

Meeting Minutes
Jefferson County Planning Commission
January 10, 2023

The Jefferson County Planning Commission met on January 10, 2023 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Matt Knott, Vice President; Wade Louthan, Secretary; Steve Stolipher, County Commission Liaison; Donnie Fisher, Jack Hefestay, and Ron Thomas were present in person. J. Ware and Shane Roper were present via ZOOM.

Staff members present included Jennifer Brockman, Chief County Planner; Luke Seigfried, County Planner; Jonathan Saunders, County Engineer; Alexandra Beaulieu, Deputy Director and Zoning Administrator; and Nathan Cochran, Prosecuting Attorney.

Pursuant to Planning Commission action on October 11, 2022, public participation via ZOOM is no longer permitted. The Planning Commission meeting was broadcast via ZOOM.

Mr. Shepp called the meeting to order at 7:00 pm. and confirmed that a quorum was present.

1. Election of Planning Commission Officers.

Mr. Hefestay nominated Mr. Shepp for President; Mr. Fisher seconded the motion. No other nominations were submitted. Mr. Stolipher motioned to close nominations for this office. Mr. Louthan seconded the motion, which carried unanimously. Mr. Shepp was elected president by unanimous consensus.

Mr. Shepp nominated Mr. Knott for Vice President; Mr. Hefestay seconded the motion. No other nominations were submitted. Mr. Shepp made a motion to close nominations for Vice President. Mr. Stolipher seconded the motion, which carried unanimously. Mr. Knott was elected president by unanimous consensus.

Mr. Stolipher nominated Mr. Louthan for Secretary; Mr. Shepp seconded the motion. No other nominations were submitted. Mr. Stolipher motioned to close nominations for Secretary. Mr. Knott seconded the motion, which carried unanimously. Mr. Louthan was elected Secretary by unanimous consensus.

2. Approval of Meeting Minutes: December 13, 2022

Mr. Shepp stated that the minutes stand approved without objection.

3. Request for postponement. None

4. POSTPONED from 12/13/22 Meeting Public Workshop: Reconsidering of the Concept Plan for the Berryville Pike Telecommunications Tower consisting of a 179' Monopole Telecommunications Tower. *Note that this is the remand of the Berryville Pike Telecommunications Tower Concept Plan with discussion limited to "demonstration of need" under Jefferson County Circuit Court Civil Action No. 2022-C-85.* Applicant: New Cingular Wireless PCS, LLC d/b/a AT&T Mobility LLC; Property Owner: 340 Rainbow LLC; Property Location: 3511 Berryville Pike, Charles Town, WV; Parcel ID: 06001100010002; Size: 9.31 acres; Zoning District: Industrial-Commercial; File #21-8-SP.

Mr. Shepp reiterated that discussion for the subject request would be limited to the demonstration of need requirement. Mr. Shepp made a motion at 7:05 p.m. to go into executive

session to receive legal advice regarding the Circuit Court Civil Action No. 2022-C-85. Mr. Stolipher seconded the motion, which carried unanimously.

Mr. Knott made a motion at 7:25 p.m. to resume regular session. Mr. Stolipher seconded the motion, which carried unanimously.

Mr. Shepp stated that for the purpose of this public workshop, the applicant and opponent would each have fifteen minutes to make their presentation.

Mr. Doug Sampson, Mr. Gaurav Behl, Mr. Robert Grant, and Ms. Samantha Twinam, applicants, were all present on behalf of applicant AT&T. Mr. Sampson provided an overview of the request, noting that the primary purpose of the hearing was to address the demonstration of need for the proposed tower. Mr. Sampson referred to the propagation maps that were submitted with their original submission on June 14, 2022 and the supplemental materials submitted for the subject meeting which included additional propagation maps. Mr. Sampson noted that the proposed tower will be a First Net Site. Mr. Sampson provided an overview of the coverage that would be provided with the new tower.

Mr. Ed Donahue and Mr. Chris Stroech were both present to speak on behalf of SBA Infrastructure, LLC. Mr. Donahue stated that AT&T failed to meet the demonstration of need and noted that SBA had previously proffered and was still agreeable to allowing AT&T to install First Net technology on their tower. Mr. Donahue recommended that the Planning Commission retain a private consultant to evaluate the demonstration of need for the proposed tower.

Mr. Sampson provided a rebuttal and stated that there were certain business aspects that are not relevant to demonstration of need. Mr. Sampson stated that based on AT&T's evaluation of the SBA tower, the First Net technology could not be installed on the SBA Tower without a height increase. Mr. Behl spoke on behalf of AT&T and reviewed the propagation maps provided in the agenda packet. Mr. Behl noted that AT&T is licensed on multiple bandwidths and the propagation maps demonstrate a need to expand coverage along US 340.

Mr. Shepp closed the public workshop.

Mr. Knott made a motion to approve the request for the proposed tower and noted that after reviewing the evidence presented, the applicant met the burden of proof and have shown the demonstration the need as required by the Jefferson County Zoning Ordinance.

Mr. Stolipher seconded the motion. Mr. Fisher confirmed that the motion was to approve the Concept Plan for the proposed tower. Mr. Shepp affirmed that the motion pertained to the Concept Plan. The motion carried unanimously.

5. Reports from Legal Counsel

- a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109.
- b. Review of Zoning Text Amendment File #ZTA19-03 related to solar energy facilities, including discussion of Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21-0727, 21-0728, and 21-0731.

- c. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy Facilities).
- d. Discuss and review for possible action Jefferson County Circuit Court Civil Action No. 2022-C-85.

Mr. Cochran did not have any legal update for Items 5.a through 5.d.

6. **Discussion and Approval:** Planning and Zoning 2nd Quarterly Report for FY 2022-2023 for the County Commission.

Mr. Stolipher made a motion to forward the 2nd Quarterly Report to the County Commission as presented; Mr. Louthan seconded the motion, which carried unanimously.

7. **Discussion and Action:** Planning Commission recommendation to the County Commission regarding the proposed budget for FY2023-2024.

Mr. Shepp stated that the budget committee had met and reviewed the budget and recommended approval of the proposed budget. Mr. Shepp noted that it is a working document that may be revised during the budget review sessions with the County Commission.

Mr. Shepp made a motion to approve the budget as presented. Mr. Hefestay seconded the motion, which carried unanimously.

8. **Planner's Memo.**

Ms. Brockman noted that there was an error in the November 15, 2022 meeting minutes that Staff corrected.

Ms. Brockman provided an update to the Planning Commission regarding the WV APA Chapter's proposed changes to WV Code 8A. Mr. Shepp requested that she forward the proposed changes to the Planning Commission for their review.

9. **President's Report.** None.

10. **Actionable Correspondence.** None.

11. **Non-Actionable Correspondence.** None.

Mr. Fisher made a motion to adjourn the regular session at 7:50 pm. Mr. Hefestay seconded the motion, which carried unanimously.

Mr. Stolipher motioned to open the 2045 Comprehensive Plan Update Work Session at 7:56 pm. Mr. Knot seconded the motion, which carried unanimously.

See attached work session summary notes prepared by Mr. Luke Seigfried.

Mr. Fisher made a motion to adjourn the Comprehensive Plan work session at 9:56 p.m. Mr. Hefestay seconded the motion, which carried unanimously.

These minutes were prepared by Alexandra Beaulieu.