



Nelson County Planning Commission
Meeting Minutes
January 22, 2025



Present: Chair Mary Kathryn Allen and Commissioners Mike Harman, Robin Hauschner, William Smith and Phil Proulx; Board of Supervisors Representative Jessica Ligon.

Staff Present: Dylan Bishop, Director

Call to Order: Chair Allen called the meeting to order at 7:00 PM in the General District Courtroom, County Courthouse, Lovingston.

Officer Elections

- **Chair:** Mr. Smith made a motion to nominate Mr. Harman for 2025 Planning Commission Chair. Ms. Allen seconded the motion.

Yes:

Jessica Ligon

Mary Kathryn Allen

Phil Proulx

Robin Hauschner

William Smith

Abstain:

Mike Harman

- **Vice Chair:** Ms. Proulx made a motion to nominate Mr. Hauschner for 2025 Planning Commission Vice Chair. Mr. Hauschner declined.
- **Mr. Hauschner** made a motion to nominate Phil Proulx for 2025 Planning Commission Vice Chair. Mr. Harman seconded the motion.

Yes:

Jessica Ligon

Mike Harman

Mary Kathryn Allen

William Smith

Robin Hauschner

Abstain:

Phil Proulx

- **Secretary: Ms. Proulx made a motion to nominate Ms. Bishop for 2025 Planning Commission Secretary. Mr. Hauschner seconded the motion.**

Yes:

Jessica Ligon

Mike Harman

Mary Kathryn Allen

William Smith

Robin Hauschner

Phil Proulx

Adoption of 2025 Schedule

Ms. Bishop stated that the schedule is essentially the same as 2024, with the Planning Commission meetings scheduled for the fourth Wednesday of the month, BZA the first Tuesday, Board of Supervisors second Tuesday, and other dates built in as submittal deadlines to ensure proper advertisement to get items on the agenda.

Ms. Proulx made a motion to accept the 2025 Schedule as presented. Ms. Allen seconded the motion.

Yes:

Jessica Ligon

Mike Harman

Mary Kathryn Allen

William Smith

Robin Hauschner

Phil Proulx

Other Business

- Discussion on Zoning Text Amendment to Include Battery Energy Storage Projects

Ms. Bishop reported that CVEC recently approached County staff regarding two proposed battery energy storage projects at their existing substations in Colleen and Piney River. She said the goal of battery energy storage projects is a strategy called “peak shaving,” which reduces transmission and capacity costs to the utility by storing energy and reducing power consumption during peak demand hours.

Ms. Bishop stated that the batteries are charged and then energy is distributed during peak times so there is not as high of a spike. She said these projects are unique due to their small scale and the fact that the energy distributed from the storage goes only to CVEC customers, or “behind the meter,” meaning the utility controls the distribution.

Ms. Bishop stated that they are working with a company called Light Shift, based in Virginia, which would be the developer, builder, and long-term owner/operator that contracts with CVEC to provide their services. She said it is a 20-year project, and CVEC has indicated that it provides millions in savings over the life of the project from increasing transmission and capacity costs. She said the process for energy storage projects is regulated similarly to solar, and providers are also required to go through the permit-by-rule process through the Department of Environmental Quality (DEQ) and to negotiate a siting agreement with the locality.

Ms. Bishop said the project in Colleen is within their existing substation fencing, so the footprint is only 3,600 square feet (SF) and has four megawatts in the middle of a 118-acre parcel zoned M1 industrial, located in the industrial park in Colleen. She said the other project in Piney River would be located in the field behind their existing substation compound, and it is only a 6,000-SF footprint, also four megawatts on a seven-acre parcel, with that property zoned agriculture.

Ms. Bishop stated that currently, the threshold for solar projects is under and over an acre footprint; if the project is less than one acre, it is a by-right use in A1, M1, and some other districts. She said if they were to follow suit with this, these particular projects would not require a special use permit.

Ms. Bishop said there are two options at this time: 1) the Planning Commission can direct staff to draft a zoning text amendment to the County's existing solar ordinance to include energy storage facilities, then the Planning Commission would review and discuss it at the February meeting and potentially proceed with the public hearing process; 2) due to the very small scale and the circumstances of the project being accessory to CVEC utility and them being the distributor to only CVEC customers, they could treat these projects as accessory uses to the utility, which would not require an ordinance amendment at this time. She noted that battery energy storage can be addressed during the full ordinance update process with the Berkeley Group.

Ms. Bishop said that she is fine with either option. She stated that the applicants are prepared to proceed with a site plan application, which could be reviewed concurrently, but at their own risk if the County proceeds with the ordinance update process. Ms. Bishop said that knowing these are hot topics lately, she is just looking for a little guidance on whether the Planning Commission wants to pursue a zoning text amendment currently to their solar ordinance to address battery energy storage in case they get any future projects, or if this small accessory use to the utility could be treated as a by-right use.

Ms. Proulx asked if it would be an accessory use if the solar farm in Gladstone wanted to put a battery storage facility next to it, which is a relatively common arrangement, and asked if they needed to be consistent in how they treated applicants.

Ms. Bishop responded that the developer could sell that project to anyone, as the utility doesn't own it, and these projects are contracted directly with the utility—so they have control over distribution of the power only to their customers. She noted that it is on their utility sites in their substations.

Ms. Proulx said she liked the idea of it being accessory but didn't want them to get caught having to make an exception for some future project that may not have the same scale or parameters.

Ms. Bishop responded that she thinks they would revise their ordinances in the long term and have them follow suit with the solar ordinance, as Amherst County is doing because of inquiries on larger projects. She said that Nelson's so far are very small and thus could be treated as accessory uses. She stated that the battery energy storage could be addressed when the ordinance update occurs, and any separate projects brought forward would be treated accordingly. Ms. Bishop explained that similarly to solar

installations, if it's residential or commercial solar—something sized to serve whatever is on the same lot, such as a house—that use treated as accessory. She added that this was not the case with solar farms because those are owned and operated separately.

Ms. Bishop stated that she did not need any official direction unless the Commission wanted to pursue the zoning text amendment.

Ms. Proulx said she is inclined to support the accessory use interpretation, but she would like to hear from her fellow Commissioners.

Ms. Allen stated that her only hesitation was with the language that allows this to be considered by-right; even though this is small scale within the utility and specifically for that substation, she wanted to be careful in how this is sanctioned as an accessory for the by-right.

Ms. Bishop agreed that this was a good point, and a better way to word it would be that this is an accessory use to the public utility main use, instead of calling it “by-right.”

Mr. Harman expressed his support for that approach.

Ms. Bishop noted that in the meantime, if other projects propose a battery energy storage project—whether it was over and under an acre, if it was not accessory to the utility like this—then they would be having the same conversation then at that point.

Dr. Ligon asked about AEP’s project on Route 56, as they have quite a footprint there, and at what point the County would have say if that utility decided to come in and do a battery storage project.

Ms. Bishop responded that if it were accessory to their substation on the parcel, then it would follow suit with this—if it's behind the meter and they get control of how the energy is distributed. She clarified that it was under an acre for solar. She noted that it would not be difficult to draft a text amendment and go through the public hearing process; then they can apply, and it would still be an administrative approval because it's under an acre.

Ms. Proulx commented that she is okay with either approach.

Ms. Allen emphasized that electric companies are a hot topic in general, so people are not happy with anything that AEP or CVEC does because all they see are their power bills increasing. She said she would be more in favor of doing the text amendment and having the public hearing, because they can then get constituent input and bring it before the Board of Supervisors.

Mr. Smith stated that he was definitely in favor of a public hearing, and he agreed that power companies were not too popular—yet they needed all the help they could get in serving a county like this where there are frequent outages and ongoing restoration efforts. He said he would like to hear the public’s input, as many have to live next to the substations.

Ms. Bishop suggested that CVEC and the company they are working with come and give a presentation, as they have said they would be more than happy to do that.

Commissioners agreed that this was a prudent approach.

Ms. Proulx made a motion to request staff to draft an amendment to the zoning ordinance addressing battery energy storage systems (BESS). Ms. Allen seconded the motion.

Yes:

Jessica Ligon

Mike Harman

Mary Kathryn Allen

William Smith

Robin Hauschner

Phil Proulx

Ms. Bishop stated that she would see if the utility was available to present at the next meeting, and she would have some draft text for review ahead of that.

- Short Term Rental Zoning Text Amendment Update

Ms. Bishop reported that County staff and Board of Supervisors Chair Ernie Reed had met with the Berkeley Group staff on January 16 to discuss existing concerns, expectations, and potential benchmarking localities, as well as scheduling.

Ms. Bishop said that they discussed how to select the four benchmark localities using criteria such as regional proximity, population growth trends, and existing rural tourist destinations. She stated that they talked about Louisa, the Smith Mountain Lake area, wine country, Culpeper, Spotsylvania, Albemarle, Charlottesville, Massanutten, Rockingham, and Amherst. Ms. Bishop noted that Berkeley Group staff would look into those options and would provide a memo highlighting best practices and comparisons among the selected benchmarks. Ms. Bishop said Berkeley would also utilize national standards and recommendations, including reports from the American Planning Association, and County staff also asked them to review goals, strategies, and comprehensive plans from other localities regarding short-term rentals. She noted that this information would be provided and circulated internally by mid-February.

Ms. Bishop stated she would present the findings at the Commission's regular meeting in February and then to the Board in March. She said that Berkeley Group would provide a draft zoning text amendment in the current format, which would include definitions, use standards, and use permissions. Ms. Bishop stated that the scope of work included one round of revisions, and she recommended that the Planning Commission keep this as a recurring agenda item under new and old business until they were ready to provide comments to the Berkeley Group to incorporate in the draft.

Ms. Bishop said if the County wanted to consider more than four localities, they could do so independently without the Berkeley Group's assistance; by the time the County submitted their comments, that would constitute their one round of revisions, and they could proceed from there.

Board of Supervisors Report

Dr. Ligon said she was sorry to hear about Commissioner Allen's resignation, and her goal as Board representative is to reflect their general feelings about topics—but she does not plan to vote much.

Ms. Proulx asked about specific guidance related to which items the Board representative should or should not vote on.

Ms. Bishop responded that they needed to make some adjustments to their bylaws, and she would be following up on that.

Mr. Harman asked if the Supervisor could serve, at a minimum, to make a quorum.

Ms. Allen commented that if there were only four people at the Board of Supervisors meetings when a recommendation came before them, the motion could have died if one of the three voted no. She stated that in her opinion, it was no different at the Commission level—and it was important to get their input on items they are working on. She emphasized that Dr. Ligon’s position was a very integral part of providing feedback to the Commission; no matter what their vote is, this would go to the Board.

Mr. Smith stated that in the early 1980s, the Planning Commission’s decision was final, but somewhere along the way, the Board of Supervisors changed this.

Ms. Proulx said she recalled that differently, and everything the Commission does is set by state law—so any changes to that would need to be dictated by Virginia code. She noted that it has always been a recommending body.

Ms. Allen said that perhaps what Mr. Smith meant was that the Board always followed suit with the Commission’s recommendation.

Ms. Bishop mentioned she had just read that in Amherst County, if the Commission denies the 2232 review, they have to make an appeal to the Board of Supervisors—and the Board won’t even hear it until that is appealed.

Ms. Allen said the important point was that the Commission is an integral part of making the system work well together, and it puts them at a disadvantage if their decisions are completely turned around at the next level.

Dr. Ligon stated that her hope is to better reflect the Commission’s will at the Supervisors’ meetings, as the comments from the previous Board representative had not been captured in the minutes.

Dr. Ligon commented that no other county in Virginia has commanded the amount of money they did from the recent solar project, and this hopefully sets a precedent and holds the applicants accountable.

Ms. Allen emphasized that it is up to the County to hold the utility accountable—not the citizens—and the constituents in turn will hold the County accountable. She stated that she will miss her role here and did not agree with the Board’s vote, but she did enjoy working with the Board members during her tenure. She added that perhaps another voice and set of eyes will be beneficial to them.

Mr. Hauschner announced that he would also be resigning from the Planning Commission, and the clear catalyst for this was the solar project. He stated that it is clear that the Planning Commissioners are not necessarily heard, nor is the community, when a decision is made and brought before the Board.

Mr. Hauschner said that the notion from the environmentalist perspective that this was a good project to bring to the County—and that it would make a difference in the future of the citizens here—was misleading. He stated that, statistically, as was noted at the meeting, people would not be alive to see the long-term benefits of a 40-year trajectory. He said if one believes in environmentalism, it is clear that as long as production and consumption continue to expand, there will be no significant improvement in environmental health, and progress requires a political state where this is aggressively pursued. He added that with a fascist in power, that is not the current state in this country.

Mr. Hauschner stated that the idea that this greenwashed proposal by Shell was a positive step forward was “bullshit.” He said this is not the only reason for his stance, but he is not unbiased in his decisions. He stated that he wants the best for Nelson’s residents, particularly those of lower socioeconomic status. Mr. Hauschner said that, as a representative of the Central District, he speaks for a large number of older, wealthy white citizens who blow dog whistles at every public meeting. He stated that he is tired of

listening to people discuss immigration status and advocating for policing low-income neighborhoods. Mr. Hauschner said he does not represent those people. He stated that he was born and raised in Nelson, and he cares about all people of Nelson. He stated that he is weary of hearing from those who are not from the area but spread vile sentiments at public meetings.

Mr. Hauschner said that the County might eventually extract some money from this company, but the timber contractor, Weyerhaeuser; Shell as the ultimate entity behind Savion; and AEP, which would acquire the project later, would not be the ones footing the bill if something were to go wrong. He stated that the remediation of hundreds to thousands of acres, should any issues arise with these projects, would cost tens of millions of dollars, and those companies would ensure they were not responsible for the expenses. He said that their legal teams were the size of the entire staff of the County and were dedicated to avoiding such financial responsibilities.

Mr. Hauschner stated that precedent from other projects, such as Weyerhaeuser's timbering operations and Shell's ongoing activities across the country, showed a pattern of mitigating damages minimally while continuing to expand and profit. He said Nelson County would not be able to challenge that effectively. He stated that the system was wholly unethical.

Mr. Hauschner said that the U.S. Geological Survey had indicated a need to increase global mining operations by 500% to meet the demands of these battery installations and solar farms. He emphasized that it was naïve to believe there would not be a significant cost imposed on someone, somewhere in the world. He stated that although one might claim to be putting Nelsonians first, it remained an unethical decision. Mr. Hauschner said he wanted no part of it.

Ms. Proulx responded that she has been very happy over the years with some decisions made, but to her it was worth staying to do her small part in effecting change.

Ms. Allen noted that she has never resigned from anything—but she is hoping that a new voice would be heard louder than hers was. She added that the Board is going to need expertise in establishing the new zoning ordinance, which would require significant time and input.

Mr. Hauschner said if he felt his voice and perspective were being heard, or at least communication between the Board and Commission to create dialogue, he would not be resigning.

Ms. Proulx commented that people can disagree with you and still respect you, acknowledging that she missed the one meeting where this came to the forefront.

Mr. Hauschner stated that he isn't leaving because things didn't go his way; this was a much larger issue in which a decision was made based on money and false hopes for the future.

Mr. Harman said the Commission would miss him and Ms. Allen, and they were losing valuable people as well as struggling to make a quorum.

Ms. Proulx motioned to continue the meeting to February 26 at 6:00 p.m. Dr. Ligon seconded the motion.

Yes:

Jessica Ligon

Mike Harman

Mary Kathryn Allen

William Smith

Robin Hauschner

Phil Proulx

Respectfully submitted,

A handwritten signature in black ink that reads "Dylan M Bishop". The signature is written in a cursive, flowing style.

Dylan M. Bishop, CZA, CFM

Director of Planning & Zoning