



**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS HELD IN THE VILLAGE BUILDING AUDITORIUM, AT 3910 OLD BUCKINGHAM ROAD IN POWHATAN COUNTY, VIRGINIA, AND REMOTELY BY ELECTRONIC MEANS ON MAY 23, 2022, AT 6:30 PM.**

---

**Board of Supervisors Present:** David T. Williams, District 1,  
Steve W. McClung, District 2,  
Mike W. Byerly, District 3, Chair  
Bill L. Cox, District 4,  
Karin M. Carmack, District 5, Vice-Chair

**Board of Supervisors Absent:** None

**County Staff Present:** Ned Smither, County Administrator  
Bret Schardein, Deputy County Administrator  
Will Hagy, Deputy County Administrator  
Tom Lacheney, County Attorney  
Frank Hopkins, Planning Director

**Constitutional Officers Present:** Brad Nunnally, Sherriff

**Guests Present:** Drew Price, Hexagon Energy

---

**1. Call to Order**

Chairman Byerly called the meeting to order at approximately 6:30 PM.

**2. Pledge of Allegiance**

Ms. Carmack led the pledge of allegiance.

**3. Invocation**

Mr. McClung led the invocation.

**4. Requests to Postpone Agenda Items and Additions, Deletions, or Changes in the Order of Presentation**

Mr. Cox requested the addition of an item that deals with the notification requirements of a public meeting.

Chairman Byerly, Ms. Carmack, Mr. McClung voted NO, Mr. Cox, and Mr. Williams voted AYE.

**VOTE 3-2  
MOTION FAILED**

Chairman Byerly moved consent agenda items A-F & H to New Business.



**5. Formal Approval of Agenda**

Ms. Carmack made a motion to approve the agenda as amended. Mr. McClung seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted AYE.

**VOTE 5-0  
MOTION PASSED**

**6. County Administrator Updates (Certificates of Appreciation, Special Resolutions, Proclamations, and Presentations)**

**a. Building Safety Month Proclamation P-2022-05**

Mr. Schardein gave a brief overview and introduced Mr. Dunivan, Building Official for the County. He presented the proclamation recognizing the month of May 2022 as Building Safety Month. The Board thanked Mr. Dunivan and his team for their hard work.

**b. Community Action Month Proclamation P-2022-06**

Mr. Hagy gave a brief overview and introduced the Powhatan Community Action Agency. He presented the proclamation recognizing the month of May as Community Action Month.

**c. Field of Honor Days Proclamation P-2022-07**

Mr. Hagy presented the proclamation recognizing June 10-14, 2022, as Powhatan Field of Honor Days and thanked Mr. Don Smith for his hard work.

**d. Presentation Policy**

Chairman Byerly introduced a policy stating that any presentation(s) or document(s) which any person seeks to display on the large monitors during a Board of Supervisors meeting must be submitted to the County Administration at least 48 hours ahead of time, added as an addendum to the agenda posted on the County website, and sent to the members of the Board.

Mr. Cox requested clarity on Chairman Byerly's authority to set forth such a policy. Mr. Lacheny explained that because the Chairman is tasked with running an orderly flow of each meeting, he believes he has the authority to set guidelines and parameters as long as it is subject to the approval of the Board. Mr. Cox and Mr. Williams expressed concern with this policy, specifically that it would allow a lack of transparency. Ms. Carmack and Mr. McClung voiced their support for the procedure.

**e. Mr. Cox's Request dealing with the notification requirements of a public meeting**

Mr. Cox expressed concern with the lack of records and notification for a meeting held before this meeting. Mr. Williams stated that the idea of those types of meetings was presented to the Board by another locality and explained that it seemed like an opportunity



to invite staff to discuss their particular department before the regular meetings. Mr. Williams agreed with Mr. Cox that tonight's meeting had not been planned, recorded, or advertised at the same capacity as usual.

7. **Public Comment** (time limit 3 minutes per individual/5 minutes per group, 30 minutes total time limit that can be extended by the Board)

Chairman Byerly opened the public comment period.

[Stephen Barham, 3492 Richard's Run](#), expressed concern with the number of meetings the Board of Supervisors holds and the vetting process that occurs before each meeting. Seeing no one else wishing to speak, Chairman Byerly closed the public comment period.

8. **Consent Agenda**

- a. **Resolution R-2022-12: Abandonment of old Powhatan State Park entrance road**

Ms. Carmack made a motion to **approve** Resolution R-2022-12 as amended. Chairman Byerly seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted AYE.

**VOTE 5-0**  
**MOTION PASSED**

9. **Appointments to Boards, Commissions, Committees, etc.**

- a. **Two Appointments to the Parks and Recreations Advisory Commission**

Mr. Smither gave a brief overview. He stated that five candidates had submitted applications. Mr. Cox stated that he would like to defer the appointment of District 4 until the next meeting, and Chairman Byerly approved.

Mr. McClung made a motion to recommend the appointment of Ryan Cooke to the Parks and Recreation Advisory Commission for a two-year term commencing June 1st, 2022, and expiring May 30th, 2024. Chairman Byerly seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted AYE.

**VOTE 5-0**  
**MOTION PASSED**

- b. **One Appointment to the Reynolds College Board**

Mr. Smither gave a brief overview. He presented two applicants for the position: Dr. Barbara Brown and Cyndia Scholtz. Mr. Williams briefly presented Ms. Scholtz's resume. He stated that there are two great candidates and that he would be supporting Ms. Scholtz as she is from his district. He also corrected that this position will not start until June 30<sup>th</sup>. Chairman Byerly stated that Powhatan County is fortunate to have very qualified applicants for both positions.



Ms. Carmack made a motion to appoint Dr. Brown to the Reynolds College Board. Mr. McClung seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, and Mr. Cox voted AYE. Mr. Williams voted NAY.

**VOTE 4-1  
MOTION PASSED**

**10. New Business**

**a. Minutes June 16th, 2021, Workshop Meeting**

Mr. Cox pointed to page 12, where he asked that two sentences either be stricken or replaced due to lack of clarity.

Mr. Cox made a motion to eliminate the paragraph he described on page 12.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted AYE.

**VOTE 5-0  
MOTION PASSED**

Mr. Cox made a motion to approve the minutes as amended. Ms. Carmack seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted AYE.

**VOTE 5-0  
MOTION PASSED**

**b. Minutes December 20th, 2021, Regular Meeting**

Mr. Cox made a motion that the censure resolution be added as an appendix with the notation that it was not available to the Board members until the Sunday before the meeting.

Ms. Carmack expressed concern about this request because she believes minutes are meant to be general in nature. Chairman Byerly went over the bylaws, which state that in content and style, the official minutes shall be as brief and straightforward as possible and still retain the essential facts of each meeting. That being said, he stated that he would not be in support of this addition. Mr. Williams suggested that the information be added to the body of the minutes and expressed the importance of the matter.

Mr. Cox and Mr. Williams voted AYE. Chairman Byerly, Ms. Carmack, and Mr. McClung voted NO.

**VOTE 3-2  
MOTION FAILED**



Chairman Byerly made a motion to approve the minutes as presented. Ms. Carmack seconded the motion.

Chairman Byerly, Ms. Carmack, and Mr. McClung voted AYE. Mr. Cox and Mr. Williams voted NAY.

**VOTE 3-2  
MOTION PASSED**

**c. Minutes April 1st, 2022, Workshop Meeting**

Mr. Cox pointed to page 29, where he stated that he did not refer to anything as "inflammatory." The Board decided to defer the amendment/approval of the minutes until the June 27<sup>th</sup> meeting to review the recording.

**d. Minutes April 11th, 2022, Workshop Meeting**

Mr. Cox pointed to page 33, where he asked that a sentence be changed to include that he believed things looked good in terms of the fund plan.

Chairman Byerly deferred these amendments/approval of the minutes until the June 27<sup>th</sup> meeting so that Mr. Smither could review the recording.

**e. Minutes April 18th, 2022, Workshop Meeting**

Mr. Cox made a motion to approve the minutes as presented.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted AYE.

**VOTE 5-0  
MOTION PASSED**

**f. Minutes April 25th, 2022, Regular Meeting**

Mr. Cox made a motion that the emails Mr. Williams read and the PowerPoint presentation by Mr. Smither be added as an appendix.

Chairman Byerly stated that he was unsure that the Board could add those emails to the minutes. Ms. Carmack said that she worried that making these types of additions would compromise the intent of the minutes. Mr. Williams stated that his intention when sharing the emails was to provide background information on the matter.

Mr. Cox and Mr. Williams voted AYE. Chairman Byerly, Ms. Carmack, and Mr. McClung voted NO.

**VOTE 3-2  
MOTION FAILED**

Mr. Williams made a motion that the sentence which states, "These emails discussed a range of topics," be amended to include, "lack of qualifications of the assessor, what the County Administrator told us, and what was later disputed by Mr. Rod Compton at the Department of Tax."



Chairman Byerly suggested that the Board members review each set of minutes ahead of time so that the Board can make changes quickly.

Mr. Cox and Mr. Williams voted AYE. Chairman Byerly, Ms. Carmack, and Mr. McClung voted NAY.

**VOTE 3-2  
MOTION FAILED**

Ms. Carmack made a motion to approve the minutes as presented. Mr. McClung seconded the motion.

Chairman Byerly, Ms. Carmack, and Mr. McClung voted AYE. Mr. Cox and Mr. Williams voted NO.

**VOTE 3-2  
MOTION PASSED**

**g. Authorizing the County Administrator to execute contracts with Dewberry, Timmons, Dunbar, and Draper Aden for on-call engineering services**

Mr. Cox requested more information about this decision, including its purpose and effect on the budget. Mr. Smither explained that this is a tool many localities use to jumpstart projects by having four A&E firms on a retainer depending on the need for architectural engineering services. These firms would be paid hourly when they are needed.

Mr. Cox made a motion to approve the authorizing of the County Administrator to execute contracts with Dewberry, Timmons, Dunbar, and Draper Aden, for on-call engineering services. Ms. Carmack seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted AYE.

**VOTE 5-0  
MOTION PASSED**

**h. Introduction of PPEA Proposal for Eastern Convenience Center**

Mr. Smither gave a brief overview and introduced Mr. Schardein for his presentation. Mr. Schardein went over the history of the Eastern convenience center project, working group members, and the process of approval of the proposal. He then went over the actual proposal, cost & benefits, and plan maps.

Mr. Cox asked if Mr. Schardein had the costs of the Carter Gallier extension broken down so the Board could look at the expense of each detail individually. Mr. Schardein stated that the team was working on breaking down the separate costs. He also mentioned that going back to the original parcel was still an option. Mr. Cox stated that he would like to have room for expansion and asked if there were any other options that the Board should consider.

Ms. Carmack asked if using only the original parcel would allow the project to move more expeditiously. Mr. Schardein stated that he believed the design would take roughly the same



time and effort on either parcel. Ms. Carmack asked if the County would be able to do the original project themselves without putting out another RFP. Mr. Schardein stated that they would and that it would fall under the typical County initiated project process. Mr. Williams stated that although it may be faster to revert to the original plan on the original parcel, he favors this proposal. He asked staff to go back and look at how the project will be funded over time and develop a plan that meets the County's requirements. Mr. Schardein confirmed that he believes the PPEA route would be faster and more cost-efficient.

Chairman Byerly expressed some concern with the proposal's implications and asked if the Board could look at the other options before making any concrete decisions. Mr. Williams suggested that Mr. Melis join the information channel that puts forth requirements for the needed space. Chairman Byerly asked how many acres are required to build a convenience center, and Mr. Smither said that the Public Works Dept. has stated that five acres are required.

## 11. Public Hearings

**a. Deferred:** This request was deferred at the Planning Commission's May meeting and will be rescheduled for a Public Hearing with the Board at a later date to be determined. Case #22-05-AZ: The County of Powhatan requests the amendment of the provisions outlined in Chapter 83 (Zoning Ordinance) Article IV (Village Growth Area Districts) Sec. 83-210. - Single-family Residential-2 (R-2) District, Article III (Rural Districts) Sec. 83-160. - Agricultural-10 (A-10) District, Sec. 83-180. - Rural Residential-5 (RR-5) District, and Article V (Transition Base Districts) Sec. 83-350 - Residential Utility (R-U) District, to amend the by-right accessory uses and conditional accessory uses involving Accessory Dwelling Units (detached). This provision will eliminate the need for a conditional use permit for an Accessory Dwelling Unit (detached)

**b. Continued Ordinance O-2021-27 Adoption of the 2021 Long-Range Comprehensive Plan:** The County of Powhatan requests the adoption of an amendment to the Powhatan County 2021 Long-Range Comprehensive Plan's Transportation chapter.

Mr. Hopkins gave a brief overview and went over the updates made since the last discussion.

Chairman Byerly opened the public comment period. Seeing no one wishing to speak, Chairman Byerly closed the public comment period.

Ms. Carmack made a motion to approve the 2021 Transportation Plan as amended. Mr. McClung seconded the motion.

Mr. Cox expressed concern about the intersection of Huguenot Trail and Three Bridge Road. He explained that he believed there would need to be more land, which would require more funds.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted AYE.

**VOTE 5-0**



## MOTION PASSED

**c. Ordinance O-2022-17 21-09-CUP:** Beldale Solar (District #5: Trenholm/Smith's Crossroads/Provost) requests a conditional use permit (CUP) to permit a solar energy farm in the Agricultural-10 (A10) zoning district

Mr. Hopkins gave a brief overview and introduced the applicant. Mr. Drew Price gave a presentation on behalf of Hexagon Energy. The presentation included background information, detailed explanations of each new & enhanced condition, land use, and protection of natural resources.

One of the landowners, Mr. Charlie Purcell, stated that he is trying to build solar farms on a small portion of the land to allow the rest of it to remain available for farm use. He expressed his support for Hexagon Energy and solar energy in general. He mentioned the multiple buffers that will help conceal the solar panels and other beneficial aspects of the project.

Chairman Byerly opened the public comment period.

Skylar Zunk, the representative of a non-profit, stated that he has been speaking to several Powhatan residents, business owners, community leaders, and political leaders about smart & responsible solar projects. He urged the Board to approve the Beldale Solar Project.

David Fields, a resident of Louisa County, expressed his support for the project and shared his own positive experience with similar solar projects in his area.

Charles Perkins, a resident of Fluvanna County, expressed his support for the project and urged the Board to vote in Mr. Purcell's favor.

Ronnie Laws, a resident of Louisa County, shared his positive experience and expressed his support for the project.

Seeing no one else wishing to speak, Chairman Byerly closed the public comment period.

Mr. Cox asked what the lifespan of the opaque covering used on the fence buffer is. Mr. Price stated that he was unsure but that they would be planting staggered rows of 6–8-foot arborvitae to help conceal the area. Mr. Cox asked why part of the beams would be left underground and not taken out. Mr. Price explained that attempting to pull them out could be more harmful to the land than helpful. Mr. Cox expressed concern that the conditions only prohibit the owners from adding more solar panels to the property. He also expressed concern about the wetland buffers. Mr. Price explained the design of the buffers and said that they had been designed this way to limit land disturbance. Mr. Cox went on to ask about the cost and decommissioning plan. He stated that they should remove everything from the decommissioning plan and that the owners should be restricted to only hunting and forestry use of the rest of the land.



Ms. Carmack reminded the Board that they were there to discuss the solar farm, not the surrounding land. Mr. McClung expressed his support for the project.

Ms. Carmack made a motion to approve Ordinance O-2022-17 21-09-CUP. Mr. McClung seconded the motion.

Chairman Byerly, Ms. Carmack, and Mr. McClung voted AYE. Mr. Cox and Mr. Williams voted NO.

**VOTE 3-2  
MOTION PASSED**

**d. Siting Agreement: Beldale Solar** Pursuant to Chapter 802 of the 2000 Acts of Assembly (Va. Code Sections 15.2-2316.6 et seq.) Hexagon Energy is proposing to construct a solar energy farm on a portion of Tax Map parcel 13-16. The siting agreement includes terms and conditions to mitigate the impacts of the proposed facility, including financial contributions to address the capital needs of the County.

Mr. Hopkins gave a brief overview of the Beldale Siting Agreement. Chairman Byerly opened the public comment period. Seeing no one wishing to speak, Chairman Byerly closed the public comment period.

Mr. Cox asked for clarification on how the money flows within siting agreements. Mr. Price explained the two ways in which solar projects can be taxed in Virginia.

Ms. Carmack made a motion to approve the Siting Agreement with Beldale Solar. Mr. McClung seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, and Mr. Williams voted AYE. Mr. Cox, abstained.

**VOTE 4-0  
MOTION PASSED**

**e. Ordinance O-2022-18 22-02-REZC:** Colony Land Investments LLC (District #1 Sublett's/Manakin/Flat Rock) is requesting to rezone Tax Map Parcel 42-9H from Commerce Center (CC) to Heavy Industrial (I-2)

Mr. Hopkins gave a brief overview. He stated that the applicants want to create a service road that would help alleviate traffic on Route 60.

Chairman Byerly opened the public comment period. Seeing no one wishing to speak, Chairman Byerly closed the public comment period.

Mr. Cox made a motion to approve Ordinance O-2022-18 22-02-REZC as presented. Chairman Byerly seconded the motion.



Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted AYE.

**VOTE 5-0**  
**MOTION PASSED**

**f. Ordinance O-2022-19: Case #22-03-AZ:** The County of Powhatan requests the amendment of the provisions set forth in Chapter 83 (Zoning Ordinance) Article IX (Nonconformities) Sec. 83-502. Nonconforming structures, to add a section clarifying the regulations for adaptive reuse of nonconforming structures. This amendment will allow property owners of nonconforming structures more easily renovate and utilize their properties, provided there is a conforming use.

Mr. Hopkins gave a brief overview. Chairman Byerly opened the public comment period. Seeing no one wishing to speak, Chairman Byerly closed the public comment period.

Mr. Williams asked if, under current regulation, owners must remove any nonconforming aspects of a structure before they can use it. Mr. Hopkins clarified that this is only true after two years. Mr. Williams asked if Mr. Hopkins or Mr. Schardein saw any issue with being able to perpetuate the County's goals for Route 60 if they change this ordinance. Mr. Hopkins stated that some buildings might be infringed upon if they widen Route 60. Mr. Cox asked if a building that is partially located within a setback could be rezoned. Mr. Hopkins confirmed that it could be rezoned if it's use is located within the zoning industry

Mr. McClung made a motion to approve Case #22-03-AZ as presented. Ms. Carmack seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, and Mr. Cox voted AYE. Mr. Williams voted NO.

**VOTE 4-1**  
**MOTION PASSED**

**g. Ordinance O-2022-20: Case #22-04-AZ:** The County of Powhatan requests the amendment of the provisions set forth in Chapter 83 (Zoning Ordinance) Article IV (Village Growth Area Districts) Sec. 83-252. - Conditional uses of the Light Industrial District (I-1) to add a Child Day Care Center use to the conditional uses of the I-1 zoning district. This will allow applicants to pursue a conditional use permit for a Child Day Care Center in the Light Industrial (I-1) District.

Mr. Hopkins gave a brief overview. Chairman Byerly opened the public comment period. Seeing no one wishing to speak, Chairman Byerly closed the public comment period.

Mr. Williams made a motion to approve Case #22-04-AZ. Mr. McClung seconded the motion.

Chairman Byerly, Ms. Carmack, Mr. McClung, Mr. Cox, and Mr. Williams voted AYE.



**VOTE 5-0  
MOTION PASSED**

**12. Public Comment** (time limit 3 minutes per individual/5 minutes per group, 30 minutes total time limit that can be extended by the Board)

Chairman Byerly opened the public comment period.

Seeing no one wishing to speak, Chairman Byerly closed the public comment period.

**13. County Attorney Comments**

Mr. Lacheney stated that, in anticipation of Commonwealth's Attorney, Mr. Dickie Cox's retirement in August, the Board could petition the Circuit Court to schedule a special election. The Board agreed that Mr. Lacheney should file a petition with the court.

**14. County Administrator Comments**

Mr. Smither sent his prayers to the family of Mr. Max Timberlake on behalf of the Board.

**15. Board Comments**

Mr. Williams echoed the thoughts of Mr. Smither, expressing his hurt at the loss of a colleague and friend. Mr. Cox and Chairman Byerly both expressed their sorrow and shared positive experiences from their time spent with Mr. Max Timberlake and he will be missed tremendously in the community.

**16. Adjournment**

Chairman Byerly closed the public comment at approximately 10:10 PM.

Ned Smither, County Administrator  
Powhatan County Board of Supervisors

Mike W. Byerly, Chairman  
Powhatan County Board of Supervisors

**Recorded Vote:**

<i>David T. Williams</i>	<b>AYE</b>
<i>Steve W. McClung</i>	<b>AYE</b>
<i>Michael W. Byerly</i>	<b>AYE</b>
<i>Bill L. Cox</i>	<b>AYE</b>
<i>Karin M. Carmack</i>	<b>AYE</b>