

POLICY COMMITTEE MEETING

April 16, 2015

4:00 p.m.

County Government Center, Building A

1.) Roll Call

Present

Mr. John Wright
Mr. Tim O'Connor

Staff Present

Mr. Paul Holt
Mr. Chris Johnson
Mr. Jason Purse
Ms. Tammy Rosario
Mr. Maxwell Hlavin
Mr. Alex Baruch

Others Present

Absent

Mr. Krapf
Mr. Richardson

Mr. John Wright called the meeting to order at 4:00 p.m.

2.) Minutes

a. March 4, 2015

Ms. Tim O'Connor moved to approve the March 4, 2015 minutes.

In a unanimous voice vote, the minutes were approved as submitted (2-0).

3.) Old Business

There was no old business to discuss.

4.) New Business

a. ZO-0004-2015, A-1, General Agricultural, and Definition Amendments to Incorporate State Code Changes

Mr. Jason Purse stated that there were a number of State Code changes made in the legislative sessions in 2014 and 2015. Mr. Purse stated that the County is taking care of all of the changes in one group including the ones in 2015 that are going to be enacted in July. Mr. Purse gave an overview of the changes being made to the ordinance. Mr. Purse stated that housekeeping changes were made to the aquaculture/fish farming and wayside stands sections. Mr. Purse stated that limited farm brewery and limited farm distillery are the main additions to the ordinance. Mr. Purse stated that this adds a production component to the on-site farming, meaning that if you have an active farm and are growing the materials that you can use to make beer or distill a product as a permitted use. Mr. Purse stated that the ordinance limits it to only allowing a tasting room associated with the limited brewery. Restaurants or tap rooms would still require a special use permit. Mr. Purse stated that staff also proposed adding small scale

alcohol production as a special use permit, which would allow a brewery type use where material was not grown onsite.

Mr. Wright inquired whether the required permits were still required for serving alcohol in these situations.

Mr. Purse stated that it would still be required.

Mr. Wright asked if the group home provision would be allowed in New Town.

Mr. Purse stated that it would be allowed in New Town per the State Code. Mr. Purse stated that the State Code says that the County cannot prevent this type of group home. Mr. Purse stated that there were some examples of group homes in Kingsmill, for example.

Mr. O'Connor stated that an HOA is violating state law if they have it written into their by-laws that this type of group home is not permitted. Mr. O'Connor asked if it was eight unrelated people plus caretakers.

Mr. Paul Holt stated that it is eight people plus a resident caretaker.

Mr. Purse read the State Code.

Mr. Purse stated that you have to be licensed for a very specific type of group home and not all group homes qualify for this.

Mr. Holt stated that HOAs are allowed to limit other types of group homes but not this one.

Mr. O'Connor stated that it is defined in the State Code and is an exception. Mr. O'Connor asked if the language needed to be defined specifically as eight or fewer adults plus caretakers.

Mr. Purse stated that staff did not want to get too wordy in the use list but the definition in the ordinance clarifies the specifics.

Mr. O'Connor stated that he would like to avoid any confusion by making it as clear as possible.

Mr. Purse stated that staff had not run into any problems given the definition.

Mr. Maxwell Hlavin stated that the State Code definition would trump the ordinance if it came to any questions.

Mr. O'Connor asked about fish farming and aquaculture and if harvesting is considered a part of the farming activity.

Mr. Purse stated that if a farmer were to harvest the fish it would be a part of the farming activity, bringing it to shore would be part of the farming activity, but you cannot process it or package it.

Mr. Holt stated that a farmer could harvest the fish and take it to the front of their property and sell it as a whole fish through a wayside stand but they could not can, package or process the fish.

Mr. O'Connor stated that there would not be a problem with having a truck come and pick up the fish to haul them away.

Mr. Holt stated that was correct.

In a unanimous voice vote, the draft Ordinance was forwarded to Planning Commission for consideration (2-0).

- b. ZO-0002-2015, Article V, Division 10, General Business, B-1 and Division 11, Limited Business/Industrial, M-1

Mr. Purse gave an overview of the changes being made to the ordinance. Mr. Purse stated that microbreweries were taken out of the ordinance and replaced with the small scale alcohol production as a permitted use to remain consistent.

In a unanimous voice vote, the draft Ordinance was forwarded to Planning Commission for consideration (2-0).

- c. ZO-0003-2015, Article I, In General –Administrative fees, Amendment and variations of conditions and Submittal requirements

Mr. Chris Johnson gave an overview of the changes proposed to the ordinance. Mr. Johnson stated that due to changes in the State Code and the way the County processes legislative applications, in 2009 the State Code was amended to allow proffers amendments that do not affect conditions of use or density to bypass the public hearing process otherwise required by County Code prior to consideration for adoption by the Board of Supervisors. Mr. Johnson stated that staff has processed proffer amendment requests that do not affect use or density by relying on County Administration and the County Attorney to informally poll the Board of Supervisors prior to processing the request as a rezoning application. Mr. Johnson stated that in order to provide a measure of clarity to the process for future requests, staff is proposing amendments to the County Code to add an administrative fee and outlining the submittal requirements and administrative procedures for the processing of written proffer amendment requests that do not require a public hearing as determined by the Board of Supervisors.

Mr. Johnson stated that the other change proposed in this amendment is to the submittal requirements portion of the ordinance. Mr. Johnson stated that since December 2014, all document materials included in the Board of Supervisors agenda have been required to be submitted in an electronic format. Mr. Johnson stated in order to provide clarity to the process for the public, development community and applicants, staff is proposing this amendment to clarify formatting expectations for all materials which are intended to be included on a Planning Commission or Board of Supervisors meeting agenda. Mr. Johnson stated that staff recommends the Policy Committee recommend approval of the draft amendment to the Zoning Ordinance to the Planning Commission.

Mr. Holt stated that the most recent example of a proffer amendment that did not require a public hearing would have been the Gatehouse Farms case.

Mr. Johnson stated that the Gatehouse Farms case was to eliminate proffer conditions that no longer applied to the property because there was going to be no recreation facility on that property. Mr. Johnson stated before the Gatehouse Farms case the Stonehouse case was the other application processed in this manner. Mr. Johnson stated that the Toano Trace proffer amendment case came in under a similar request but was determined by the Attorney's Office to affect the condition of use of the property and therefore had to be processed as a public hearing case.

Mr. Johnson stated that with this amendment staff would be able to point to a place in the ordinance that describes the process and lays out the guidelines and two directions the Board of Supervisors could take and would point to a fee structure if the case dictates that a public hearing is required.

Mr. Wright stated that this would also be beneficial to the Planning Commission.

Mr. Johnson stated that anything that clarifies a process would be beneficial to the public and everyone else involved in handling such a request in the future.

Mr. Wright asked if the amendment would decrease the Planning Division's workload.

Mr. Johnson stated that it would not decrease staff's workload but would clarify expectations and eliminate undocumented requirements and procedures.

Mr. Holt stated that there is a process in State Code that says this process can be done; however, the County Code does not describe the process.

Mr. Wright asked if for the submittal requirements, would a standard software be used.

Mr. Holt stated that it would be in PDF format. Mr. Holt stated that all of the different software products export to PDF. Mr. Holt stated that staff would provide the companies with the website that they can submit the documents to so it will not be any additional legwork or custom software for the applicant.

Mr. Wright stated that it would be a benefit to the applicant and staff.

Mr. Johnson stated that for the small applicant who does not have that range of experience staff would continue to help scan materials in for submittal.

Mr. O'Connor asked if paper copies would still be required.

Mr. Johnson stated that paper copies would still be required because staff still has to send out copies to agencies for review and paper copies make it easier to review/discuss a plan around a table.

Mr. Holt stated that for example at DRC staff may still need to have a big plan to review out in front of everyone but in the future we may be able to reduce the amount of paper copies if we have the technology to support review of plans that way.

Mr. O'Connor stated that he prefers having paper copies when reviewing documents.

Ms. Tammy Rosario stated that having a paper plan allows for easier notations.

Mr. O'Connor stated that it is easier to see the whole picture when the big plan is spread out in front of you.

In a unanimous voice vote, the draft Ordinance was forwarded to Planning Commission for consideration (2-0).

d. PC Remote attendance policy

Mr. Holt gave an overview of the proposed policy. Mr. Holt stated that the examples from other localities are similar because the State Code is prescriptive about what the allowable conditions are for being allowed to attend a meeting remotely. Mr. Holt stated that the model ordinance from the Virginia Municipal League (VML) was the best formatted example. Mr. Holt stated that staff's recommendation would be to use the VML example as a starting point to put together a version applicable to James City County.

Mr. Wright asked how this would be implemented in a meeting.

Mr. Holt stated that under the model policy item # 1A or 2A, the day before the meeting the member would notify the chair and the Planning Director. Mr. Holt stated that the meeting would be set up where the motion would be taken at the beginning of the meeting to allow or not allow the member to attend remotely. Mr. Holt stated that mechanically the person would be on speakerphone throughout the meeting.

Mr. Wright stated that that the policy says only two meetings or 25% of the meetings whichever is fewer.

Mr. Holt stated that since the Planning Commission meets monthly it would be a maximum of two meetings.

Mr. O'Connor asked if travel for work would be considered a personal matter.

Mr. Hlavin stated the policy can be left open for interpretation or can be limited but traveling for work would be considered a personal matter in my interpretation.

Mr. Wright asked if he had a personal matter that took him away from the area and wanted to listen to the meeting and be marked absent would that be allowed?

Mr. Hlavin stated that Mr. Wright in that circumstance would be allowed to listen to the meeting but not participate. Mr. Hlavin stated that the policy has a provision if there is personal

disability which does not allow you to attend there is no limit to the amount of times a person would be allowed to phone in under those circumstances.

Mr. Holt asked for any direction from the Policy Committee on what staff should include in the policy.

Mr. Wright stated that he thinks the policy should cover both sections.

Mr. O'Connor stated that a possible wording could be personal matter including but not limited to. Mr. O'Connor stated that it is possible to amend this policy if we see issues with it in the future.

Mr. Holt stated that changing the policy could not be done on the fly but could be done.

Mr. O'Connor asked if there is an issue with the number of times a person could be allowed to call in could that be amended.

Mr. Holt stated that the amount could not be increased but could be limited to one or two.

Mr. O'Connor asked about the last time this policy came under consideration under the Freedom of Information Act (FOIA) the person would need to be in a public place when participating in the meeting.

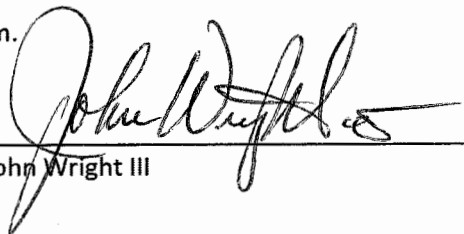
Mr. Hlavin stated that there are different rules for members of State Assembly that if they want to participate they would have to be in a public space and have separate rules.

In a unanimous voice vote, the Policy Committee voted 2-0 to send a policy to the Planning Commission based on the VML model.

4.) Adjournment

Mr. O'Connor moved to adjourn.

The meeting was adjourned at approximately 4:36 p.m.



John Wright III