

PRESENT: K. Shiflett, Chairman
J. Curd, Vice Chairman
G. Campbell
T. Jennings
K. Leonard
E. Shipplett
L. Tate, Planner II and Secretary

ABSENT: S. Bridge

VIRGINIA: At the Called Meeting of the Augusta County Planning Commission held on Tuesday, February 14, 2017, at 5:00 p.m. in the Board of Supervisors' Conference Room, Augusta County Government Center, Verona, Virginia.

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The Planning Commission assembled in the Augusta County Government Center.

The Planning Commission reviewed the proposed ordinance amendments coming before the Commission.

Chairman

Secretary

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T. Jennings
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E. Shipplett
L. Tate, Planner II and Secretary

ABSENT: S. Bridge

VIRGINIA: At the Regular Meeting of the Augusta County Planning Commission held on Tuesday, February 14, 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 six (6) members present, there was a quorum.

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MINUTES

Mr. Leonard asked for the minutes of the December 13, 2016 regular meeting be revised to reflect his presence at the meeting.

Mr. Shipplett moved to approve the revised minutes of the December 13, 2016 regular meeting.

Mr. Curd seconded the motion, which carried unanimously.

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Sections 25-4, 25-74, 25-384 and 25-385 – Extraction of Oil & Natural Gas

An ordinance to amend Sections 25-4, 25-74, 25-384, and 25-385 of the Augusta County Code to prohibit the extraction of oil and natural gas, specifically by means of

enhanced recovery and/or hydraulic fracturing in Augusta County and to amend the special use permit conditions for extraction of materials in General Agriculture and Industrial districts.

Mrs. Tate explained the proposed amendment as presented on PowerPoint. She stated the Planning Commission had heard an ordinance about hydraulic fracturing last year and it was tabled for further discussion because an Attorney General had ruled that localities could not outright ban hydraulic fracturing. The ordinance that was heard by the Commission then was to create a Special Use Permit for hydraulic fracturing in Industrial Districts and not allow any extraction of oil or natural gas in General Agriculture Districts no matter the process that would be used to do so. Since then, the Attorney General has changed the ruling and made a determination that hydraulic fracturing can be banned. The proposed amendment coming before the Commission would ban hydraulic fracturing. It will permit the extraction of oil and natural gas by regular pumping through a Special Use Permit that would go before the Board of Zoning Appeals. Conditions of the Special Use Permit that are changing with this amendment include a requirement that the applicant submit a transportation study and, specifically for the extraction of oil and natural gas, the applicant must submit a study showing there would be no adverse effect on the water supply. In order to be in compliance with the County's Source Water Protection ordinance, any mining operation would be prohibited in Area 1 of a Source Water Protection Overlay District, but it would be allowed in Area 2 with a special Administrative Permit based on certain conditions such as secondary spill containment and other conditions that protect the water supply.

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

Shay Clanton of 65 Clayton Mill Road, Deerfield, VA stated she is in favor of the ordinance to ban hydraulic fracturing. She has seen the effects of hydraulic fracturing in other states. The ban is necessary to protect the fragile water supply because of the karst environment.

David Copper of 1603 Ridge Way Dr., Staunton, VA stated he is in favor of the ban but is confused about the additions in the ordinance that would allow for fracturing in spite of the ban.

Mrs. Tate explained the Special Use Permit conditions will allow for the extraction of minerals, which is already allowed. The ordinance will allow for the extraction of oil and natural gas, but not by means of hydraulic fracturing.

Mr. Copper stated he appreciates the Commission addressing hydraulic fracturing. Mr. Cooper expressed surprise that the room wasn't filled. He admires the County's courage to ban fracking. He stated that the state of Maryland has banned fracking as well. Mr. Cooper concluded that he is proud that this community is going on record to ban fracking.

Eleanor Lopeosa, of 500 C St., Staunton, VA asked if hydraulic fracturing had already been banned.

Mrs. Tate stated it has not been banned in Augusta County because of the Attorney General's earlier ruling. Ms. Lopeosa asked if that determination is something that could be overruled. Mrs. Tate stated that the state could enact future legislation that may prohibit an outright ban. Mrs. Tate further stated, because of the new ruling by the Attorney General which would allow the ban, Augusta County is being proactive to implement an amendment to the ordinance banning hydraulic fracturing.

Ms. Lopeosa stated she wants to keep the good water quality that is in Augusta County. Anyone that has seen fracking sites knows how devastating it can be. Fracking destroys the beauty of the area and would ruin the tourist trade and destroy farms.

Kim Clanton of 65 Clayton Mill Road, Deerfield, VA stated he approves the ordinance. He is proud to live in the area and is proud of the Planning Commission for supporting and stopping hydraulic fracturing. Climate change is also a great reason to stop hydraulic fracturing.

Nita Witting of 805 Elizabeth Miller Gardens, Staunton, VA asked who is going to add and clarify conditions for the extraction of materials.

Mrs. Tate explained the list of conditions currently in the ordinance for the extraction of minerals, sand, and rock and stated these conditions will remain the same. She again reviewed and explained the amendment changes coming before the Commission.

Ms. Witting asked how imminent domain would be affected by the ordinance.

Mrs. Tate stated this ordinance does not address imminent domain issues.

There being no one further to speak in favor of or against the request, Mrs. Shiflett closed the Public Hearing.

Mr. Jennings stated there are many reasons to make this ban necessary, but there are none more important than the protection of our water source. He moved to approve the amendment as written.

Mr. Shipplett seconded the motion, which carried unanimously.

Sections 25-602 and 25-604 of Division I, Article LX – Rezoning & Other Amendments

An ordinance to amend Sections 25-602 and 25-604 of Division I, Article LX. Rezoning and other Amendments of the Augusta County Code.

Mrs. Tate stated this amendment is a housekeeping measure to bring the County's ordinance in compliance with the State's new proffer legislation associated with residential rezonings or the residential portion of mixed use rezonings. Any application filed after July 1, 2016 would need to meet the new proffer requirements as set by the State. She further explained the request as presented on PowerPoint.

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

There being no one to speak in favor of or against the amendment, Mrs. Shiflett closed the public hearing.

Mr. Shipplett moved to approve the amendment as written.

Mr. Leonard seconded the motion, which carried unanimously.

Sections 25-4, 25-123, 25-133, and 25-134 – Keeping of Chickens

An ordinance to amend Sections 25-4, 25-123, 25-133, and 25-134 of the Augusta County Code to provide for the keeping of chickens in rural residential and Single Family Residential Districts under certain circumstances and to clarify the requirements associated with allowing farms and limited agriculture by Special Use Permit in Single Family Residential Districts.

Mrs. Tate explained this amendment has two parts. The first part is to amend the definition of Limited Agriculture in residential districts. Limited Agriculture can be applied for and granted by the Board of Zoning Appeals through a Special Use Permit in single family residential districts. Currently in Rural Residential Districts, Limited Agriculture is a permitted use. The definition in rural residential districts prohibits swine and poultry but in Single Family Residential Districts, the definition currently does not prohibit swine and poultry. This amendment will change the definition to prohibit swine and poultry in Single Family Residential Districts as it relates to the Special Use Permit.

Mrs. Tate stated the second part of the amendment would allow for back yard chickens in Single Family and Rural Residential Districts. She explained the amendment as presented on PowerPoint.

Mr. Shipplett asked who is going to make the determination if three complaints about chickens is valid.

Mr. Wilkinson stated the zoning inspector would inspect the property to verify the validity of the complaint.

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

Ms. Witting asked if this amendment was for residential districts.

Mrs. Tate stated the amendment will allow for chickens in any area zoned Single Family Residential on any size lot, provided they can meet setback requirements, and in Rural Residential districts. Chickens are already permitted in General Agriculture Districts by right.

Ms. Witting asked if there was a limit to the number of chickens in Rural Residential Districts.

Mrs. Tate stated this amendment will limit the number of chickens in Rural Residential and Single Family Residential Districts.

Mr. Wilkinson stated 95% of the property in Augusta County is zoned General Agriculture. This amendment will only affect Single Family and Rural Residential Districts.

There be no one else to speak in favor of or against the request, Mrs. Shiflett closed the Public Hearing.

Candy Hensley, Assistant to the County Administrator, and Supervisor over the Animal Control and Maintenance and Grounds Departments stated there are currently three full-time officers that work 8:00 a.m. to 7:00 p.m. in rotating shifts and one officer works on the weekends. She gave a PowerPoint presentation summarizing the duties of the Animal Control officers which included statistics from 2016 on the number of hours the officers spent on calls, the number of complaints they received and worked, and the number of court cases they prepared. The officers also assist with animal welfare and rescue, issue animal criminal summons, make kennel inspections, and deal with dogs running at large and with persons who do not have licenses for their animals. They also make educational presentations.

Mrs. Hensley stated if the amendment passes, there will obstacles for the officers. They are not equipped to handle transportation. Catching the chickens, if necessary, will be an issue. Decontamination of vehicles if chickens need to be transported will be a time consuming job. Housing of the chickens at the Shenandoah Animal Services Center will be difficult, as they are not equipped for housing. There is a 10 day holding period for any chickens that are brought in by the officers. State Code mandates that a court action is required to adopt out or dispose of an animal that is caught. An ad has to be placed in the newspaper to advertise the chickens are being held. The ad will cost \$400-\$500. Having chickens in residential areas will cause concern for poultry being killed by dogs and the possible consequences to the dog. The County may also be responsible for paying livestock payment for any chicken killed. Keeping chickens in residential areas may also increase nuisance animals such as mice, raccoons, skunks, and snakes.

Mrs. Hensley also reviewed the possible budget costs that may be incurred if the amendment passes. Possible costs may include chicken coops or cages, chicken

feeders and waters, feed storage containers, tarps, chicken feed, veterinarian care, transportation coops, throw net, and a net gun. These costs would total over \$3,600.

Mr. Shipplett asked if there would only be one net gun for three officers to use. If they receive a call at night, would the officer have to go to the office to get the net gun before reporting to the location of the call?

Mrs. Hensley stated that she is only proposing to purchase one net gun at this time. Currently, when the officers are called, they report directly to the location. If a net gun is needed, the officer would have to go to the office to get the gun before reporting to the call.

Mr. Jennings stated the cities of Staunton and Waynesboro have a similar ordinance that allows chickens. He asked if these localities have contributed to these budget costs.

Mrs. Hensley stated they have not, but it is something they may look at sharing the costs of with Staunton and Waynesboro cities.

Mr. Shipplett asked if the officers are paid on a salary or hourly basis.

Mrs. Hensley stated they are paid salary, but they earn time and a half for overtime.

Wendell Coleman, Board of Supervisor for the Wayne District asked what problem did the ordinance start out trying to solve. He stated that tonight there was no one to speak in favor or in opposition. He hopes whatever decision is made will not go further than it needs to go and actually solves the problem. He talked about a resident that has a house on 18 acres and was zoned Single Family Residential and unable to have chickens. He compared that scenario to houses in more traditional subdivisions in his district. He reiterated that it is important to remember what problem we started out trying to solve and hopefully the ordinance speaks to that. As an example, he stated when he was on the BOS before, a cat ordinance was adopted, but it could not be enforced because they were grand-fathered.

Motion for definition of Limited Agriculture amendment

Mr. Leonard moved to approve the amendment to change the definition of Limited Agriculture in Single Family Residential Districts to prohibit swine and poultry.

Mr. Curd seconded the motion, which carried unanimously.

Motion for amendment to allow chickens

Mr. Jennings stated he felt people should be allowed to keep chickens. He stated the restrictions are very tight and he expects very few people will want chickens because of the tight restrictions. He feels the potential expenses could be shared with Waynesboro and Staunton cities.

Mr. Leonard stated he does not see any good in this ordinance. It will be costly to implement and enforce the ordinance. Chickens do not belong in residential districts. Residents should live in General Agriculture districts if they want to farm. There would be potential for disease epidemics. Diseases start in the wild and can end up in the poultry houses which can be devastating for the economy and poultry growers. He is empathetic to the people that want to have back yard chickens, but does not feel residential districts are the right place for them.

Mr. Curd stated he agrees with Mr. Leonard. It only takes one chicken to spread disease and poultry growing is an important industry in the County and is the livelihood of many farmers. He stated if the Board of Supervisors approves the ordinance, that it should only be allowed in Rural Residential Districts with a set fee of \$50.00 for permitting.

Mrs. Shiflett stated the ordinance amendment previously came before the Planning Commission and Board of Supervisors and was turned down. Her opinion of the ordinance has not changed since then. The permitting process, yearly inspections, and other associated costs is more than the County wants to cover. If the Avian flu comes to the area, the government will come and kill the backyard chickens regardless if they are considered to be a pet or not. Residents that live in subdivisions have enough problems with other issues and chickens are not needed to add to those issues. Chickens attract vermin of all kinds and there is no way to keep an area clean where chickens are kept. Residents did not buy property in subdivisions to live beside a farm. It would be a disservice to residents in subdivision if the ordinance passes. If the Board of Supervisors approves the ordinance, she would recommend it only be approved in Rural Residential Districts and that permit costs would cover the County costs.

Mr. Jennings recommended approval of the amendment.

There was no one to second the motion.

Mr. Curd moved to recommend denial of the amendment. He moved to recommend if the Board of Supervisors approves the amendment, it would only be allowed in Rural Residential Districts and permit costs would be set to cover County costs.

Mr. Leonard seconded the motion, which passed on a 5-1 vote, with Mr. Jennings voting against the recommendation.

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Old Business

Appointment of Planning Commission Secretary

Mr. Curd moved to appoint Leslie Tate as the secretary of the Planning Commission.
Mr. Jennings seconded the motion, which carried unanimously.

Matters to be Presented by the Commission

Mr. Shipplett stated due to relocating to the City of Staunton, he would be resigning from the Planning Commission effective 2/28/2017. He has lived in the County for 40 years and has served the County in numerous capacities. He stated he has enjoyed his time serving Augusta County as a Commissioner.

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STAFF REPORTS

Annual Report

Mrs. Tate reviewed the Annual Report with the Commissioners.
There were no questions or comments from the Commissioners.

Code of Virginia – Section 15.2-2310

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

Chairman

Secretary