

PRESENT: K. Shiflett, Chairman  
J. Curd, Vice Chairman  
S. Bridge  
G. Campbell  
L. Tate, Planner II and Secretary  
J. Wilkinson, Director of Community Development

ABSENT: T. Jennings  
K. Leonard

VIRGINIA: At the Called Meeting of the Augusta County Planning Commission held on Tuesday, April 11, 2017, at 6:30 p.m. in the Board of Supervisors' Conference Room, Augusta County Government Center, Verona, Virginia.

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The Planning Commission reviewed the proposed Deerfield Source Water Protection ordinance, which will be considered by the Commission.

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Chairman

\_\_\_\_\_  
Secretary

PRESENT: K. Shiflett, Chairman  
J. Curd, Vice Chairman  
S. Bridge  
G. Campbell  
L. Tate, Planner II and Secretary  
J. Wilkinson, Director of Community Development

ABSENT: T. Jennings  
K. Leonard

VIRGINIA: At the Regular Meeting of the Augusta County Planning Commission held on Tuesday, April 11, 2017, at 7:00 p.m. in the Board Room, Augusta County Government Center, Verona, Virginia.

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**DETERMINATION OF A QUORUM**

Mrs. Shiflett stated as there were four (4) members present, there was a quorum.

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**MINUTES**

Mr. Bridge moved to approve the minutes of the called and regular meetings held on March 14, 2017.

Mr. Curd seconded the motion, which carried unanimously.

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**NEW BUSINESS**

**Eric Shipplett - Resolution**

Mrs. Shiflett stated that Mr. Shipplett went off the Commission after 7 years of service. She read the following resolution:

WHEREAS, the County of Augusta in consideration of the dedicated service of Eric Shipplett; and

WHEREAS, Mr. Shipplett diligently served the citizens of Augusta County for seven years in the capacity of a public servant; and

WHEREAS, Mr. Shipplett served on the Augusta County Planning Commission from January 2010 to February 2017; and

WHEREAS, Mr. Shipplett served in the office of Chairman to that same body in 2015; and

WHEREAS, the Augusta County Planning Commission is desirous of expressing their appreciation and thanks to Mr. Shipplett for his dedicated service on this commission.

NOW, THEREFORE BE IT RESOLVED that the Augusta County Planning Commission does hereby publicly thank Mr. Shipplett for his service which he has so aptly fulfilled with diligence and concern for the citizens of Augusta County.

BE IT FURTHER RESOLVED, that this resolution be adopted by the Commission, recorded in its minutes, and a copy forwarded to Mr. Shipplett.

Mr. Curd moved to adopt the resolution recognizing Mr. Shipplett for his service and to forward a copy of the signed resolution to Mr. Shipplett.

Mr. Bridge seconded the motion which passed unanimously.

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## **DEERFIELD SOURCE WATER PROTECTION**

A request to add the Source Water Protection Overlay District Area 2 designation to properties in the recharge areas for the Deerfield well and spring, containing approximately 11,217 acres stretching from the County's western boundary east to just past Marble Valley Road (Rt. 600). The Source Water Protection Area 2 is located on both sides of the following private lanes: Phillips Lane, Claybourne Lane, Still House Lane, Radio Park Lane, and a portion of Burgandine Lane as well as Deerfield Valley Road (Rt. 629) in the Pastures District.

Mrs. Tate explained the request as presented on PowerPoint. She explained where the Area 1 and Area 2 Source Water Protection Overlay is located and reviewed the uses

prohibited in the Area 2. Mrs. Tate also summarized some of the uses, requiring a Special Administrative permit. She stated that agricultural and forestry uses are exempt, provided Best Management Practices are used.

There being no questions from the Commissioners, Mrs. Shiflett opened the Public Hearing.

Frank Berry of 16370 Deerfield Road, Deerfield, stated his farm is four miles from the Deerfield spring. He read the following letter written and signed by various property owners from Deerfield.

*We, as landowners in the Deerfield Valley, are concerned about the need for and utility of the proposed Special Permitting Process for the Deerfield Spring.*

*For the past 50 years, anything labeled "environmental" has been sacrosanct and unopposable in our society. This concern has done much good. The environmental movement supported radical improvements in our air and water quality. No longer are industrial emissions poured into creeks and rivers.*

*But the environmental movement will never be content, and as the big issues are resolved they are compelled to find insignificant issues to increase their own feelings of self-worth. For example: the Environmental Protection Agency says small particulates in the air are still so dangerous that they kill 8,000 Americans a year. But the EPA offers no evidence of the small-particulate deaths, nor do they show us the medical evidence on which they based their expensive new requirements for increased air quality standards.*

*Augusta County says it is now preparing to "protect" the water in the county's Deerfield Spring. But the spring is already protected by the existing water regulations in place. Eighty percent of the watershed is already national forest. Additionally, the County declared a thousand-foot circle around the spring as off-limits for any sort of disturbance. Residents were assured that the 1000-foot circle would protect the water the valley's residents drink.*

*Now, however, Augusta is proposing a new Special Administrative Permitting Process for anyone wishing to increase private groundwater use by more than 10,000 gallons. The Special Permitting will supposedly protect the Spring area from use, storage, or disposal of hazardous materials. Such land uses as chemical manufacturing, dry cleaning plants, electronic manufacturing, or commercial machine shops would be prohibited.*

*But such land uses in the Deerfield Valley already require permits, which are unlikely to be granted. Ten thousand gallons a day is enough to water two poultry houses full of turkeys. But building the poultry houses requires permits. Why then does the valley need the Special Administrative Permitting, approved by the Supervisors themselves?*

*The only Deerfield "land use" mentioned in the notice that seems a likely target is the "extraction of minerals, rocks, gravel, sand or similar materials." Does this mean, however, that a farmer would need a special permit to dig out some of his local shale to resurface his driveway? And if the new permits aren't required for this sort of "dangerous" behavior, what likely "threat" will the permits cover?*

*As landowners in a rural area who depend on the water provided by this land, no one has a greater appreciation for the need to protect this water source. We appreciate the service provided by Augusta County and the Service Authority. However, we firmly believe that a reasonable compromise can be achieved that will protect this water source, without unduly limiting our rights as landowners.*

*We urge you to delay this vote and request a second opinion from your team of engineers. Do not impose restrictions on 11,217 acres of land for short-sighted gains that could have enduring and unintended consequences for the landowners and business who call this Valley home.*

Very Sincerely,

Charles J. Harris  
Edward Harris  
Wanda Edwards  
Dane W. Wade  
Janie H. Wade  
Robert Peters  
Catherine Peters  
Walter White  
Jenny White  
Rhonda Shiversberry  
Melba E. Holt  
Ray W. Swats  
Stewart  
Doris B. Holt  
Annette Peters  
Tom  
Kenneth W. Green  
De Green  
H. B. Baggett Jr.

Dorothy  
Dorothy (POA)  
Frank & Betty  
Pamela E. Berry  
Shirley D. Barks  
Christine C. Davis  
Stoney S. Harris  
Barry  
Mindy Berry

(The above letter was made part of the official record for this request.)

Dr. Scott Seaton of 25 Wellington Place, Waynesboro asked why this proposal was coming before the Commission.

Mrs. Tate explained that the Source Water Protection Overlay Ordinance was adopted in 2011. The County currently has 34 Area 1 designations, which is the 1000 feet around the public water supply and is already in existence at the Deerfield well and spring. The area being considered will be the 10<sup>th</sup> Area 2 the County is adopting.

Dr. Seaton asked what the perceived threat is if the overlay is not added.

Mrs. Tate explained the County is protecting the water supply and preventing any hazardous uses from locating there.

Mr. Seaton pointed out that most of the property in the area is farmland, privately owned property, and forest. He asked what the likelihood is that there will be a threat to the water supply.

Mrs. Tate stated it is unsure how things will develop in the future and if the properties will remain as residential uses. The Service Authority has spent a great deal of money to protect the water supply and delineate the area. Because of their expertise it has

been proven that preventing certain harmful uses is important for protecting the investment of everyone that uses the water supply.

Dr. Seaton asked what part of the land that is not National Forest is allowed to be developed for business.

Mrs. Tate stated most of the area is zoned General Agriculture. The ordinance allows for a great deal of uses through a Special Use Permit in General Agriculture Districts. There is the possibility for certain businesses to locate to this area that could cause potential harm to the water supply.

Dr. Seaton asked who approves Special Use Permits.

Mrs. Tate stated the Board of Zoning Appeals (BZA) approves Special Use Permits.

Dr. Seaton asked if there have been any business proposals for the property in the proposed overlay area.

Mrs. Tate stated there have not been any business proposals.

Dr. Seaton asked if the Board of Zoning Appeals has the power to decline another use.

Mrs. Tate stated without spending money to delineate the area, the BZA would not be aware of potential dangers to the water supply. By putting the information out publically, the County is declaring this is the area that drains to the public water supply. As the County develops, this is the area that needs to have certain protections in place. Secondary containment or a spill prevention plan is needed to protect the water supply from potential harm.

Dr. Seaton stated he still does not understand what the harm is, if a Special Use Permit is needed to introduce anything that would be harmful to that area.

Ken Fanfoni, Executive Director of the Augusta County Service Authority stated if someone does propose a business use that may cause harm to the water source, the BZA has the ability to deny the request. Without the ordinance which identifies harmful uses, the BZA would not have anything to use as a reference. The ordinance would be the tool the BZA would use to identify harmful uses. If the BZA does not have a reference or list of prohibited uses, they will have no basis for denying a request.

Mrs. Tate explained that any of the uses allowed in the ordinance would be done through an administrative permit. A determination would be made to see if the proposed use could cause harm to the water supply based on the ordinance. If it is determined that significant harm would not be caused by the proposed use, the use could be permitted administratively.

Mrs. Shiflett asked Mr. Fanfoni to address the costs of treatment if the water supply becomes contaminated.

Mr. Fanfoni stated the main concern would be the loss of the water supply. The water supply had been operated by a private water system. When the Service Authority took over the system, all the pipes had to be replaced because of many leaks in the system. The water quality failed the requirements by the State Health Department. Several thousand dollars was spent on equipment that had to be installed in order to meet the drinking water standards that are in place now. A well also had to be installed because the spring was drying up in the summer and there was no water supply available. The reason the filtration system had to be installed is because a lot of surface water was getting into the ground water. Surface water carries a lot of contaminants. The source of the surface water was from Hamilton Branch drying up in the drier weather and it became a sinking stream. All of the surface water flowed into the creek and went directly into the ground showing up in drinking water within a matter of days. During wet weather, half of the water supply was going directly into the ground and showing up in drinking water, again within a matter of days. It is a concern there could be a chemical or fuel spill or any storage of material that could potentially leak into the creek. If any contamination gets into the creek, it is nearly 100% certainty it will get into the drinking water and may be impossible to remove.

Dr. Seaton stated he wants to make sure the proposed ordinance is not being put in place in order to interfere with the placement of the Dominion Pipeline.

Mrs. Tate explained the Source Water Protection Ordinance was adopted in 2011. The Deerfield well and spring has been set to be studied from the very beginning.

Dr. Seaton asked if the overlay was going to be used in any way to interfere with Dominion's plans.

Mrs. Tate stated the ordinance does not prohibit any type of transmission pipeline. The Board could choose to have it be known that the area is a source water protection area and they are fearful of potential impacts from the pipeline, but the ordinance does not prohibit transmission lines.

Dr. Seaton asked if there are any projected costs in implementing the ordinance.

Mrs. Tate stated the Service Authority has put money towards it but it's been matched by the Department of Health and the Department of Environmental Quality through grant funds. Each delineation in the county all have different costs associated with them. There have been significant costs in delineating the areas to protect the investment in Deerfield.

Dr. Seaton asked what the future costs may be.

Mrs. Tate stated she does not foresee any additional costs associated with the ordinance.

Dr. Seaton asked if there would be any enforcement costs.

Mrs. Tate stated everything would be handled through the Community Development office and no additional staff would be needed.

Mr. Wilkinson stated there would be very little costs, if any. He explained the process the County follows if they receive a complaint of a violation. No additional staffing is needed for this or any other ordinance.

Dr. Seaton stated he does not want to see another administrative program that would cost more money to the tax payers and prevent employees from getting raises.

Mr. Wilkinson stated in his 17 years as the Zoning Administrator, there has been no increase in staff to enforce regulations. He does not foresee this ordinance to create a need for additional staffing. It is an ordinance to protect the water supply. Farming and normal household uses are exempt from the ordinance. It will eliminate the possibility of heavy uses in the recharge areas. It is an ordinance at little or no costs to the tax payers, but is reaping great benefits to protect the water supply now and for future generations.

Mr. Berry expressed concern about livestock litter run-off and wants to make sure farming operations are exempt.

Mr. Wilkinson explained that agriculture uses were exempt as long as best management practices are being used. The ordinance does not regulate farming operations at all.

Mr. Berry stated he has a shale pit on his property that his family has used since the 1940's. He uses shale on his farm for filling in holes and ruts. He asked if he would still be allowed to do that.

Mr. Wilkinson stated mining shale would be considered through the SUP process on a case by case basis. Because of the long-term and existing use of the shale on Mr. Berry's property it would be considered a legal non-conforming use and would be grandfathered in. Only new businesses wanting to excavate shale or set up other types of operations would need to go through the SUP process.

The following letter was received by the Commissioners via email from Ms. Anne Seaton in opposition of the request. This letter has been made part of the official record.

*Dear Augusta Planning Commission,*

*It is our best understanding that a vote is being considered on April 11, at 7pm, on the implementation of a new Source Water Protection Overlay District in Augusta County. This is a lasting decision that regulates land uses within the sourcewater protection overlay district which defines sourcewater terms, mandates reporting requirements, requires additional review from public water suppliers, must provide reporting requirements for*

*regulated land uses and activities within the sourcewater protection overlay district, must provide design standards, must require spill contingency planning, and regulated substance limitations, all while ESTABLISHING THE MEANS FOR ENFORCEMENT OF THE ORDINANCE. This means vast, cost-laden implementation by leveraging our already limited tax payer dollars for an EXPENSIVE and ONGOING legal team/staff to forever change how we live and do business in Augusta County. Common requirements may include building setbacks, density standards, lot sizes, impervious surface reduction and vegetation requirements. Structure requirements could include building floor height minimums and on and on. This guarantees to only encumber Augusta County, make it more challenging financially to live here, make a decent living, and attract other business to this area.*

*If this action is in any way motivated by the temporal and minority opposition to the Atlantic Coast Pipeline, please remember that we have existing energy deficits in regions of West Virginia, Virginia, and especially North Carolina; moreover, the ACP has overwhelming bipartisan support by the tri-state area and FERC concluded in their draft environmental impact statement, that the ACP will be done safely with "no contamination risk to surrounding soil and groundwater." Pipelines have been and are a key part of our nation's infrastructure, dating back to the 1940's; a well-known and well defined, dependable technology indeed. Virginia has 2.5 times as many gas pipelines as freeways. Texas has 56,000 miles of gas pipelines alone. No equivocal replacement of coal/gas has been implemented to support our existing needs with the level of efficiency and dependability that our growing, technologically oriented society requires. Ironically, Germany is in the process of building 8 coal fired plants after experiencing rolling brown outs due to a lack of consistent power supply from wind and solar. We still need gas pipelines for our ongoing quality of life and sustainability in domestic and commercial applications, while these other green technologies are being better developed.*

*Please know that for the record, this potential implementation of a new Source Water Protection Overlay District in Augusta County, does not reflect the desires of this community, and will tie us down with legal fees and hoops for our foreseeable future. I grew up in Maryland and Scott grew up in California--- both states are NOT business friendly, are laden with unbearable regulations, and now an unbearable cost of living. Please do not make Augusta County in any way reflective of burdensome regulations like these. We always want to live in Augusta County and do business here because of its conservative values and family/business friendly environment.*

*Moreover, when you look in the eyes of our county teachers, police officers, and sheriffs who desperately need pay raises, you will knowingly be redirecting this money from them and choosing burdensome regulations, necessitating more staff for enforcement of this code, more lawyers in the county, and denying your faithful public servants the sustainability that they desperately need.*

*Sincerely,*

*Dr. Scott & Mrs. Anne Seaton*

There being no one else to speak in opposition of the request, Mrs. Shiflett closed the Public Hearing.

Mr. Bridge stated this is not the first source water protection ordinance that has come before the Commission. The Service Authority has done a good job in protecting the water source in the county. The overlay is needed not just for now, but for generations to come. He supports protecting the water supply in the Deerfield area.

Mrs. Shiflett stated it is vitally important to protect the water supply. It is important to have enough water in the future to sustain the population and to grow our food. There have been no issues with ordinances that have been passed previously for source water protection.

Mr. Bridge moved to recommend approval of the ordinance.

Mr. Campbell seconded the motion, which carried unanimously.

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**STAFF REPORTS**

A. CODE OF VIRGINIA – SECTION 15.2-2310

Mrs. Tate reviewed with the Commissioners the requests coming before the BZA.

The Commission took no action on the BZA items.

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There being no further business to come before the Commission, the meeting was adjourned.

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Chairman

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Secretary