

**MINUTES**  
**JAMES CITY COUNTY POLICY**  
**COMMITTEE REGULAR MEETING**  
**BUILDING A LARGE CONFERENCE ROOM**  
**101 MOUNTS BAY ROAD, WILLIAMSBURG, VA**  
**23185**  
**February 8, 2024**  
**3:00 PM**

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**A. CALL TO ORDER**

Mr. Jack Haldeman called the meeting to order at 3 p.m.

**B. ROLL CALL**

**Policy Committee Members Present:**

Tim O'Connor

Frank Polster

Jack Haldeman, Chair

**Planning Commissioners Present:**

Jay Everson

**Staff Present:**

Susan Istenes, Planning Director

Tammy Rosario, Assistant Director of Community Development

Josh Crump, Principal Planner

Tom Leininger, Principal Planner

Christy Parrish, Zoning Administrator

Paxon Condon, Deputy Zoning Administrator

Terry Costello, Senior Planner

Jose Ribeiro, Senior Landscape Planner II

Cheryl Holland, Financial and Management Specialist

Margo Zechman, Budget and Accounting Analyst

**C. MINUTES**

1. Minutes of the October 12, 2023, Regular Meeting

Mr. Polster made a motion to approve the Minutes.

On a voice vote, the Committee approved the Minutes of the October 12, 2023, Regular Meeting.

**D. OLD BUSINESS**

There was no Old Business to discuss.

**E. NEW BUSINESS**

1. Fiscal Year 2025-2029 Capital Improvements Program Review

Ms. Costello made a presentation to the Committee on the Capital Improvements Program (CIP) process. Ms. Costello noted that there are five new CIP applications for the Committee to rank. Ms. Costello stated that the Committee would submit questions about the individual applications by email and staff would work with the applicants to provide answers. Ms. Costello stated that this meeting was to address any questions the Committee

has about the process.

Ms. Holland described this year's evaluation process and how it would be different from that of prior years. The five projects, including a new warehouse, a space study for the courthouse, two projects for the Chickahominy River Park, and a Police firing range classroom will be evaluated separately from unfunded projects left over from prior years.

Mr. Polster provided a set of questions about how the projects would be prioritized and funded. Mr. Polster noted that he would be more comfortable with prioritizing previously submitted projects that were not funded, projects that should have been on the list, and then the new projects.

Mr. O'Connor inquired if the Committee could count on there being matching funds for transportation and stormwater projects.

Mr. Polster noted that the stormwater projects would be predicated on staffing. Mr. Polster noted that there is a proposal to add staff in General Services to address this problem.

Mr. Haldeman inquired if the Committee should begin ranking the project now.

Ms. Costello stated that the Committee could develop a preliminary ranking which would be finalized at a later meeting.

## 2. Utility-Scale Solar Farm Applications

Mr. Ribeiro gave an overview of the draft Ordinance and Policy.

Mr. Haldeman commented that the less than one megawatt facilities in residential districts can require four to six acres and be comprised of 5,000 panels. Mr. Haldeman stated that this seems to be a fairly intense use for a residential district.

Mr. Polster noted that a similar facility had been proposed with a potential development application to provide power to the homes. Mr. Polster stated that similar proposals should be centralized in the interior of the development or have the panels roof-mounted.

Mr. Ribeiro stated that a less than one megawatt facility is considered small-scale in the draft Policy. Mr. Ribeiro further stated that the Policy does set acreage restrictions.

Mr. Haldeman reiterated his concern that this use, even at just four to six acres, would be fairly intense in a residential district.

Mr. Polster noted that it would be difficult to adequately buffer the facility. Ms. Rosario stated that this particular use would require a Special Use Permit (SUP). Ms. Rosario further stated that it would be incumbent on the developer to show how it fits into the character of the residential neighborhood so that it is acceptable to the remainder of the community. Ms. Rosario stated that both the Ordinance and the Policy establish criteria that the developer would need to follow for buffering and screening. Ms. Rosario stated that it would be up to the Planning Commission and the Board of Supervisors (BOS) whether the impacts were sufficiently mitigated to meet the Ordinance requirements and community expectations.

Mr. Polster stated that he is concerned about how the criteria would be applied and what the unintended consequences might be. Mr. Polster further stated that it should be clear why staff has determined how the proposal meets or does not meet specific criteria. Mr. Polster stated that some criteria are not clear as to intent and basis. Mr. Polster requested that staff consider whether the existing projects would have been approved if they had been subject to the proposed Ordinance criteria. Mr. Polster stated that he was struggling

with whether these were hard and fast rules or whether there is discretion based on context.

Mr. Ribeiro stated that some of the criteria are based on recommendations from the consultant as well as industry standards. Mr. Ribeiro noted that staff would certainly look at these items.

Mr. Polster stated that he had questions about the criteria applied to Public Lands outside of the Primary Service Area (PSA) and how they might be applied to projects that the County may pursue.

Mr. Polster further stated that he is concerned about putting an Ordinance in place that is so restrictive that a property owner may feel they have no other option than to sell the land for development. Mr. Polster suggested that the Policy or Ordinance call for a fiscal impact statement to outline the fiscal benefits of the project. Mr. Polster requested information on what a fiscal impact statement should include.

Ms. Rosario stated that there has been internal discussion on past cases and how that might fit in with the Policy considerations and the Ordinance requirements.

Mr. Polster commented that he wanted to understand the impetus behind the restrictions being developed outside of the conditions that were already proven to mitigate impacts.

Ms. Rosario noted that the criteria outlined in the Policy would have some room for discretion and interpretation.

Mr. Polster stated that the Policy and Ordinance criteria would be listed out in the staff report and be the basis for whether staff recommends for or against approval of the project.

Ms. Rosario noted that staff must consider the project based on the criteria; however, the Planning Commission and the BOS would have the discretion to weigh the project based on its context.

Mr. Polster stated that he was concerned about having a similar dilemma in interpreting Solar Farm Policy and Ordinance criteria that currently exist with short-term rentals.

Ms. Rosario noted that the goal of this discussion was to record the Committee's suggestions and carry forward the suggestions and recommendations to the Planning Commission discussion.

Ms. Rosario noted that if the Committee believes that the one-mile distance between solar farms or the requirement to be within two miles of the transmission mains is too restrictive, staff would bring that forward for discussion.

Mr. Polster stated that there was a lack of context. Mr. Polster noted that staff should plot out where the transmission lines would be for the project and take into account the location. Mr. Polster further noted that one of the proposed requirements would make the applicant responsible for the Dominion Energy lines. Mr. Polster stated that he found that to be unreasonable. Mr. Polster noted that the state had been struggling with developing legislation for solar farms. Mr. Polster further stated that it would not be prudent to adopt an ordinance that is more restrictive than what the state would allow.

Mr. Haldeman inquired why solar farms are excluded from the M-2 Zoning District. Mr. Haldeman noted that a solar farm would be a good use of some of those parcels.

Mr. Leininger stated that solar farms are specially permitted uses in the M-2 Zoning District.

Mr. Polster stated that those parcels are not in the PSA and would be restricted in size. Mr. Polster noted that the proposed criteria would not allow a good reuse of some of those properties.

Mr. O'Connor noted that there seems to be a conflict between Criteria No. 4 and No. 5 which he presumes to be for separate facilities. Mr. O'Connor noted that there should be some clarification in the event that two separate owners would work together to accommodate a larger project.

Mr. O'Connor inquired about the reason to stipulate that the facility be located within two miles of the transmission lines if the applicant would be required to bury the lines.

Mr. Polster noted that the issue was the definition of where the connection point is.

Mr. O'Connor inquired about Criteria No. 11 to require upgraded plans from the interconnection point to the switching stations and whether that would unduly influence the application.

Mr. Polster inquired about why this criteria was included since this is a Dominion Energy issue.

Mr. Polster inquired about the criteria limiting the facility to 60% of the property.

Ms. Rosario stated that this was incorporated to reflect the existing requirements related to impervious cover.

Mr. Polster stated that the Chesapeake Bay Preservation Act (CBPA) allows for mitigation for greater amounts of impervious cover; however, those are not spelled out in the Ordinance or Policy.

Mr. Polster stated that this was also the issue with the stipulations regarding agricultural soils. Mr. Polster stated that he wanted clarification and concurrence that those agricultural soils were based on the James City County Agricultural Soils definitions.

Mr. Haldeman inquired if Mr. Everson had any comments.

Mr. Everson inquired if there was any stipulation in the Ordinance or Policy regarding traffic crossing railroad tracks.

Mr. Polster stated that this was not specifically included in the Ordinance or Policy; however, the stipulation about local roads covers disturbance to neighborhoods and subdivisions and defines what those local roads were.

Mr. Leininger stated that the Policy does state that access across railroad track would be unacceptable.

Mr. Polster inquired about the rationale for this stipulation.

Mr. Leininger stated that there were safety concerns.

Mr. O'Connor noted there had been concerns with prior applications about several sharp turns and steep grades that would be unsafe for the construction vehicles.

Mr. O'Connor inquired if it is anticipated that solar facilities will be considered a temporary use or a permanent facility.

Mr. Crump stated that there had been some discussion on this and that since SUPs run with the land, it could be considered permanent.

Mr. O'Connor stated that if it was a permanent use, then the stipulations on prime soils would be irrelevant.

Mr. Haldeman stated that if the alternative is housing; that is not good for prime soils either. Mr. Haldeman inquired about stockpiling soil for the reclamation process.

Mr. Polster noted that this was an SUP condition for one of the approved solar farms. Mr. O'Connor inquired about the siting agreement.

Ms. Rosario stated that the Ordinance defined it as an agreement between the County and the entity per Code of Virginia Section 15.2-2316.7. to allow for the mitigation of impacts and can include financial compensation to the host locality. Ms. Rosario stated that is akin to proffers. Ms. Rosario further stated that when the County signs a siting agreement, it is confirming that the facility is consistent with the Comprehensive Plan in lieu of a 2232 review.

Mr. O'Connor noted that he did not favor requiring neighborhood meetings as it can lead to a misunderstanding about what was requested and what was conditioned by the County.

Mr. Polster stated that he favored meetings between the developer and the individuals directly impacted by the development.

Mr. Polster inquired about the limitations on impervious surface.

Mr. Crump clarified that Criteria No. 6 had been revised to state: "The County considers solar panels to be impervious for the land cover calculation and stormwater management needs. Impervious cover on individual facility sites shall not exceed 60 percent as required by the County's Chesapeake Bay Preservation Ordinance Section 23-9(b)(1)(b)."

Mr. Polster inquired about the mitigation strategies approved in the CBPA. Mr. Polster further inquired about the reference to parking lots.

Ms. Rosario noted that staff would check the Code section references.

Mr. O'Connor inquired if the impervious cover was calculated when the solar panel was flat.

Mr. Polster confirmed and stated that this was how the state had chosen to calculate the impervious area.

Mr. Everson inquired about remediation of groundwater contamination.

Ms. Rosario stated that solar farms are not known to contaminate groundwater; however, staff included this in an abundance of caution. Ms. Rosario noted that staff would follow up with Stormwater and Resource Protection for examples of such remediation strategies.

Mr. Polster noted that there have been studies done in North Carolina that address not only contamination but also occupational safety. Mr. Polster noted that these facilities seem to pose minimal concern to groundwater and were generally safe for the community and the workers.

Mr. Everson made a recommendation to include a stipulation for American-made products.

Mr. O'Connor inquired about the Ordinance language related to spill prevention and countermeasures and what a spill might entail.

Ms. Rosario stated that this was a provision Stormwater and Resource Protection

recommended; however, they did not provide any details on what a spill might be.

Mr. Polster noted that this could be related to the construction phase where there could be an oil spill from a construction vehicle. Mr. Polster further stated that having an emergency management plan in place made good sense.

Mr. O'Connor inquired if there is potential for battery storage facilities to be part of a solar farm in the future.

Ms. Rosario confirmed that this is possible; however, it has not been included in the Ordinance. Ms. Rosario stated that the County could amend the Ordinance later if it became necessary.

Mr. Polster recommended that staff look at this issue.

Mr. Polster commented on the requirement for wildlife corridors. Discussion ensued on what those corridors might look like.

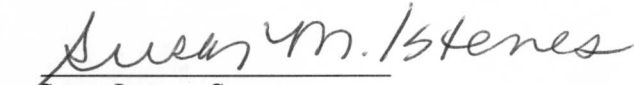
Mr. Polster stated that staff should incorporate the need for a wildlife corridor in the plan review.

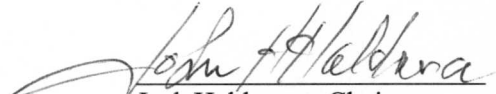
Mr. O'Connor stated that he recommended developing requirements for battery storage facilities sooner rather than later.

**F. ADJOURNMENT**

Mr. Polster made a motion to adjourn.

The meeting was adjourned at approximately 4:33 p.m.

  
Susan Istenes, Secretary

  
Jack Haldeman, Chair