

PRESENT: E. Shipplett, Chairman
S. Bridge, Vice Chairman
J. Curd
T. Jennings
K. Shiflett
R. L. Earhart, Senior Planner and Secretary

ABSENT: C. Foschini
K. Leonard
T. Fitzgerald, Director of Community Development

VIRGINIA: At the Regular Meeting of the Augusta County Planning Commission held on Tuesday, November 10, 2015, at 7:00 p.m. in the Board Room, Augusta County Government Center, Verona, Virginia.

DETERMINATION OF A QUORUM

Mr. Shipplett stated as there were five (5) members present, there was a quorum.

MINUTES

Mr. Curd moved to approve the minutes of the called and regular meetings held on October 13, 2015.

Mrs. Shiflett seconded the motion, which carried unanimously.

NEW BUSINESS

Election of Officers

Mrs. Earhart presented the nominating committee report, which included Steve Bridge as Chairman, Kitra Shiflett as Vice Chairman, and Becky Earhart as Secretary.

Mr. Curd moved, seconded by Mr. Jennings to elect the slate by acclamation. The motion carried unanimously.

Inclement Weather Policy

Mrs. Earhart presented the 2016 Inclement Weather Resolution to the Commission.

Mr. Shipplett asked who was responsible for the decision to cancel the Planning Commission meeting due to inclement weather.

Mrs. Earhart stated the Chairman will make the decision to cancel the meeting. At times the decision is made based on the number of public hearings. If the weather is such that the public would be unable to participate, the meeting would be canceled.

Mr. Jennings asked if there are any requirements to notify the public if a Planning Commission meeting is canceled due to weather.

Mrs. Earhart stated the approved ordinance fulfills the requirement for public notification. The County website is updated to reflect the cancelation and every effort is made to contact the applicants and anybody else who has talked to staff about a request.

Mr. Jennings moved to recommend approval of the following ordinance:

INCLEMENT WEATHER RESOLUTION 2016

WHEREAS, § 15.2-2214 of the Code of Virginia (1950), as amended, authorizes the Augusta County Planning Commission to fix a schedule of regular meetings.

WHEREAS, the Planning Commission now desires to establish its schedule for regular meetings during calendar year 2016.

BE IT RESOLVED BY THE AUGUSTA COUNTY PLANNING COMMISSION:

1. The Planning Commission shall hold regular meetings during calendar year 2016, in the Board Meeting Room at the Augusta County Government Center, on the dates and at the times set forth below:

January 12, 2016	7:00 p.m.
February 9, 2016	7:00 p.m.
March 8, 2016	7:00 p.m.
April 12, 2016	7:00 p.m.
May 10, 2016	7:00 p.m.
June 14, 2016	7:00 p.m.
July 12, 2016	7:00 p.m.
August 9, 2016	7:00 p.m.
September 13, 2016	7:00 p.m.
October 11, 2016	7:00 p.m.
November 8, 2016	7:00 p.m.

2. In the event the Chairman of the Planning Commission, or the Vice Chairman of the Planning Commission, if the Chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members of the Planning Commission to attend a meeting, such meeting shall be continued to the next Tuesday. Such finding and declaration shall be communicated to the members of the Planning Commission and the media as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement is required.

BE IT FURTHER RESOLVED, that this resolution be adopted by the Commission and recorded in its minutes.

Mr. Bridge seconded the motion, which carried unanimously.

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Conflict of Interest Act

Mrs. Earhart introduced Mr. Patrick Morgan, County Attorney who will make a presentation on the Conflict of Interest Act. Mr. Morgan has been with the County for over seven years.

Mr. Morgan stated the purpose of the Conflict of Interest Act is to prohibit certain kinds of conduct generally and to prohibit certain conduct relating to contracts and transactions. The Act comes in to effect when a matter is presented to the Planning Commission and a Commissioner has a vested interest in the matter. The Act also affects immediate family members of the Commissioners. Family members would include a spouse or anyone else residing in the home of the Commissioner and who is dependent on the Commissioner or the Commissioner is dependent on them financially.

Mr. Morgan explained if a Commissioner owns 3% of a business and the business makes more than \$5,000 a year, (recently decreased from \$10,000 a year), the Commissioner needs to disqualify themselves from any transaction the business may present to the Commission.

Mr. Morgan explained the definition of Generally Prohibited Conduct, which mostly involves bribery and would include accepting money or things of value for services performed, to obtain employment, or to obtain a contract with the government. The use of confidential information for profit is also considered prohibited conduct.

Mr. Morgan explained according to Section 2.2-3112 A.1 of the Code of Virginia, if a Commission member has an interest in property being rezoned, they must disqualify themselves if they will benefit from the transaction in any way. According to Section 2.2-

3112 A.2, the Commissioner may participate in the transaction if he or she is a member of a group of three or more affected by the transaction and the Commissioner discloses his or her interest. In accordance with Section 2.2-3112 A.4, the Commissioner may participate in a transaction if it affects the public generally.

Mr. Morgan stated if a Commissioner needs to disqualify themselves, it should be done either orally or in writing at the first public consideration of the transaction. It is, however, a good idea to repeat the disclosure at any meeting the transaction is considered.

Mrs. Earhart stated if a Commissioner needs to disqualify themselves, they should submit the disclosure in writing so there is a record in the file. The disqualification should also be announced at the public hearing, so there is a record in the meeting minutes.

Mr. Morgan stated even though the disqualified Commissioner cannot participate in any discussion or decision regarding the transaction, they should be present at the hearing in order to have a quorum.

Mr. Shipplett asked if a Commissioner has a conflict of interest in a matter being presented, but he has knowledge that would be of interest to the Planning Commission, could he be part of the audience and speak at the hearing regarding the matter.

Mr. Morgan stated the Commissioner cannot speak to the Commission as part of the audience regarding the matter. The Commissioner could appoint an agent to speak on their behalf.

Mr. Morgan showed a sample of the Disclosure Form that is to be completed when a Commissioner has a conflict of interest with a transaction being presented. The form includes the 3 sections of the Code of Virginia that define whether or not a Commissioner may participate in a transaction coming before the Commission.

Mrs. Earhart stated in some cases even though Commissioners have been able to participate in a transaction coming before the Commission in accordance with Section 2.2-3112 A.2 of the Code of Virginia, they have elected not to participate because of public perception.

Mr. Morgan explained if a Commissioner feels they have a conflict in a particular transaction and they make the decision not to vote, even though they would be allowed to under Section 2.2-3112 A.2, the quorum provision of Section 2.2-3112 C would still apply for the remaining members of the Commission.

Mrs. Shiflett asked if Commissioners are allowed to participate in matters that may come before the Commission, if they are employed by the business presenting the matter.

Mr. Morgan stated if the Commissioner is an employee of the business and their salary is more than \$5,000, they would be considered to have an ownership interest in the business and would need to disqualify themselves from participating in the hearing.

Mr. Morgan reiterated if a Commissioner has a conflict of interest and they are disqualified, they cannot participate in any discussion of the request. Other board members should not contact the disqualified member regarding the matter.

Mr. Morgan stated if a Commissioner is in doubt regarding disqualification, they should contact the Commonwealth Attorney or the County Attorney for a written opinion. Written opinions are admissible in court, should a Commissioner be charged with violating the Conflict of Interest Act. If still in doubt, announce a perceived conflict and do not participate.

Mr. Morgan stated gifts that an official can accept changed due to elaborate gifts being accepted by political officials. The Act addresses gifts that are acceptable and gifts that are not. There are two different types of gifts; tangible and intangible. Tangible gifts may include currency, bonds, and stock options. Intangible gifts may include meals, transportation, entertainment, hospitality, and event tickets. An acceptable gift would be one not exceeding \$250.00 in value in a calendar year. If a gift would have the possibility of influencing the judgement of a Commissioner, the gift should not be accepted. He stated the Commission needs to be conscientious of gifts that may be given to them close to the time of a rezoning or other matter coming before the Commission in order to avoid suspicion of bribery.

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MATTERS PRESENTED BY THE COMMISSION

Mr. Jennings stated he does not agree with the fact the County's public hearings are only advertised in the News Virginian. He has concerns the public is not sufficiently notified, mainly in the rural areas of the County such as Deerfield and Craigsville where internet is not easily accessible.

Mr. Shipplett stated he felt most people in Augusta County read The News Leader.

Mrs. Earhart stated State Code requires the County to advertise only in one paper with general circulation in the locality. The agenda and meeting materials are now placed on the County website as well. She encouraged the Commission if they want the Board of Supervisors to change the way hearings are advertised to speak to the Supervisor in their district.

Mrs. Shiflett asked if the cost for advertising in the News Leader was the main issue.

Mr. Morgan stated the cost to advertise in The News Virginian is half the cost of The News Leader.

Mr. Shipplett stated in all fairness to the citizens of Augusta County, matters should be advertised in both papers.

Mr. Jennings moved to recommend to the Board of Supervisors that all public hearings and ordinance changes be advertised in both The News Leader and The News Virginian.

Mr. Bridge seconded the motion which carried on a 3-2 vote, with Mrs. Shiflett and Mr. Curd opposed.

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STAFF REPORTS

A. CODE OF VIRGINIA – SECTION 15.2-2310

Mr. Shipplett asked if there were any comments regarding the upcoming items on the BZA agenda. 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

Secretary