

VIRGINIA: MINUTES FOR THE WORKSHOP MEETING OF THE DINWIDDIE COUNTY PLANNING COMMISSION HELD IN THE TRAINING ROOM OF THE DINWIDDIE COUNTY GOVERNMENT CENTER BUILDING ON THE 12TH DAY OF AUGUST AT 6:00 P.M.

PRESENT:	SAMUEL W. HAYES	CHAIRMAN	AT-LARGE
	EDWARD TITMUS		DIST #2
	JOHN HARVELL		DIST #3
	THOMAS TUCKER	VICE CHAIRMAN	AT-LARGE
	ANTHONY SIMMONS		DIST #5
	BUTCH CUNNINGHAM		DIST #4
	EVERETTE PROSISE		DIST #1

OTHER:	MARK BASSETT	PLANNING DIRECTOR
	MICHAEL DREWRY (By Phone)	ASST. COUNTY ATTORNEY

IN RE: CALL TO ORDER

Mr. Bassett read the following statement before the meeting was called to order. This meeting is being held in conformity with and in compliance with the Pandemic Disaster Continuity of Operations Ordinance approved by the Dinwiddie County Board of Supervisors on April 14, 2020.

The Chairman called the meeting to order at 6:00 p.m.

IN RE: ROLL CALL

The Chairman asked for the roll to be called and Mr. Simmons had not yet arrived.

IN RE: APPROVAL OF AGENDA

The Chairman asked if there were any additions or corrections to the agenda. He said since there are none he would entertain a motion to accept the agenda as presented.

Mr. Tucker made a motion that the agenda be accepted as presented. It was seconded by Mr. Titmus and with Mr. Harvell, Mr. Titmus, Mr. Cunningham, Mr. Prosise, Mr. Tucker and Mr. Hayes voting "AYE" the agenda was accepted as presented.

IN REW: NEW SOLAR GENERATING FACILITIES NEW LAWS DISCUSSION – Joe Lerch, AICP, Director of Local Government Policy, Virginia Association of Counties (VACo), Mark Bassett, Planning Director/Zoning Administrator, & Michael Drewry, Assistant County Attorney

Mr. Lerch gave a short presentation related to utility scale solar generation facilities and the 2020 General Assembly Legislative Update. It involved Taxation on Utility-scale Solar Equipment. His presentation covered: Step Down Reduction in Mandatory M&T Exemption (HB 1434/SB 763), Energy Tax aka "Revenue Share" (HB 1131/SB 762) and Host Locality Site Agreement in Qualified Opportunity Zones (HB 1675)

There was some general discussion among the members and Mr. Lerch.

IN RE: PROPOSED ZONING ORDINANCE AMENDMENT, UTILITY SCALE SOLAR ENERGY DISTRICT – Mark Bassett, Planning Director/Zoning Administrator & Michael Drewry, Assistant County Attorney

Mr. Bassett presented the members a proposed ordinance that Mr. Drewry has been working on to help applicants who come to the county to apply for an application for utility scale solar.

**AN ORDINANCE TO AMEND THE
CODE OF THE COUNTY OF DINWIDDIE, 1985, AS AMENDED,
BY AMENDING ARTICLE IV, DISTRICT REGULATIONS
CHAPTER 22, ZONING
BY ADDING, DIVISION 18. UTILITY SCALE SOLAR ENERGY DISTRICT (SE)**

BE IT RECOMMENDED by the Planning Commission of Dinwiddie County:

(1) That Chapter 22 of the Code of the County of Dinwiddie, 1985, as amended, is amended by inserting the following language:

DIVISION 18 – UTILITY SCALE SOLAR ENERGY DISTRICT (SED)

Sec. 22-234.50 – Statement of Intent and Purpose.

The purpose of this ordinance is to facilitate the construction, installation, and operation of Solar Energy Systems (SES) in Dinwiddie County in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to agricultural lands, endangered species habitats, conservation lands, and other sensitive lands. This ordinance is not intended to replace safety, health or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

Sec. 22-234.51 – Definitions.

For the purposes of this Division, the following terms shall have the following meanings:

Applicant. The developer, owner, or operator who submits an application to the locality for a permit to install a solar energy project under this ordinance.

Disturbance Zone. The area within the site directly impacted by construction and operation of the solar energy project, plus an additional 100'.

Operator. The person responsible for the overall operation and management of a solar energy project.

Owner. The person who owns all or a portion of a solar energy project.

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

Site. The area containing a solar energy project that is under common ownership or operating control. Electrical infrastructure and other appurtenant structures up to the interconnection point shall be considered within the site.

Solar Energy Project, Project or Solar Energy Farm. A renewable energy project that either:

(a) generates electricity from sunlight, consisting of one or more photovoltaic (PV) systems and other appurtenant structures and facilities within the boundaries of the site,
or

(b) utilizes sunlight as an energy source to heat or cool buildings, heat or cool water, or produce mechanical power by means of any combination of collecting, transferring, or converting solar generated energy,
and

(c) does not meet any of the following criteria: has a disturbance zone equal to or less than two acres, is mounted on or over a building or parking lot or other previously-disturbed area, or utilizes integrated PV only.

Solar Access. The access of a solar energy system to direct sunlight.

Solar Collector. A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar Energy. Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System. A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

Sec. 22-234.52 - Project Description.

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

Sec. 22-234.53 - Site Plan.

The site plan shall conform to the preparation and submittal requirements of the Dinwiddie County Code, including supplemental plans and submissions, and shall include the following information:

1. Property lines and setbacks.
2. Existing and proposed buildings and structures, including preliminary locations 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, ancillary equipment, building, and structures, including those within any applicable setbacks.
5. Fencing.
6. Community Impact Assessment.

Additional information may be required, as determined by the Planning & Zoning Administrator, such as a historic resource impact analysis, an environmental resource impact analysis, a traffic impact analysis, 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 Planning & 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.

7. Technical review/fees. Applications for utility scale solar energy projects may require a technical review that will be conducted by consultant selected by the county. Any fees associated with performance of this review will be paid by the applicant.

Sec. 22-234.54 – Community Impact Assessment.

An assessment of the impact on the immediate vicinity of the proposed solar project as well as the greater Dinwiddie County community shall be prepared and submitted to the county with zoning map amendment request and/or site plan approval request. The report shall be prepared by a professional acting within his or her competency, shall be presented in written form and shall analyze in specific terms the probable impact of the project on the vicinity and community over time. Specific attention, as may be appropriate to the individual proposal, should be given but not be limited to the following elements:

1. Anticipated direct revenues to the county from real estate and personal property taxes
2. An assessment of employment opportunities to be created by the proposed development.
3. An assessment of the short and long term economic impact of the proposed development.
4. If the development is replacing an existing enterprise, including agriculture and forestry, an assessment of the impact the current enterprise has on the local economy and how the local economy will be impacted by the loss of the existing enterprise.
5. Fire, rescue, and law enforcement requirements as compared to existing capacities and facilities.
6. Water, sewer and stormwater management needs as compared to existing capacities and facilities to address:
 - a. Adequacy of existing utilities, water, sewer, public services and public facilities in the vicinity of the development.
 - b. Public and private improvements both offsite and onsite that are proposed for construction and a cost estimate for providing these improvements.
7. Other public and quasi-public facility and service impacts including refuse collection and disposal systems intended to serve the development.
8. Socioeconomic changes and impacts to result from the proposed development.
9. The costs in both capital and operating funds of providing services to the proposed development.
10. What efforts, if any, are proposed to mitigate the service demands or costs to the county.

The Planning & Zoning Administrator may waive certain elements of the community impact assessment where the nature of the proposed development makes such elements inapplicable.

Sec. 22-234.55 - Approved Solar Components.

Electric solar farm components must have a UL listing or equivalent and must be designed with anti-reflective coating(s).

Building and electrical plans for the solar farm shall be submitted to the Building Official for review and approval to ensure compliance with all applicable building and electrical codes.

Sec. 22-234.56 - Documentation of right to use property.

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.

Sec. 22-234.57 - Liability Insurance.

The applicant shall provide proof of adequate liability insurance for a solar energy project prior to the issuance of a building permit.

Sec. 22-234.58 - Criteria for Solar Energy Projects.

A. All solar energy projects shall comply with the following requirements:

1. The site shall comply with the following general standards:

- a. All floodplains, wetlands, and steep slopes shall be protected from clearing, grading, filling, or construction, except as may be approved by the Administrator for essential infrastructure.
- b. The layout shall be designed to preserve and maintain existing tree lines between fields or meadows, pastures, meadows, orchards and mature woodlands.
- c. The layout shall be designed to minimize development on open fields and pastures, and building sites shall be located on the least productive agricultural lands.
- d. Existing views from public thoroughfares shall be preserved.
- e. The layout shall be designed to avoid important historic, archaeological or cultural sites.

2. All solar energy projects located in an agricultural field or pasture, acres shall meet the following additional criteria:

- a. That the property has not been in the Agricultural Use Value program pursuant to Section 58.1-3230 and 58.1-3231 of the Code of Virginia during the past five years. If the property has been in such a program all penalties and interest payments that may be due to the County have been paid by the owner/applicant.
- b. The layout shall meet at least one of the following criteria:
 - i. The land is generally not suitable for best agricultural use; or
 - ii. That land of equal area and quality has been or will be cleared and placed in use on the same farm prior to issuance of an occupancy permit; or
 - iii. That no reasonable alternatives exist for placement of a solar energy project on the property in question, either because of physical conditions of the property or the size and dimensions of the property.

B. In the event the administrator denies an application based upon any of the criteria above, the applicant may appeal the decision to the Board of Zoning Appeals in accordance with the procedures of an administrative appeal as described in Section 22-40 of this ordinance.

Sec. 22-234.59 – Visual Impact

The applicant shall demonstrate through project siting and proposed mitigation, if necessary, that the solar project minimizes impacts on the visual character of features including but not limited to a scenic landscape, State scenic river, State rural historic district, scenic vista, or scenic corridor as identified in the comprehensive plan, schools, churches and structures with documented historic significance.

Sec. 22-234.60 – 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 federal agency; (d) signs that provide a 24-hour emergency contact phone number and warn of any danger. Educational signs providing information about the project and benefits of renewable energy may be allowed as provided in the local sign ordinance.

Sec. 22-234.61– Noise.

Noise requirements for solar energy projects shall be no more stringent than noise requirements for other types of development in a commercial zoning category.

Sec. 22-234.62 – Setbacks.

All aspects and components of a solar farm shall meet the minimum zoning setbacks for the most restrictive zoning district of the properties surrounding the project or as required by conditional use permit requirements for buffering.

Sec. 22-234.63 – Security.

All Solar Farms shall be fenced around the exterior of the Solar Farm with an a fence which shall be at least 6 feet in height and which shall additionally have at least three strands of barbed wire run above such six feet.

All fencing shall be constructed so as to substantially lessen the likelihood of entry into a Solar Farm by unauthorized individuals.

The fencing and barbed wire required hereunder shall be maintained in good condition. Failure to maintain the fencing and barbed wire required hereunder shall constitute a violation of this ordinance.

The fencing and barbed wire requirements specified hereunder shall continue notwithstanding the fact that a Solar Farm is no longer operational and/or falls into disuse unless and until the Solar Farm is dismantled and removed from the parcel or parcels of land upon which it was constructed.

Sec. 22-234.64 – Height.

The maximum height for all solar collector equipment shall be eighteen (18) feet.

Sec. 22-234.65 – Buffers and Landscaping.

A continuous evergreen vegetative buffer shall be present and maintained at all times around the perimeter of the exterior of the fencing and gates which are required around the perimeter of the Solar Farms. The continuous evergreen vegetative buffer shall not block reasonable access to a Solar Farm.

The evergreen vegetative buffer shall be composed of evergreen trees or shrubs of a type which at planting shall be a minimum of 4 feet in height and which shall be maintained at maturity at a height of not less than 6 feet in height.

The evergreen trees or shrubs shall be spaced no more than ten feet apart (from the base of tree or shrub to the base of tree or shrub).

The evergreen vegetative buffer shall be carefully planted and shall be maintained in good condition. Failure to maintain the evergreen vegetative buffer shall constitute a violation of this ordinance.

The evergreen vegetative buffer requirements specified here shall continue notwithstanding the fact that a Solar Farm is no longer operational and/or falls into disuse unless and until such Solar Farm is dismantled and removed from the parcel or parcels of land upon which it was constructed.

Sec. 22-234.66 – Transmission Lines.

Any new electrical transmission lines associated with a solar farm may be located either above or below ground.

Sec. 22-234.67 – Ground Water Monitoring.

Ground water monitoring to assess the level of groundwater contamination shall take place prior to, during, and upon completion of construction of the project throughout the area of the solar farm. 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 Dinwiddie County Planning Department.

Sec. 22-234.68 – Decommissioning.

The owner or operator of a solar farm shall completely decommission the solar farm within twelve (12) months if the solar farm ceases to generate electricity for a continuous period of twelve (12) months. This period may be extended by the Planning Commission if the owner or operator provides evidence that the failure to generate electricity is due to circumstances beyond the owner's or operator's reasonable control and the solar farm has not been abandoned.

If a solar energy project has been determined to be unsafe by the Dinwiddie County Building Official, the solar energy project shall be required to be repaired or removed by the owner or operator to meet federal, state, and local safety standards, or be removed by the owner or operator within the time period allowed by the Dinwiddie County Building Official. If the owner or operator fails to remove or repair unsafe solar energy project, Dinwiddie County may pursue a legal action to have the project removed at the owner's or operator's expense.

Decommissioning shall include the removal of all solar collectors, cabling, electrical components, fencing, and any other associated equipment, facilities and structures to a depth of at least 36 inches. Disturbed earth shall be graded and re-seeded.

To ensure the full completion of decommissioning requirements, and/or to facilitate the mitigation and abatement of public nuisances or health hazards caused by debris or hazardous materials occurring in the event of partial or complete destruction of any solar farm by natural or man-made causes, Dinwiddie County requires the placement of a surety/performance bond or certified check meeting certain terms and in certain amounts as determined by the Dinwiddie County Planning Department to ensure that such decommissioning or removal is completed expeditiously, and at no cost to the landowner.

Sec. 22-234.69 – Solar collectors not associated with solar farms.

Roof-mounted or ground-mounted solar collectors shall not exceed the square footage of the principal structure or use and shall meet the following requirements:

- 1) Solar collectors shall be configured to avoid glare and heat transference to adjacent properties.
- 2) Ground-mounted solar collectors shall not be located within ten (10) feet of any side or rear lot line.
- 3) Ground-mounted solar collectors located within a front yard shall meet the minimum setback required for the principal structure or use in the applicable zoning district where located and shall be sited as far back as the principal structure or use.
- 4) The maximum height of a ground-mounted solar collector shall be 15 feet as measured from the grade or base of the collector to its highest point and shall not exceed the height of the principal structure or use.
- 5) Roof-mounted solar collectors shall not extend beyond the exterior perimeter of the building or structure on which mounted or built and shall not exceed the maximum height for the applicable zoning district where the building or structure is located.

Sec. 22-234.70 – Allowable Zoning Districts, Conditional Use Permits, Comprehensive Plan, Revenue Share, Siting Agreements, Applicable Codes and Inspections.

A. Allowable Zoning Districts

Solar collectors not associated with a solar farm shall be permitted in any zoning district, provided they conform to the standards outlined in Sec. 22-234.69.

B. Conditional Use Permits

A Solar Energy Project in excess of 5 megawatts requires a conditional use permit. The applicant may offer and the county may accept conditions reasonably related to the project in accordance with Va. Code § 15.2-2288.8.¹

C. Comprehensive Plan

The county waives the requirement that solar energy projects be reviewed for substantial accord with the comprehensive plan in accordance with Va. Code § 15.2-2232 (H).²

D. Revenue Share

In accordance with Va. Code § 58.1-2636, the county will assess a revenue share of \$1400 per megawatt, as measured in alternating current generation capacity of the nameplate capacity of the facility based on submissions by the facility owner to the interconnecting utility, on any solar energy project in excess of five megawatts.³

E. Siting Agreements

- a. Siting agreements will be considered by the county in accordance with Va. Code §§ 15.2-2316.6 et seq.
- b. An applicant shall give the county a written notice of their intent to locate a solar energy project in an opportunity zone located in the county.
- c. The applicant and the county shall meet, discuss, and negotiate a siting agreement.
- d. If the applicant and the county agree upon the terms and conditions of a siting agreement, the county shall schedule a public hearing in which the board of supervisors shall consider the siting agreement.⁴

F. Applicable Codes

All solar energy projects shall be in compliance with the requirements of the most current State of Virginia Building and Electrical Codes.

¹ New provision in Va Code § 15.2-2288.8 that allows acceptance of cash payments through the cup process.

² New provision in Va Code § 15.2-2232 that allows a waiver.

³ New provision in Va Code § 15.2-2636 that allows a revenue share. If selected, should also add a new ordinance in the taxation chapter of the county code. If not selected, should add a provision on taxation in accordance with Va. Code § 58.1-3660.

⁴ New provision in Va Code § 15.2-216.6 et seq. that allows for mitigation of impacts, financial compensation and broadband.

G. Inspections

- a. All active solar farms shall be inspected by the Dinwiddie County Building Inspector on an annual basis to ensure compliance with applicable State Building and Electrical Codes.
- b. Each solar farm shall be required to have the facility inspected annually for three (3) years by the Planning and Zoning Administrator or his/her designee following the issuance of the zoning permit or development permit to verify continued compliance with the Zoning Ordinance or Solar Energy Ordinance as applicable.
- c. Additional inspections shall be conducted as necessary in the event of complaints and shall not replace the noted inspections outlined in this section.

Sec. 22-234.71 – Procedure for Solar Farm Development Approval.

After the effective date of this ordinance, no proposed solar farm as defined in this ordinance and within Dinwiddie County jurisdiction shall proceed with construction until it has been submitted to and approved by the Planning and Zoning Administrator or his/her designee as evidenced by an approved Dinwiddie County Development Permit in accordance with the provisions of this Ordinance.

Sec. 22-234.72 – Penalties for Violations.

After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the jurisdiction of this ordinance, who proceeds with development of a solar farm prior to being approved under the terms of this ordinance shall be subjected to fines and penalties as stipulated in the Dinwiddie County Zoning Ordinance.

Sec. 22-234.73 – Abrogation.

It is not intended that this ordinance repeal, abrogate, annul, impair or interfere with any existing easement, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

*This ordinance adopted by the Board of Supervisors of Dinwiddie County, Virginia, on **** shall take effect and be enforced from and after *****.*

IN RE: ADJOURNMENT

The Chairman said if there is no further business he would entertain a motion for adjournment. Mr. Tucker made a motion to adjourn the meeting and Mr. Simmons seconded it and with all Commissioners in agreement the meeting adjourned at 7:00 p.m.

Respectfully submitted,

Mark Bassett
Planning Director

Signed: _____
Planning Commission Chairman

Dated: _____