

VIRGINIA:

A special meeting of the Lancaster County Board of Supervisors was held in the Administrative Building Board/Commission Meeting Room of said county on Tuesday, December 4, 2018.

- Members Present: William R. Lee, Chair
Jason D. Bellows, Vice Chair
Jack D. Larson, Board Member
Ernest W. Palin, Jr., Board Member
Robert S. Westbrook, Board Member
- Staff Present: Don G. Gill, County Administrator and
Planning/Land Use Director
Crystal Whay, Clerk to the Board and
Building/Land Use Assistant

Mr. Lee called the meeting to order at 5:30 p.m.

Consideration of a Resolution Recognizing the 120th Anniversary of Sharon Baptist Church

Mr. Lee stated that they were considering the resolution for Sharon Baptist Church at tonight's meeting because the church's anniversary celebration is Sunday, December 9th and the next Board meeting is not until next Thursday.

**HONORING SHARON BAPTIST CHURCH ON
THE OCCASION OF ITS 120TH ANNIVERSARY CELEBRATION**

WHEREAS, Sharon Baptist Church was organized in 1898 by Frank Wright, Elize Blackwell, Walker B. Byrd, Maria Blackwell, John Blackwell, George Fisher, Jessie Parks, Edmond Gaskins, Herman Gaskins, William Jones and Moses Waddy; and

WHEREAS, The Reverend Levi Reese Ball, Pastor of the Calvary Baptist Church in Kilmarnock, Virginia was the organizing minister; and

WHEREAS, Mrs. Lottie Thomas, a teacher in the community, suggested the name of Sharon Baptist Church because she was familiar with Sharon Baptist Church in Baltimore, Maryland; and

WHEREAS, the first meeting place of Sharon Baptist Church was the Gallain Fishermen’s Hall located across the road from Old Mount Jean School and services continued there until 1900 when the church was built; and

WHEREAS, the land that the church is built on was purchased from Joe Gunther, who also donated additional land for the church site; and

WHEREAS, the church was constructed by Jake Swyna and Son with lumber bought in Norfolk, Virginia and brought by boat to Lancaster and carried to the building site by horse and wagon; and

WHEREAS, The Reverend Daniel Tucker was the first pastor and served from 1900 until 1922; and

WHEREAS, the church’s pastors include the following: Reverends Levi Reese Ball, Daniel Tucker, A. H. Montague, William Sebree, Thomas Sanders, Leon Baylor, Royal Nickens, Wilson Tolbert, Norman Dill, Robert Jeffries, Clarence P. Carter, Dr. Rodney Waller, and the present pastor is Reverend Dale S. Bunns with the First Lady being Reverend Kim Bunns; and

WHEREAS, the present deacons are Irving Brittingham, Geraldine Curry, Lloyd Hill, Marvis Jones, Joseph Taylor and William Yerby and the present trustees are Geraldine Avery, Martha Carter, Sandra Smyre, Irving Brittingham and Clarence Reed; and

WHEREAS, Sharon Baptist Church has grown spiritually and significantly over the years and has a current membership of 150; and

WHEREAS, Sharon Baptist Church celebrates many annual events including the Annual Homecoming and Summer Revival that is held on the first Sunday in August;

NOW, THEREFORE BE IT RESOLVED, that the Lancaster County Board of Supervisors hereby congratulates Sharon Baptist Church upon its 120th Anniversary Celebration and extends all those associated with the church best wishes as they continue to serve our community.

Mr. Bellows made a motion to Adopt the Resolution Recognizing the 120th Anniversary of Sharon Baptist Church.

VOTE:	William R. Lee	Aye
	Jason D. Bellows	Aye
	Jack D. Larson	Aye
	Ernest W. Palin, Jr.	Aye

Discussion of Possible Conditions in Reference to the Special Exception Application by Rappahannock Solar, LLC

Mr. Lee stated that he would like to get the proposed conditions set for the proposed solar farm application so those conditions could be passed on to the applicants so they will be aware of what the Board has discussed. He asked Mr. Gill to review the conditions.

Mr. Gill stated that he had made some revisions to the original conditions that he had suggested at the November 15th meeting based on the discussion that night. He stated that he had five proposed conditions and had sent them to the Board members via email and there was also a copy of them in front of each Board member.

Mr. Lee suggested that they go over each condition and make additions if necessary.

Mr. Gill read the first condition: “All vegetation must be native, non-invasive species and maintained mechanically. The perimeter buffering will consist of 4 trees and 12 shrubs per 100-feet. The trees must be a minimum of 6-feet tall at planting and reach and maintain a height of at least 10 feet within 2 years.”

Mr. Gill stated that the buffering was not proposed to go around the entire chain link fence because the backside of the parcel is already wooded.

Mr. Palin suggested that they add the words “a minimum of” in front of the words “4 trees”.

Mr. Bellows suggested that they add language to state that it would be maintained in perpetuity.

Dr. Westbrook stated that he thought they should say that the purpose of the perimeter buffering is to visually screen the solar facility from the road and any open spaces in the vegetative screening that may arise in the future, that allows any part of the facility to be seen from the road, must be filled in and corrected by new plantings as soon as weather and growing conditions allow.

Mr. Palin stated that he was suggesting that they keep the details in the proposed condition.

Dr. Westbrook stated that what they wanted was to not see the facility from the road.

Mr. Palin asked whose interpretation would that be.

Dr. Westbrook replied it would be anyone that could see the solar facility from the road.

Mr. Bellows stated that he thought both the details and Dr. Westbrook's suggestions were needed for the first condition.

Mr. Lee stated that the details were needed.

Dr. Westbrook stated that he did not want to substitute what was in the first condition, but to add to it.

Mr. Bellows stated that, with this particular project, they are only dealing with road frontage, but going forward, they will have to consider residential screening in a solar farm ordinance.

Mr. Lee asked Mr. Gill to blend Dr. Westbrook's comments with the details proposed in the first condition. He stated to also add the word "minimum" in front of the tree amount.

Mr. Gill replied that he would.

Mr. Bellows stated that he had researched solar farms, including screening and plant schedules and had shared the literature with his fellow Board members. He showed renderings of both adequate and inadequate coverage. He stated that he thought that they were looking for complete coverage with the vegetative buffering in this case.

William Shewmake, the applicants' attorney, stated that his clients were fine with the screening. He stated that they would be starting with six-foot tall trees and in the first year there may be some space because they will be letting the trees grow.

Mr. Lee stated that they understood that. He stated that it was on purpose that he made sure the word "native" was in the first condition because he had some bad experiences with using non-native species.

Mr. Gill read condition number two: "The solar panels must be non-reflective and the facility must be designed and operated to prevent the direction of concentrated solar radiation or glare onto neighboring property and public roads."

All of the Board members were in agreement with condition number two.

Mr. Gill read condition number three: "Construction hours will be limited between 7 AM and 7 PM and once the solar farm is operational, noise levels must not exceed 65 decibels (dBA) as measured at the boundary lines of the leased area."

All of the Board members were in agreement with condition number three.

Mr. Gill read condition number four: “An emergency services plan, acceptable to the Lancaster County Chief of Emergency Services, must be submitted to address possible hazards resulting from damage to components of the solar farm.”

Mr. Gill stated that the condition should also include the words “Before construction begins” in front of the words, “an emergency services plan.”

Mr. Lee asked if there were any guidelines from other localities concerning an emergency services plan.

Mr. Gill replied that he had not found any emergency services plan from other jurisdictions.

Dr. Westbrook stated that the purpose of the plan was to guide the emergency services personnel for someone who was hurt. He stated that they want the people who are going in there to be perfectly safe.

Mr. Cornwell suggested adding language to address possible injuries.

Mr. Larson suggested that the language be general to include more situations, in which emergency services personnel would be needed.

Mr. Shewmake suggested that the condition wording stop after “address possible hazards.”

The Board was in agreement with that.

Mr. Gill read condition number five: “The applicants must provide a surety bond, from an entity authorized to do business in Virginia, in a form acceptable to the county attorney, of 1.5 times the initial decommissioning cost estimate listed in the decommissioning plan to secure the decommissioning of the project at the end of its useful life. The decommissioning plan will be reviewed every 5 years and the amount of the bond adjusted as needed. The surety bond will be \$90,000 initially and renewed annually.”

Mr. Larson asked Mr. Shewmake if he was correct in thinking that the applicants envisioned the surety bond being either an insurance policy that an insurance agency might issue or an actual bond issued by a bonding agency in return for an annual premium.

Mr. Shewmake replied that was correct.

Mr. Larson stated that, as he had indicated last month, he has had to deal with these kinds of bonds and insurance policies. He stated that Mr. Shewmake had made the comment that he did not think this proposed project was like subdivision road bonds, but the fact of the matter is that they were still talking about a thirty to fifty year period. He

stated that one of the problems with the subdivision roads was that the developers never finish the roads and bring them up to state standards. He stated that one of the issues is that state standards change. He stated that there was no effort on the developers' part to follow up with their promissory notes. He stated that he even had one company issue him a fraudulent policy during his employment as the Planning and Land Use Director with the County. He stated that, at least with a cash surety bond, the money can sit in an account and the County will not have to constantly keep tabs on it.

Mr. Shewmake referred to a cash bond and stated that to hold that kind of money for thirty-five years would be extremely difficult. He stated that they were looking to have a bond accepted by the county attorney and if the bond is not annually renewed, then the County has the right to immediately call the bond. He stated that, unlike a subdivision road, there was a real incentive to decommission the facility after its useful life.

Mr. Larson stated that he would grant Mr. Shewmake that. He stated that maybe the rest of the Board does not feel as strongly as he does about this, but he has had to work these situations in the past.

Mr. Lee stated that he understood what Mr. Larson was saying, but taking \$90,000 for thirty to thirty-five years does not sit well with him.

Mr. Bellows stated that he was fine with the fifth condition as it was written.

Dr. Westbrook stated that he would support the cash surety bond. He stated that it was \$90,000 sitting there for thirty-five years drawing interest, but it was the cost of doing business. He stated that this company gets a tremendous tax break from the state of Virginia.

Mr. Bellows asked if it was the responsibility of the applicant to renew the bond every year.

Mr. Shewmake replied yes.

Mr. Larson stated that they are supposed to renew the bond, but in his experience the developers were not proactive in renewing their obligations.

Mr. Bellows stated that he could see that happening with private developers, but not with a public regulated utility.

Mr. Cornwell stated that, with a road surety bond, if it is not kept up, the County has the right to go in and finish the road. He stated that, in this case, the County cannot very well go in and decommission the project. He stated that, probably the only thing the County could do was to bring an action to revoke the special exception permit. He stated that he thought a cash bond would be the safest way to go.

Mr. Lee stated that he would like to take a vote on condition number five as stated earlier. He stated that they will need to take a look at the decommissioning plan and wanted everybody to be aware of that.

Mr. Lee called the question and moved to approve condition number five as presented.

VOTE:	William R. Lee	Aye
	Jason D. Bellows	Aye
	Jack D. Larson	Nay
	Ernest W. Palin, Jr.	Aye
	Robert S. Westbrook	Nay

VOTE: 3-2 (Motion passed.)

Dr. Westbrook stated that when he spoke to the Dominion Energy representative at the Puller Solar Facility in Middlesex County, that person was shocked when it was mentioned that in the Rappahannock Solar, LLC's proposal, during the decommissioning, the steel pilings would be cut approximately a meter below the ground level.

Mr. Shewmake stated that they would have no problem removing the steel posts.

Dr. Westbrook stated that during his tour of the Puller Solar Facility, he asked if they used any herbicides or soil sterilization and was told absolutely not. He stated that he was told that they want the grass to grow because of stormwater management. He stated that he would like for this to be in writing from Rappahannock Solar, LLC.

Mr. Shewmake stated that they had no problem with controlling the weeds with environmentally friendly measures.

Mr. Lee stated that he uses Round-Up around his house and they needed to be careful with the wording of the conditions. He stated that Round-Up was good to control growth around fencing.

Mr. Bellows stated that he thought it was covered in condition number one.

Mr. Shewmake stated that he thought the wording might be, if any herbicides are used, they must be environmentally friendly.

Mr. Lee stated that was why he mentioned Round-Up because almost every homeowner uses it at some time.

Mr. Gill stated he has a farm background and still farms and thought the pesticides could be delineated by the terms of restricted use and non-restricted use. He stated that restricted use chemicals require a private pesticide applicator's license. He stated that non-restricted use chemicals, such as Round-Up, do not require that license. He stated that non-restricted use includes anything that someone could purchase at Farm and Home Supply. He suggested adding to condition number one the words "or with non-restricted use herbicides" after the words "maintained mechanically."

Mr. Bellows asked what were non-restricted herbicides.

Mr. Gill replied Round-Up was a good example of a non-restricted herbicide.

Mr. Bellows asked what were restricted herbicides.

Mr. Gill replied that some examples of restricted herbicides were atrazine and dicamba.

Dr. Westbrook stated that he was concerned about spraying something for thirty-five years that killed everything.

Mr. Lee stated that farmers use chemicals in their fields and crops always grow back the following year.

Mr. Bellows stated that farmers have been using Round-Up for years.

Dr. Westbrook stated that, to be clear, they were going to specify that during the decommissioning process, everything that is done to this property will be removed, unless the property owner wants to keep it, such as the gravel roads.

Mr. Lee stated that they want the land restored to as close as possible to what it was before the project started.

Mr. Shewmake stated that was the intent.

Mr. Gill read the paragraph in the decommissioning plan. He read "the decommissioning involves removing the perimeter fences, any concrete foundations, the removing of any steel piles and removal of all metal structures (mounting racks and trackers), removing all PV modules, above ground and underground cables, transformers, inverters, fans, switch boxes, fixtures and otherwise restoring the premises to its original condition. If it is agreed upon with the landowner, the access road may be left in place for its continued use."

Mr. Cornwell stated that they had discussed recording the conditions in the Circuit Court Clerk's office and asked if that was still what the Board wanted.

There was a consensus that was preferred.

Other Discussion

Mr. Bellows stated that he had received a few more complaints about trash issues and he will be examining those properties, but he asked what they were doing procedurally on addressing these problems.

Mr. Cornwell stated that, normally Pete Ransone will send the property owner a letter and give them a certain amount of time to comply. He stated that if the owner has not complied within that time period, the matter is usually referred to the County Attorney.

Mr. Cornwell stated that he will write a letter and give the owner thirty days to comply and if they do not comply, then a suit is filed.

Mr. Bellows stated that he wondered if the Board might consider making a public announcement as it did with the anti-littering initiative. He stated that it might be helpful for the public to know about the trash issues and the procedures that are taken.

Mr. Larson stated that they have been cracking down on these issues in District 1.

Mr. Bellows stated that the citizens he had spoken to said that Mr. Ransone came out and said there was nothing that the County could do about that particular situation. He stated that if it is a clear zoning violation, then something needs to be done about it.

Mr. Larson stated that the mechanisms are already in place. He stated that Mr. Bellows had indicated that Mr. Ransone had come out to evaluate the situation. He stated that if either, Mr. Ransone or Mr. Gill, in their capacities as Zoning Officer or Zoning Administrator, comes out and decides that the conditions do not rise to the level of a zoning violation, then their decision has to be respected. He stated that an adjoining neighbor could appeal the decision to the Board of Zoning Appeals.

Mr. Bellows stated that he thought it was important for the public to know the procedures concerning zoning violations.

Mr. Cornwell stated that he should start with Mr. Ransone or Mr. Gill and have them make a site visit.

Mr. Larson stated that he is monitoring a few cases now.

Mr. Bellows stated that he was going to go look at the properties himself over the weekend.

Adjournment

Motion was made by Mr. Lee to adjourn the meeting.

VOTE:	William R. Lee	Aye
	Jason D. Bellows	Aye
	Jack D. Larson	Aye
	Ernest W. Palin, Jr.	Aye
	Robert S. Westbrook	Aye