

APC MINUTES

August 21, 2024

Members present: John Reece, Abby Journay, Gary Friend, Jim Hufford, Terry Alfrey, Coy Applegate, Don Calhoun, Jason Brewer, Tom Kerns

Members absent: Amy Alka, Adrian Moulton, Will Greer, Steve Hernly

Legal Representation: Jason Welch

Staff present: Debra Johnting, Area Planning Director, Recording Secretary, Kristi Halloran, Area Planning Administrative Assistant

Others present: Ed Thornburg

President Calhoun: Good evening everybody. We'll go ahead and get started with our Area Planning Meeting of Randolph County. First on the agenda is approval of the minutes. We have two months so we'll approve the June 19th meeting first and then go to the July. So are there any questions about the June 19th minutes?

J. Hufford: I move we accept the minutes as presented.

G. Friend: Second.

President Calhoun: It's been moved and seconded we accept the minutes as presented for the June 19th meeting. Okay, the July 17th meeting. Is there any questions on any of that?

G. Friend: I move we accept those minutes as presented.

T. Kerns: I'll second.

President Calhoun: Been moved and seconded to accept the minutes from the July 17th meeting. All those in favor say aye.

All: Aye.

President Calhoun: Those opposed. Next will be the amendments to the solar article. You want to explain what we've got.

J. Welch: We wanted to put two amendments for the NCSES (noncommercial solar panels) that are over ten kilowatts. We have discussed last week making those a conditional use in residential which would mean that if you wanted to put one of those larger ones in any residential district then there would have to be a conditional use petition filed or have to be a hearing so the BZA would decide whether or not it was appropriate to go in that particular area. That's what this amendment drafted says is that in Residential, Ag Limited, Commercial, and Industrial as well.

That they would only be permitted over ten kW ones if it was a conditional use. So every one of those would go before the BZA if somebody's going to put one of those larger ones in those areas. And then the other amendment two is that basically the same thing, it just adds that language into another part of the ordinance. And then the third one it says that any of those that are over 10 kW which are in Ag Intensive will just be subject to the same setback, screening and buffer requirements as the commercial ones. So that's what this draft says after the last meeting. It's just open for comment. It's obviously not a done deal. It's open for discussion.

G. Friend: That's what we were discussing last month. I don't see. I think its good protection for all the neighbors and also allows the people who own the property to have some leeway. Ten kW it doesn't matter the number of panels, it's just the total of ten kW. And this is on the ground mounts?

J. Welch: It's for any of the ten kW.

G. Friend: Doesn't solar on the roof, just takes an engineering print?

D. Johnting: Right.

G. Friend: So this. If they were to put more than ten on a roof top, would they still have to come back or would that be covered in the engineering plan?

D. Johnting: Engineering plan.

G. Friend: So this is ground mount.

J. Welch: This would be just ground mount.

D. Johnting: No one's complained about ones on the roof.

G. Friend: So the school is looking for that, Baker is looking at. They have to come back to the BZA to put theirs in.

J. Welch: It would be a conditional use. So the BZA would have to approve it, the neighbors would get notice, they'd have an opportunity to come in. So it's kind of a little check and balance for those who can do this. Rather than trying to put a uniform buffer or setback requirements on everyone. It gives a little discretion and lets the board kind of look at each case individually. They really are individual cases.

G. Friend: I think that's wise. I don't think you can write the right ordinance to take care of all the homes.

J. Welch: There's Draft #1 and Draft #2. Draft #1 is actually all we discussed the last time. That one just had the Residential and the Ag Limited. Draft #2 just added in the Commercial and the

Industrial because we haven't done anything with those. It made I thought sense and Debra thought it made sense to go ahead and include those as well.

G. Friend: That's was going to be my question. Is this Residential? This is now basically everything.

J. Welch: Except Ag Intensive.

G. Friend: And that follows the regular setbacks of Commercial and the buffers.

J. Welch: Yes.

G. Friend: And there's no limits to how far they can go. It depends on how much they want to afford out there.

J. Welch: The Commercial ones. It takes a little bit of pressure off of Debra to have to make a decision on each one of these.

G. Friend: Yeah. They fit out in Ag Intensive anyways.

President Calhoun: So this draft would be brought up at the next meeting to vote on it then.

J. Welch: If everyone approves of the actual form it's in now it's in a form to be make a recommendation on now if that is the board would choose to do. It was discussed last time but it wasn't in writing and we thought everything should actually be in writing before you make any kind of recommendation.

D. Johnting: It was in the paper to be voted on, if we chose to.

G. Friend: Should we ask our Surveyor if he has any thoughts on this? Do you have any experience on this Ed?

E. Thornburg: I don't have any issue with the way it's put together at this point.

G. Friend: Do solar panels have any drainage issues when they're on a hard surface? A driveway would with certain square feet.

E. Thornburg: It does. The ones that are out in Ag especially. While you shed water on that hard surfaces and it drops it on the ground, it gets to it'll spread under the surface that's covered by the panel. Union City's doing a thing. Their thing is a little different because they put a membrane on the ground. And he covered it with rocks. And so I had to do a plan where they basically designed for the rocks. And they had to do retention since they are in doing it in town. Minor retention, very minor. That's the weirdest solar panel mounts on the ground that I've ever seen on the ground. It's basically a rooftop system that they were sitting on the ground sitting cement blocks on. I'm not making fun of somebody's equipment, but yes I am.

President Calhoun: Anybody else have any comments about the Draft #2?

D. Johnting: I'll just say from my perspective, when they bring a plan in to me they're not usually prepared. They don't have all the setbacks. They haven't put that much work into it. If they have to do it for the BZA, I think they'll step up their game. They only want to come one time. They want to get approved. So I think it will make them think more about screening, what neighbors do I have, talk to the neighbors instead of just having them find out. Neighbors would get a letter.

J. Hufford: The way it was before they wouldn't have to do that.

D. Johnting: Correct.

J. Huford: I really think this would make it a lot better. You'd send out the letters to get the neighbors in here to speak on it.

President Calhoun: So do we want to go ahead and vote on this now?

G. Friend: I would make the motion that we do.

J. Welch: It would be a for a favorable recommendation. Because then it has to go out to all the municipal bodies to get.

G. Friend: Including the Commissioners, now that it's going to Ag Intensive.

J. Welch: Yes.

President Calhoun: It's been moved and seconded that we vote on a favorable recommendation. Sure, we need a roll call vote.

D. Johnting: Tom Kerns, yes. Don Calhoun, yes. Gary Friend, yes. Jim Hufford, yes. Jason Brewer, yes. Coy Applegate, yes. John Reece, yes. Abby Journey, yes. Amy Alka, Adrian Moulton, Will Geer, and Steve Hernly are absent. Favorable recommendation. Oh. Terry Alfrey, yes. Sorry. Sorry. Now it's a favorable recommendation. That will go to Commissioners and the nine towns and cities.

President Calhoun: Next on the agenda is the ordinance Flood Plain/Flood Hazardous Areas, Article VIII. Is this the only change that we have in here? 8.04 Administration?

D. Johnting: That was added.

K. Halloran: That was left off the table. Are you talking about first page? They left off the 8.04.4 The Administrative Procedures in their table of contents. So we added it. That's why it's in yellow.

President Calhoun: Okay.

D. Johnting: 8.05.5 Standards for Critical Facilities. They have added that new to the ordinance.

G. Friend: Debra, what's driving all of this?

D. Johnting: I hope it's because they're going to do away with FEMA's map and accept DNR's map, but I'm not sure.

G. Friend: What does that mean?

D. Johnting: Right now we are working under two maps. FEMA drew a map few years ago, DNR accepted it. That's what insurance went by, and that's what building went by.

G. Friend: Off the FEMA map?

D. Johnting: Off the FEMA map. DNR did a new map. And some of the area that FEMA had put in the floodplain DNR decided was out and they decided there was some in that FEMA had not identified and they're trying to get it pinpointed to be closer to what's actually should be in the floodplain. So if there is something right now that's in FEMA's floodplain map, if you don't attempt to have it removed legally. If you build in it, you'll have to pay flood insurance on it. And without proving that it is out, we will get in trouble if we let people build in it.

G. Friend: Can you build in it?

D. Johnting: Not without getting a LOMA, which is a letter of map amendment, saying that the floodmap is changed with this amendment. Even though they will say yes, that's out of the floodplain now. You have to go through the formal procedure of giving elevation shot and having a surveyor tell what the elevation is and if it's above what they say is floodplain elevation. Also, the DNR has added some things in. You can't build in it now, and if you did, you wouldn't pay flood insurance, but you will. So it's best available from both and it's warning people this is going to be in the floodplain so you can't build in it now. So two years from now, when everyone accepts this map you won't say why did you let me build it knowing it's going to be in the floodplain.

G. Friend: Who decipheres this for the general citizen on the street?

D. Johnting: Me.

G. Friend: Okay.

J. Hufford: When is DNR and FEMA going to get together and just have one map?

D. Johnting: They seem to be getting cozier all the time. I'm hoping that's soon. We knew this was coming about a year ago or so. They said they were working on a new floodplain ordinance.

They tailor it to each county and they do give us some leeway. There are some things that are taken out. They took out even the option to say compensatory fill, which means put in whatever you take out, you have to compensate for that and put it in and vice versa. Whatever you put in you have to compensate and take it out somewhere else. That wording is gone and they said whatever you do in there you have to prove that you don't alter the floodplain by .014. It's gone now, but it's gone because now it's zero. They have a zero threshold for moving dirt in the floodplain. You can't change the floodplain at all. Overall, so if you do a project and dirt around it's got to, I don't know who decides that. That's not me. They don't want any changes made. So like I said, I'm hoping this is a precursor to just approving the DNR map and just having one good map.

G. Friend: What do you think Ed? This is in your wheel house.

E. Thornburg: Yes, it is. This has been. I'll be honest. I'm not as gracious as she is towards it. This is a powerplay from DNR to take over control of the flood mapping from FEMA. It's not settled yet. They were going supposedly going to settle this in the state legislature this session. It did not happen. Fact that we've got two flood maps to deal with is ridiculous. Yeah, the good part of the DNR map is that was used with LiDAR data. The FEMA maps were pre-LiDAR.

G. Friend: And that's what?

E. Thornburg: And that's the laser, laser infrared, shot by satellite.

G. Friend: Do you superimpose both flood maps over properties?

D. Johnting: Yes.

E. Thornburg: Yes, on both of our computers, we've got the ability to lay both. I've got the DNR map, FEMA map, the 2012 DNR map and there's another one isn't there?

D. Johnting: There's three possible.

E. Thornburg: Yeah, there's three. You can lay them all over there, and there is differences on every one of them on half the sites you look at. When the DNR started this project is 2012 half of Farmland was not in the floodplain. It is now. A third of Winchester that wasn't in the floodplain is now.

G. Friend: Under DNR?

E. Thornburg: Under the DNR map. FEMA map never changed and that's what makes this such an absolutely madding thing to deal with. DNR is telling everybody how they're going to have it all in their wheelhouse in two years, but they also named their flood layer Best Practice. And I felt like that was extremely condescending to start it that way. But I'm not the biggest fan of

either group. I mean, especially DNR, they do a lot of good things. They do a lot of things that aren't.

G. Friend: Who's ultimately going to be the ruler? The home ruler of it at all.

E. Thornburg: At this point the reason that the DNR map or the FEMA map still exists, is FEMA's federal. They still have the bigger stick.

G. Friend: The state requires us to do both—FEMA and DNR. And what we propose there is just give us one map that does this.

D. Johnting: This is just for the ordinance.

E. Thornburg: The ordinance is a DNR project.

G. Friend: It's difficult reading. I'll tell you that. I wouldn't know how to ask you a question on it. I want to take the best path for Randolph County. I'll have to leave that to you (Debra) and Ed to tell me.

J. Hufford: Like you said half of Farmland now is under the new map DNR map and they aren't allowed to make any changes to change that or anything because the way you were talking a minute ago they can't bring anything in.

D. Johnting: Well, what we have available is if someone came to me and said. I'm in the floodplain and I want to build something. The first thing we would use go to the DNR. When it works there's a place you can go and see what they say is base flood elevation. We can do that on our maps because our LiDAR is just about as good as theirs. But we have to see what they say. The top of your lowest floor has to be above this or you can't build. So we go and find that out. If you see that you have a property that exceeds that, you get a surveyor to come out, shoot elevation and apply to get out of it. If not, and maybe I've just been, I've been drinking the Kool-Aid because I watch all these videos all the time. When I get done watching FEMA's videos, I want to go out and get flood insurance and I'm probably ten foot above base flood elevation. It's very compelling. That they're saying that more people are flooding that are not even considered in the floodplain. Fifty percent of the claims in the United States are people that are not identified as being in the floodplain, but if you can prove that you are above that level, you can get your property out. We've had people get out and not have to pay flood insurance. They've been able to get out so they can build. They've been able to get out so, say you own ten acres of ground and nine acres of it's in the floodplain. You can't build a house there. Because you can't put a septic system in the floodplain. Doesn't matter what you do with your house. You can't put a septic system in. So they're watching this map as well. They are tied to it too. So if the worse thing we try to do is see if there's any portion of it that we can get out and if not we kind of go from there.

J. Hufford: So people who buy that's already in a floodplain and they've got property and everything they've got a lot of work to go through if they want to change anything or do anything.

D. Johnting: They do, and if, as it sits, on an existing structure you're going to be paying flood insurance. If you have a federally backed mortgage you have to pay flood insurance. If you aren't, if you don't, then you don't have to. But you just know you are in an identified floodplain.

G. Friend: What loans aren't federally backed?

D. Johnting: I don't know.

J. Hufford: FHA loans and those types of things.

G. Friend: Basically it's anything but a lease on land contract.

D. Johnting: Maybe if you didn't have a mortgage.

E. Thornburg: The only people I hear getting out of it are a few people that own farms. The house was out, the farm was in. They parceled the house off so the house was out of the floodplain. There's people that split their house out if the house is high enough to be out. Flood insurance runs around \$1,500 per 100,000 evaluation.

G. Friend: Are we being forced to adopt the ordinance? Is the state in control of this? We just need to make sure it gets done.

D. Johnting: It's an option if we want to participate in National Flood Insurance Program.

G. Friend: We about have to.

D. Johnting: Which reduces our premiums on flood insurance.

G. Friend: On this flood map in reference be on page 13 of the UZO, Lands to Which This Ordinance Applies, 8.03.1. It's got the City of Winchester, the Town of Farmland, the Town of Ridgeville, the city of Union City and the town of Parker City. What about Lynn and the other is nine. Why are they not mentioned?

D. Johnting: What's he looking at? Where at?

G. Friend: It's on page thirteen of the Zoning Ordinance book.

D. Johnting: What section?

G. Friend: 8.03.1

D. Johnting: Oh, that's our current.

G. Friend: It references over like this. I was wondering why not all of our cities and towns are listed.

D. Johnting: I don't know. That's before my time and I don't know. It applies to the whole county. I'm not sure why they.

Discussion

E. Thornburg: Originally Greensfork Township and Lynn were not part of Area Planning. They didn't, they didn't come in for probably ten years after it was formed.

G. Friend: I was just curious if the towns needed to be listed independently under the jurisdiction of Randolph County.

D. Johnting: The new one doesn't give you an option. It doesn't have anyone specified out. It just says jurisdiction of Randolph County.

G. Friend: The one we're working on.

D. Johnting: Yes.

G. Friend: So what's being worked on here will be adapted into these pages of this book.

D. Johnting: It will replace them.

J. Welch: Debra, you're on the front lines. Do you recommend this?

D. Johnting: I do. We've got a chance to take out a couple of things. One of the things we took out on page 14 of the construction stage. That's actually done at the end where we have, they provide an as built elevation certificate. It doesn't matter where it is at that point, as long as it is done at the end. That's what they are shooting for and having that additional expense in there didn't seem like a good idea. And we took out reconstruction or repairs made to repetitive loss structure. That would be impossible to keep track of because they don't necessarily report to us if there's a repetitive loss. I didn't want to leave an open-ended thing for them to walk in the door someday and say show me your repetitive loss file. And we'd say we don't really look at that so we just took it out.

G. Friend: If they did, there wouldn't be houses on the east coast.

D. Johnting: Exactly. So on page 22, there's an addition in green. For example, a non-conversion agreement just means if you're in a floodplain. And we allow you to build. You're familiar with the houses down in Florida and on the coast. You pull your car in underneath you, build a house up above. A non-conversion agreement is that if you have something like and it's done that way to keep your, keep living space from being in that area. That means they will sign saying that

they will never convert that to living space. It will always be drive-in parking or patio or whatever. And obviously number 13, new solid waste disposal, hazardous waste salvage yards. None of that will ever be permitted now in a special flood hazard area. And again the next page talks about the reconstructive, repetitive loss, previous repairs, that kind of thing. We have no way of knowing what's been done in the past. And because the floodplains have changed two or three times since I've been here a house could have been reconstructed at some point. When it wasn't in the floodplain, now it is so then do you start from there, you go back and say, well, it's already been rebuilt once. We're just, we just did away with all that. G applies to flood vents. That's more of a building question than zoning. That pertains to when you're putting in flood gates. Then D. Fill shall be composed of clean, granular, or earthen material. So not scraps from demoing the parking lot or tearing down a house. For example, someone contacted us and said they have a pond and it's really eroding on one side, but they're in the floodplain, so they're afraid to put fill in. But they need to put the fill in so the pond doesn't erode anymore. They were wanting to fill it in with some of the tornado debris and we ended up not having to. The tornado folks had found another place to put it. People were trying to get that to fill in ponds. If the pond is in the floodplain it's not a good idea.

J. Hufford: And they're allowed to do that?

D. Johnting: If it's in the floodplain, no. They can work with DNR to stop erosion. As long as they are not changing the floodplain for anyone else.

E. Thornburg: I did have a client in Jackson Township who tore down some buildings and they used the concrete from the foundations to armor about 500 feet of bank in an open ditch. And a neighbor wasn't fond of him and turned him in. Actually turn them in for something else that they weren't guilty of. They were given thirty days to have that concrete out, even though it was bank stabilization. And they took it out.

T. Kerns: What if, say the non-conversion agreement. If somebody builds something that has a non-conversion agreement and then sells it and the next person converts that part of the property. What happens to them?

D. Johnting: I'd say that would be a deed issue.

J. Welch: They'd probably have to record it.

D. Johnting: It'd have to be recorded.

J. Welch: It'd have to be a recorded covenant. That'd be my guess. It wouldn't be enforceable.

T. Kerns: That's what is important.

J. Welch: Probably never.

D. Johnting: Neighbors are the best policemen that we have.

T. Kerns: That's what I assumed.

D. Johnting: There's always a neighbor in the neighborhood that knows "He's not supposed to be converting that to a house." DNR gets around.

E. Thornburg: They've called me in the office.

D. Johnting: They called us the day after the tornado to find out if we had any structures in the floodplain. I called Randy and he said "We didn't have a flood, we had a tornado!" And I said yeah, but if there had been a house in the floodplain they could not have rebuilt unless they wanted their garage to be their first floor and their house to be their second.

G. Friend: Like they did down South, putting everything up on eight-foot pillars.

D. Johnting: Yes.

G. Friend: The EPA was out too looking at all the trash. I'm with Jason. I think you've dealt with them. If this is where we need to be, yeah.

D. Johnting: I think this is better than what we had before, easier to work with in the office.

G. Friend: Is somebody going to proofread for any typos?

K. Halloran: What do you mean typos? There's no typos in here.

G. Friend: For example on this page 6, Hardships (as related to variances of this ordinance)... "The" Randolph County requires that...

K. Halloran: Okay, so I can tell you that that Randolph County was put in by them. I did not edit that. I only went through. So, yes, we will go through it, but yes, but wherever it's in red for Randolph County, they put that.

G. Friend: They put that in. We have to go. In and change "the", yeah.

K. Halloran: We can go through and check that. We were under a little bit of a time crunch. I didn't look through all that.

G. Friend: The attorney for the County Commissioners is a bit of a wordsmith. As well as one of the commissioners.

J. Welch: A lot of them say "the" Randolph.

K. Halloran: It's probably because it was like the body required. They just find and replace.

G. Friend: But you'll go through that and proofread and put all the.

K. Halloran: Yeah, sure. Now that I've got these binders put together I got all sorts of time.

G. Friend: Somebody will go through there and take that all out.

D. Johnting: Yes, before it sees the light of day.

G. Friend: So what do you need from us today?

J. Welch: A vote for a favorable recommendation to amend the ordinance in accordance with this amendment subject to the "thes" being taken out.

J. Hufford: So moved.

G. Friend: I'll second that.

President Calhoun: It's been moved and seconded.

D. Johnting: Coy Applegate, yes. Terry Alfrey, yes. John Reece, yes. Abby Journay, yes. Tom Kerns, yes. Don Calhoun, yes. Gary Friend, yes. Jim Hufford, yes. Jason Brewer, yes. Passes a favorable recommendation. We will get it all fixed. That will go then, it's already at the DNR right now. We did not add anything or take anything away, only the options that they gave us to not use or to use. They still want to look it over before it can leave. We have a recommendation before it can go to the towns and commissioners. They'll have to include the changes that we sent in.

G. Friend: These ours to take home?

D. Johnting: If you bring them back.

G. Friend: Every meeting?

D. Johnting: Here's what we're saving. Every time we have something come up and we want to discuss it we print it out. Then we pitch it. We just think it's a waste.

G. Friend: So now you'll just give us the page and tell us what page it's on, right? Maybe go through and put little things on it.

D. Johnting: We can do that.

K. Halloran: If you leave the binder with me because we won't have a meeting until October, right.

D. Johnting: We don't have a meeting in September. We will not have counsel in September.

J. Hufford: BZA have a meeting in September?

D. Johnting: Yes. Two petitioners so far.

President Calhoun: Anything else that needs to be brought up at this time?

J. Hufford: So the cities and towns, will they get a copy of this or know what's going on?

D. Johnting: Anytime we change the Unified Zoning Ordinance we send it to the commissioners and the nine cities and towns. They'll get a full draft of what the changes are and an ordinance to vote on it and accept it. If they don't do anything within ninety days it's a yes vote, as if they voted yes. If they would happen to have a change in that they would bring back to the APC and maybe the APC would say we didn't think about that. That's a good idea. Even if other towns have voted for it. And we decided to say we're going to put the change in there. That's a good idea we didn't think about it. It would be voted on again and go back out again.

G. Friend: So we don't have eighteen municipalities, nine cities and towns. We have two cities and seven towns.

D. Johnting: Correct. What did I say? There's nine cities and towns.

G. Friend: No, there's two cities and seven towns.

D. Johnting: When I'm counting there's ten—one for you guys and the towns and cities.

Discussion on Joke

President Calhoun: Thank you for everybody coming.

G. Friend: So motion to adjourn?

President Calhoun: So moved.

President Don Calhoun

Vice President Coy Applegate

Area Plan Director/Recording Secretary, Debra Johnting