta County have to be protected. The County wants the industrial areas to be used as originally planned, such as manufacturing.

Dr. Pattie thanked everyone for attending. He likes the Planning Commission recommendation. The way the Ordinance Committee wrote the ordinance is too restrictive. The Planning Commission recommendations gives the Board maximum flexibility. As a Board, if the ordinance is passed as it is, there are restrictions placed on future Boards from making decisions that might make more sense. It would have been better to have the ability to debate the ordinance without a specific case involved. The way the ordinance is written, if a solar company looks at the ordinance as written, the company will not consider Augusta County. This is over regulation. There needs to be a balance between property owner rights verses the property rights of the neighbors.

Ms. Carter has learned a lot from listening. She tends to agree with Dr. Pattie on restrictions. She leans more toward the Planning Commission recommendations, especially with setbacks. Ms. Carter recommends changing that part of the ordinance. She asked if the setback requirement is in line with other County ordinances.

Mr. Wilkinson stated that it is in line with several items such as cell towers and slaughter houses.

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Ms. Carter stated that the County needs to be as consistent as possible. She agrees that the County is infringing on the landowners rights with the decommissioning. It should be up to the landowner and the agency.

Dr. Pattie would like for people to be educated on decommissioning, but should not be restricted.

Mr. Garber stated that there are eleven potential changes from the Planning Commission. He is not opposed to either side, but is not ready to make a decision until the changes are reviewed one at a time. It needs to be clear that the ordinance as advertised is what is being voted on.

Dr. Pattie moved, seconded by Ms. Carter to delay the vote and table the solar ordinance until the July 26 meeting.

Vote was as follows:           Yeas: Garber, Pattie, and Carter  
                                      Nays: Bragg, Kelley, Shull, and Coleman

Motion failed.

Mr. Kelley moved to accept the ordinance, but change the setbacks to 50 feet and leave in the Board's right to change it when needed.

Mr. Coleman stated that the Board has the flexibility to make changes when necessary. This is a place to start, not necessarily where it ends up.

Mr. Kelley withdrew his motion on the floor.

Mr. Shull stated that Accomack is trying to figure out how to restrict solar farms because of rapid growth of solar facilities.

Mr. Shull moved, seconded by Ms. Bragg that the Board accept the ordinance as advertised.

Vote was as follows:           Yeas: Bragg, Kelley, Shull, and Coleman,  
                                      Nays: Garber Pattie, and Carter

Motion carried.

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The Board took a 10 minute break.

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WAIVERS (CONT'D)

Vote was as follows: Yeas: Garber, Bragg, Kelley, Shull, Coleman, Pattie and Carter  
Nays: None

Motion carried.

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MATTERS TO BE PRESENTED BY THE BOARD

Ms. Carter had a nice trip to the White House.

Mr. Shull stated that there is grant money available for interstate improvements. The Board needs to collaborate with other counties to work towards getting the grant money.

Mr. Kelley will not be present for the July 25 meeting. He will be attending a conference.

Dr. Pattie attended a meeting regarding lime disease. Lime disease is an issue county wide.

Ms. Bragg attended the White House meeting. The SVP annual meeting is on July 12. The Red Wing Roots Festival will be happening in July at Natural Chimneys.

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MATTERS TO BE PRESENTED BY STAFF

Timothy Fitzgerald, County Administrator discussed the following issues:

- 1) Employee picnic is June 28 starting at noon on the dock.
- 2) Legislative worksession Augusta 20 at 11:30 with Lunch before the Staff Briefing.
- 4) OSHA inspection was returned with one finding. The finding was because training has not been done regarding asbestos. There is a two hour training class and the County has 15 days to complete the training.
- 3) Received a request from the Augusta County Babe Ruth Association donation for the South East Regional World Series tournament being held at Wilson Memorial High School. \$1,000.00 will come from the Tourism budget to cover this request.

Dr. Pattie moved, seconded by Mr. Coleman that the Board approve the funding request.

Vote was as follows: Yeas: Garber, Bragg, Kelley, Shull, Coleman, Pattie and Carter  
Nays: None

Motion carried.

- 5) Shenandoah Valley Partnership term extension for Ms. Bragg. The SVP board appointment by-laws have changed to a three year term.

