

Meeting Minutes
Jefferson County Planning Commission
June 23, 2020

The Jefferson County Planning Commission met on June 23, 2020 with the following Commission members present: Mike Shepp, President; Donnie Fisher, Vice President; Wade Louthan, Secretary; Ralph Lorenzetti, County Commission Liaison, Jack Hefestay, Steve Stolipher, J Ware, Ron Thomas and Ray Bruning. Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; Alexandra Beaulieu, Zoning Administrator; Nathan Cochran, County Attorney; Rachael Burke, Planning Clerk.

The meeting took place via a ZOOM Meeting Room. Access was made available via the agenda, posted to the County site. Sign-ups for Citizen Communication were done prior to the meeting and via the chat function, prior to the meeting. No one signed up via chat, 2 attendees did sign up via phone, prior to the meeting. They planned to call in and did not have access to the chat. Role was taken verbally.

Mr. Mike Shepp called the meeting to order at 7:02 pm and he verified there was a quorum.

1. **Minutes:** The June 2, 2020 Meeting minutes will be reviewed and voted on at the July 14, 2020 meeting.
2. **Citizen Communications:** Robert Aitcheson and Doug Rockwell signed up prior to the meeting to speak.

Mr. Mike Shepp explained that all citizens speaking should not be commenting on either of the agenda items to be discussed tonight. Public Comment is closed for Item #3, ZTA19-03 (Solar Text Amendment), at this time.

Mr. Robert Aitcheson began speaking about the solar text amendment, Mr. Mike Shepp interrupted and the same happened for Mr. Doug Rockwell. He stated further comment will be received at the County Commission regarding this amendment.

3. **Discussion and Action:** Proposed text amendment to the Jefferson County Zoning and Land Development Ordinance, File #ZTA19-03, including review of the public comments submitted through 06-16-20. The text amendment, in accordance with WV Code 8A and Article 12 of the Zoning Ordinance, proposes revisions to allow Solar Energy Facilities to process as a Principal Permitted Use in the following Zoning Districts: General Commercial, Highway Commercial, Light Industrial, Major Industrial, Rural, Residential-Light Industrial-Commercial, and Industrial Commercial. The text amendment includes revisions to Article 2 Definitions; Article 8 Supplemental Use Regulations (creation of Section 8.20 Solar Energy Facilities); and Appendix C Principal Permitted and Conditional Uses Table.

Mr. Mike Shepp stated that he reviewed the public comments received through 06-16-20, the end of the Public Comment period. He asked if Mr. Steve Stolipher wanted to address comments made about a possible conflict of interest. Due to technical difficulties, Mr. Stolipher was unable to respond. Mr. Shepp said he would return to that subject once Mr. Stolipher resolved the technical issues. Mr. Shepp went on to explain that a number of the comments were about requiring a decommissioning bond. Mr. Shepp explained the input that the committee and Planning Commission had received from the Director of Engineering, Planning and Zoning on this topic and asked Mr. Nathan Cochran to address the subject.

Mr. Nathan Cochran, County Attorney, informed the Planning Commission that he had researched the decommissioning bond issue as requested by the Planning Commission and suggested that the Planning Commission may want to go into a short executive session.

Mr. Bob Aitcheson objected to the Executive Session because Mr. Cochran had not provided a reason for the Executive Session.

Mr. Cochran noted his objection and stated that he believed there was an attorney-client issue regarding potential liability.

Mr. Shepp requested a motion to go into Executive Session. Mr. Stolipher made a motion to go into Executive Session. Mr. Bruning seconded the motion, which carried unanimously.

Mr. Stolipher made a motion to come out of executive session. Mr. Thomas seconded the motion, which carried unanimously.

Mr. Shepp explained that Mr. Cochran might have a solution for the bond issue.

Mr. Cochran referenced WV Code 7-1-3kk, which provides the County Commission authority to enact ordinances, issue orders, and take other appropriate actions to eliminate hazards to public health and safety, and to abate anything the Commission determines to be a public nuisance. He stated that this section of State Code would allow the Commission to require abandoned solar energy structures to be removed and the land restored to its original condition. Mr. Cochran provided a summary of possible language to incorporate into the decommissioning section of the draft amendment, including surety requirements. Mr. Cochran stated that the County Commission would also need to draft a set of County Solar Decommissioning guidelines to provide a set of actions that a solar company and/or landowner would have to take in order to provide for a decommissioning plan. He advised the Planning Commission that if these provisions were included in the draft Ordinance sent to the County Commission, the guidelines would be drafted by the County Commission.

Mr. Mike Shepp asked Mr. Stolipher if he would like to address public comment regarding a conflict of interest.

Mr. Stolipher explained he spoke with the Ethics Commission and they stated he could participate and that his being a commercial real estate broker would not be a conflict.

Mr. Lorenzetti asked Ms. Angie Banks, County Tax Assessor, questions about the impact of solar facilities on rural properties. Ms. Banks gave a 400-acre farm example. She stated that farm use could be applied on the half of the farm that does not have panels and that the part of the property with solar panels would be taxed as commercial, Class 3 or 4. The person who owns the panels would also be assessed as a public utility and it would be considered industrial.

The Planning Commission discussed their concerns and stated their individual thoughts on the proposed text amendment, including decommissioning concerns once the solar use is discontinued and property tax implications, and alternative revisions that could be proposed. There was some discussion about whether the change in land use or tax classification impacts the property's zoning designation. Ms. Brockman clarified that a change in use does not change the zoning of a property.

Mr. Stolipher made a motion to include Mr. Cochran's guidelines into the document. Mr. Hefestay seconded the motion, which carried unanimously.

Mr. Wade Louthan made a motion to add Solar Energy Facilities as a Principal Permitted Use in the Residential Growth Zoning District. Mr. Ray Bruning seconded the motion. The motion passed 7 in favor and 2 opposed (Ron Thomas and Mike Shepp).

Mr. Steve Stolipher made a motion to forward the draft, as amended, to the County Commission with the finding that the proposed text amendment is in conformance with the Comprehensive Plan. Mr. Jack Hefestay seconded the motion. The motion passed with 8 for and 1 against (Ralph Lorenzetti).

4. **Public Workshop:** Regarding the ongoing reorganization and revisions to the Jefferson County Subdivision and Land Development Regulations (to be renamed the Jefferson County Subdivision and Land Development Ordinance) being prepared under contract with Greenway Engineering. The purpose of the Workshop is to provide an overview of the status of Phase 1 of the reorganization of this document. Phase 1 involved reorganization only with no edits or revisions to the text, other than the incorporation of the Improvement Location Permit Ordinance into Article V as required by State Code. The text has been reorganized to better reflect the current review process of both subdivisions (Article III) and site development (Article IV) with all review standards and plan requirements incorporated into the corresponding sections of the ordinance.

Ms. Jennifer Brockman presented the Subdivision and Land Development Reorganization, proposed by Greenway Engineering (Phase I). She did an overview of how to read the edits and review the lengthy document. She also provided an overview of the Phase II plan for revisions and edits, which will include input from surveyors, engineers and staff using this document regularly.

Mr. Shepp verified no action was required on this item.

Mr. Shepp also mentioned that this meeting is Mr. Ray Bruning's last meeting. The Planning Commission wished him the best of luck.

Mr. Ray Bruning motioned to end the meeting and Jack Hefestay seconded the motion, which carried unanimously.

Meeting was closed at 8:00pm.