

**At a Joint Public Hearing of the
Sussex County Board of Supervisors
and the Planning Commission
Held at the Airfield 4-H Conference Center on
Monday, March 25, 2024 at 6 pm**

BOARD MEMBERS PRESENT

Thomas W. Baicy, III
C. Eric Fly, Sr.
Alfred G. Futrell
Wayne O. Jones
Phyllis T. Tolliver
Rufus E. Tyler, Sr.
Steve D. White

PLANNING COMMISSIONERS PRESENT

Kevin Bracy
J. Lafayette Edmonds
Elena Grinstead
Dennis P. Mason
Terry Massenburg
Andrew Mayes
Rudolph Shands

PLANNING COMMISSIONER ABSENT

Roger King

STAFF PRESENT:

Richard Douglas, County Administrator
Danielle Powell, County Attorney
Ernest Giles, Sheriff get other officers
Michael Kessinger, Captain
Michael Poarch, Planner
Beverly H. Walkup, Planning Director
Shilton R. Butts, Asst. to the County Administrator/
Clerk to the Board of Supervisors

1. Call to Order/Determine Quorum

Chairman W. Jones called the March 25, 2024 Joint Public Hearing to order for the Board of Supervisors.

Chair Massenburg called the March 25, 2024 Joint Public Hearing to order for the Planning Commission.

2. Overview of Process and Public Hearing Rules

Chairman Jones stated that the purpose of the March 25, 2024 meeting was to conduct a public hearing on the Blackwater solar project. As shown on the agenda, first, the applicant, Blackwater Solar, presented their application for a conditional use permit and a rezoning application to construct a 600 MW solar energy project along with a 400 MW battery energy storage system in the County.

Chairman Jones stated after the applicant's presentations, the Board and Planning Commission would then conduct the Joint Public Hearing where those in attendance would have the opportunity to provide their input. After everyone who wanted to speak had done so, he would close the joint public hearing. The Board and Commission may, at that time, ask questions of the applicant, consultant and staff. In addition, according to the Board's bylaws, the applicant would have a chance to respond to any public comments if they chose to do so.

Chairman Jones stated that he didn't believe that either the Planning Commission or the Board intended to take any formal actions at the current meeting, if so, both sides would adjourn their meetings.

3. Applicant Presentation

Chairman Jones asked the applicant, Blackwater Solar, to step forward, introduce themselves and make their presentation.

Michael Zehner, with the Berkley Group, was in attendance. He stated that they excited to address the comments from the public/community. He noted that changes had been made to the project to make it a valuable part of the community and a really good solar project that would be worthy of support.

Ed Rumler, with Clenera, was in attendance, as well. He stated that he was the project leader for Blackwater Solar. He stated that their Attorney and Erosion and Sediment Control Specialist were present.

There was an introduction to Clenera.

There were discussion of some of the feedback from the community and mitigation that was put in place for the Blackwater Solar project. Some of the benefits to Sussex were discussed, as well as the Comprehensive Plan Analysis.

Clenera was founded in 2013. Mr. Rumler stated that Clenera has 10+ years of experience. They have a history of success around the country in developing solar projects. They have done 1.7 Gigawatts in Solar projects operational or in construction. They are headquartered in Boise, Idaho with 135 employees.

The Blackwater Solar project information and overview were provided. The presentation noted why Sussex County to include transmission line with spare capacity; willing and private landowners and Virginia Clean Economy act. It was noted that the project size had been reduced.

He discussed PD pods which are fenced in areas with panel array inside of them. Mr. Rumler stated that it's Solar PD on single access trackers which will attract the sun throughout the day to collect energy. The energy will fed into the substation.

The project area is approximately 4,800 acres. It's the portion of the project that will be disturbed or within the footprints of what includes the PD technology. Of the 4,800 acres, about 85% is commercial pine plantation, Approximately 12-13% is mixed forest, with about 3%

Mitigation and community engagement, and project changes were discussed. Project changes included:

Project Size 800MW changed to 600MW

Project Area – Total Acres 9,000+ changed to 4,800

It was noted that 1,500 acres would be under panels which means panels would be horizontal to the ground.

Erosion / Sediment Control &
Stormwater

DEQ Mandate

DEQ Mandate

(+) Phased Construction (300 ac)

(+) Increased Storm Intensity Modelling

(+) Pollinator Habitat Scorecard

(+) Construction Monitor

Vegetative Screen

150 ft.

150 ft.

Removed 1,300 acres near sensitive ecology & 4H Center

Preserved forestry, open space, wetland buffers

Landscaping and vegetation management plan improvements

Additional Considerations

Avoid Turkey Pen Rd. during construction

Carve outs for local organizations

Performance Security

Ms. Susan Seward, the former Blackwater District Board of Supervisors member for two terms, leaving the Board in December, 2023. Since leaving the Board, she has been obtained by Clenera to assist with the final push with the project. Ms. Seward stated that she very well knows what it like to sit the Board/Commissioners' seat and make decisions that impact the County. Ms. Seward stated that if she was still on the Board, her decision would be to support the Blackwater Solar project because of the positive, financial impact it will have on the County for decades to come. She noted that she started her eight years on the Board opposed to Utility Scale Solar. She stated

that her viewpoint had changed, because the counties now in Virginia have tremendous revenue tools to monetize these projects in a variety of ways. Tools that didn't exist when she came on the Board in 2016. Ms. Seward stated that she, along with the number of localities and the Virginia Association of Counties, have spent five plus years lobbying the General Assembly to turn these projects into economic engines/interest for rural Virginia. This project is a prime example of that legislative success. Ms. Seward stated that everyone on the Board knows the challenges that are facing our County. The County has loss population in the last three Census counts. The largest decline occurred between 2019 and 2020 when the County's population dropped 2.7%. Between 2010 and 2020, the County shrank in population on an average of one (1%) per year. She stated since 2000, the County has lost 15% of our citizens. The dramatic drop in 2020 indicates that the population drop is accelerating. Ms. Seward stated further, the County's population is over 65 years old is 19%. The statewide average is 16.3%. The County's households that are at or below the federal poverty level are 23.5%, which is more than double the statewide average of 10.6%. Ms. Seward noted that all of the statistics were from the US Census Bureau Data. She stated that when you look at all the data in total, the County is losing residents, which means it's losing taxpayers. County capital, employees and service costs continue to rise, despite the shrinking tax base. Ms. Seward stated that Sussex is facing \$20-25,000,000 in deferred maintenance costs to the Courthouse complex; the construction of two EMS Fire Stations at the northern and southern ends of the County. She stated that when she was on the Board in 2023, the Board approved a two-year EMS plan requiring full time County employed EMS staff with the acquisition of three new ambulances, totaling over \$1.2 million within a 24-month timeframe. She given the County's shrinking tax base, the \$130 million in revenue, generated over the 35 years of this project, would be the financial lifeline that saves this County. Ms. Seward stated that she was quoting Supervisor Fly by stating that, "We simply cannot tax our way out of this." Ms. Seward stated that despite this critical situation, there will be taxpayers who will speak to oppose this project. She stated that she could guarantee some of these citizens are the same ones that called her during her eight years on the Board complaining about the taxes. She noted even though that two years of her serving on the Board, the County had two lowerings of the real estate rates during that time. She stated that would these same individuals tolerate a 20-40 cents per hundred tax increase year over year to raise the revenue to keep the County afloat. To raise \$5 million dollars in new revenue in one tax year, the current rate would have to increase an additional 38.5 cents a hundred. Ms. Seward stated that she confirmed the numbers with Treasurer Cox. This would take the County's real estate rates to 86.5 cents per hundred. She reference Henrico and Chesterfield's real estate rates. She inquired as to whether how many farmers and timber landowners can hold on to their land.at the rate of that taxation.

She stated that a support factor of the project is the language in the County's current Comp Plan. Ms. Seward stated that this project satisfies all the Comp Plan guidance. She noted that there seems to be a lot of confusion from the public on this issue. She stated that as Board members the legal difference between Comp Plan guidance and binding requirements in Zoning should be clear by now.

Ms. Seward stated that another reason to say, yes, is that soon, the General Assembly will take away, Sussex and other counties, ability to say "no". She stated that the Bills in this year's Legislative Session will involve the taking away of local siting authority for utility scale solar. It

was noted that the Bills were carried over a Legislative term, which means they can be taken up at the next General Assembly session. She stated that she believes that local siting agreements will be removed if localities continue to deny projects. She noted that she was afraid that the State would turn to the Eminent Domain Process to site Utility Scale Solar. The locality would lose their ability to negotiate the siting agreement found in the Code of Virginia, 15.2-2316.7 plus all the tools.

Ms. Seward told the County to not lose, what would become the second richest siting agreement in the Commonwealth of Virginia. She stated the final reason to say yes is the project is on timber land that would be harvest regardless. She stated that citizens will complain about the number of trees that will be lost. She noted that the Board should look at the number of tree that won't be lost, but the Board should considered all the trees that won't be cut as part of the mandatory buffer requirement. Several thousand acres will stand for 35+ years around the entirety of the project.

Ms. Seward noted to put the 4,800 acres in perspective, Sussex County ranks at number 11 in the State for timber harvest by dollar value, at \$9.6 million dollars for timber harvested in 2023. Sussex ranks 5th in cubic feet harvested at \$28,000 in 232 cubic feet hauled in 2023. She noted it was documented by the Virginia Department of Forestry.

Ms. Seward stated that the Board had a fiduciary responsibility to act in the best interest of the County.

A handout of the presentation from Clenera was provided the Board and Planning Commission.

4. Consultant Findings and Recommendation

Mike Zehner, Director of Planning and Community Development with the Berkley Group, provided their presentation and recommendation they may have.

Mr. Zehner reviewed two applications for Blackwater Solar, LLC Rezoning Application and the Conditional Use Permit (CUP) application.

The application included two parcels: 78-A-19 and 60-A-15 for a total of 1,279 acres. The zoning was changed from PUD to A-1.

Review of Rezoning Application included:

- Comprehensive Plan – Wakefield Small Area Plan
- Rezoning generally aligns with the policies of the Comprehensive Plan.
- Potential use and development of the property under the PUD zoning is specifically referenced in the Comprehensive Plan; if it has been determined that there is no viability to this development, Staff is of the opinion that there is no valid basis to require the PUD zoning to remain in place.
- The requested rezoning to A-1 is not inconsistent with policies established for this area of the County.

Staff recommends approval.

CUP Application

- Solar facility (600MW), BESS (400MW), and substation & switchyard
- 18 parcels
- Project area: 8,355 acres
- Development/disturbance area: 4,800 acres
- Area under panel: 4,800 acres

Review of CUP Application

Comprehensive Plan: Wakefield Small Area Plan

- Based upon policies pertaining to the Wakefield Planning Area as part of the Wakefield Small Area Plan, and future land use designations, consideration should be given to whether the proposed project limits or encumbers anticipated residential development or uses near the Town of Wakefield, has the potential to negatively impact environmental features throughout the project area, or otherwise negatively impacts the rural character or agriculture and forestry uses in the area.
- AND Comprehensive Plan: Policies for Utility-Scale Solar Facilities and Battery Energy Storage Facilities
- AND Purposes of the Zoning Ordinance

A review was provided for policies for Utility Scale Solar Facilities and Battery Energy Storage Facilities.

The purposes of the Zoning Ordinance were reviewed to include:

- To reduce or prevent congestion in the public streets;
- To facilitate the creation of a convenient, attractive and harmonious community;
- To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
- To protect against destruction of or encroachment upon historic areas;
- To protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, impounding structure failure, panic or other danger;
- To encourage economic development activities that provide desirable employment and enlarge the tax base;
- To provide for the preservation of agricultural and forest lands and other lands of significance for the protection of the natural environment.

Review of CUP Application

Staff recommends approval with conditions to ensure consistency with applicable Comprehensive Plan Policies and the purposes of the County's Zoning Ordinance.

5. Public Hearing on Conditional Use Permit and Rezoning Applicants

A. Board of Supervisors Action to Open Public Hearing

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR WHITE and carried: RESOLVED that the Sussex County Board of Supervisors hereby open the Public Hearing on the Conditional Use Permit and Rezoning Applications: All Board members present voted aye.

B. Planning Commission Action to Open Public Hearing

ON MOTION OF COMMISSIONER EDMONDS, seconded by COMMISSIONER BRACY and carried: RESOLVED that the Sussex County Planning Commission hereby open the Public Hearing on the Conditional Use Permit and Rezoning Applications: All Commissioners present voted aye.

C. Public Comments

Public Comments Received During March 25, 2024 Joint Public Hearing on Blackwater Solar Rezoning and Conditional Use Permit Applications

- 1) Kim Trimmer – Wanted to get out of VA Beach. Bought property across from 1200 acres on Brittle's Mill Road. Was told she would always be a "come here" when she purchased the property from Stanley Travis. Soon after, she was diagnosed with cancer, her husband has PTSD. Having a solar farm across from her home would be disruptive while under construction and affect the resale of her property.
- 2) Susan Stone – Wakefield District – Opposed - Concerned about deforestation which results in more carbon dioxide due to fewer trees. Trees also help stop erosion and denuded property leads to more erosion. Herbicides cause soil compaction, over time soils will be impacted by substances left from the structures.
- 3) Leverette Pope - Waverly District – Opposed - Concerned with safety, the size and the battery storage. Volunteer fire fighters are going away so how will batteries be fought. Prisons haven't help, solar panels will not help. Waverly Solar is an example of what happens when we receive 5 to 6 inches of water.
- 4) Mayor Brian Laine and Councilwoman Frances Chambers – The Town of Wakefield unanimously adopted a resolution in opposition to the project. The project is not in compliance with the Wakefield Small Area Plan, it is only ½ mile from the town limits, survey results showed residents are against solar. Why would the County consider an

application this large? The solar industry has hazards, i.e. fire. Where will the water come from? The town provided 2 deputies to the Sheriff and there is no EMS on this side of the County. Who pays for damage to the roads, etc., \$250,000 is not enough. Solar energy does not lower costs and does not need to become revenue for Sussex for 13 miles of solar. It raises rates.

- 5) Lane Chambers – Decision will affect Sussex for generations to come.
- 6) Meade Fronfelter – Yale District – Concerned with devastating effects of existing solar. There are other alternatives. 3500 acres owned by County bringing no income.
- 7) Molly Dowless – Owns land in Wakefield. Still a massive project. She was offered \$2.5 mil. and said “no”. Will destroy thousands of acres of forest/farm land, bad for wildlife, does not conform to the Comp Plan, sighting agreement is a bribe, estimates 13 square miles of solar will be impacted, Clenera will be making money off the backs of the rural counties, 250 people stood in opposition.
- 8) Seth Adams – hunter and agricultural employee – Vote “no” on Blackwater and all other solar projects. Land is non-renewable, will never return to its original state. It affects soil, wetlands, crops timber and causes runoff. What will happen in 50 years? The project does not benefit the County or citizens. Listen to taxpayers and voting citizens.
- 9) David Peck – Mostly concerned with battery storage being the most dangerous part and it being next to the town. More fires caused by batteries per statistics. 12-month construction is aggressive, \$250,000 is not enough. The company is owned by a company in Israel and is not in good financial condition.
- 10) Janet Barnette – Not present
- 11) B. J. Jackson – Lives 4 miles away, ran the VA Diner in 1994, landfill was supposed to be here 10-12 years, it’s now 30 years.
- 12) Franklin Dowless – The Board of Supervisors elected to represent interest of citizens. The room is not divided, there is no other side that are all in favor.
- 13) Perry Bradshaw – Lifelong resident, loves and is interested in agricultural and residents. Solar is not the best renewable, nuclear is and would provide more jobs.
- 14) David Slaybaugh – 20-year resident and member of a hunt club. The County has a shrinking tax base. EMS has a fast response time. The project has willing participants.
- 15) David Shields – The hunt club was accommodated and project will be very helpful and not impactful.
- 16) David Steele – Not present
- 17) Margaret Drewry – Lived here 30 years, agrees with public comment. Has PTSD from 23 years in the army, Iraqi vet. Family in the lumber business in another state, she is a cancer survivor. Does not want to live next door to a solar farm. When the lumber company cut the forest, it brought bugs and there was a bear in her pasture because he had no where to go. The hunt club property was obliterated and they feed to the poor.
- 18) Blake Cox – A resident of Chesterfield County and co-founder of Energy Right, an organization that keeps its eye on property rights. The project is an economic growth opportunity that does not strain public services, can lower taxes and doesn’t just benefit just 1 person. Urged to move forward with project.

- 19) Camille Kenatzski – Not present
- 20) Walter Lanier – Opposed - Population continues to shrink due to landfill, prisons and hog farms. The project will bring money in short term but decreases long term. It will impact to property values and not a good fit due to size and location. Hopes Board doesn't approve.
- 21) Buddy Faison – Opposed - Passaluka Hunt Club member, worked in local government for 20 years, handout distributed and referenced page 3. Swamp runs to 2 major water systems, land eliminated is actually wetlands and can't be developed. Where will wildlife go. Company doing a snow job and making lots promises, but it will be just the opposite. They are going to sell the project, who will verify that obligations are fulfilled.
- 22) Terrie Foster – Owns property in Waverly, lives in Surry County - Surry County has been ruined with solar. 12 jobs will be guards, others will be brough from North Carolina. Will disturb wetlands and cause stormwater erosion to properties. Where is energy going, is it coming to Sussex? The project will destroy wildlife and agricultural fields and will not help climate control.
- 23) David Tucker – Isle of Wight County – Professional engineer with solar experience, testified before the SCC. Solar farms are failing in performance, Dominion Energy has 21 solar facilities, PJM is losing solar capacity at other renewable energy sites, utility bills will increase. Solena is an Israeli company.
- 24) Lance Trgina – Opposed - Been in Wakefield since 1981, the project is not going to benefit the County, will bring no jobs, money will not last forever.
- 25) Craig Newten – Wildlife fencing will trap and injure deer, goats chew grass, posts are driven with concrete footers, galvanized pipe will affect wells. Sussex is being sold a bill of goods, not backed up.
- 26) Tim Casey – Not present
- 27) Kevin Johnson – Not present
- 28) Gene Rickmond – Has done solar construction for 10 years, supports solar farms and energy, has seen downfall with property in Surry next to solar. Encouraged Board to visit Surry site. PC needs to take 6 to 8 months to consider, panels have life expectancy of 10 years. Compared money to land value increases since 1989, 3 miles is minute, solar only absorbs 17 to 20% of sun's energy.
- 29) Mark Owen – Turkey Pen Road – Ancestors from here living off land, destroys huge section of land, concerned with water runoff. Penny wise and dollar foolish if approved.
- 30) Chester Carter – Lifelong resident of Stony Creek – Opposed - Voted for landfill 31 years ago, never met expectation. Board of Supervisors has sold out County for 30+ years, food tax should have been passed, has towed electrician cars, green energy is fine but not the gospel. U.S. is selling out to China. Temperature will go up 5 to 7 degrees, supports green energy but solar is not the answer.
- 31) Chris Thompson – Citizens Against Industrial Solar – Concerned with landowner rights. Questions the science and the ability to turn land back to original condition. Toxic chemicals leak from weak spots in the modules, tornado damage, need to protect well

water. Farming and timber industry is being left behind, citizens will leave and farm and timber land will decrease. Vote “no”.

32) Darren Strong – Cabin Point Road – Quoted 1776 Declaration of Independence. When government does not represent the people, they should be unseated.

D. Planning Commission Action to Close Public Hearing

ON MOTION OF COMMISSIONER EDMOND, seconded by COMMISSIONER BRACY and carried: RESOLVED that the Sussex County Planning Commission hereby close the public hearing on the on the Conditional Use Permit and Rezoning Applications: All Commissioners present voted aye.

E. Board of Supervisors Action to Close Public Hearing

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR WHITE and carried: RESOLVED that the Sussex County Board of Supervisors hereby close Public Hearing on the Conditional Use Permit and Rezoning Applications: All Board Members present voted aye.

6. Board of Supervisors and Planning Commission Questions for Application and/or of Staff

There were no questions.

7. Planning Commission Action to Defer Consideration until April Regular Meeting

ON MOTION OF COMMISSIONER EDMOND, seconded by COMMISSIONER MASON and carried: RESOLVED that the Planning Commission defer consideration until their April 1, 2024 regular meeting. All Commissioners present voted aye.

8. Adjournment

A. Planning Commission

ON MOTION OF COMMISSIONER EDMOND, seconded by COMMISSIONER BRACY and carried: RESOLVED that the Sussex Planning Commission hereby adjourn the March 25, 2024 Joint Public Hearing of the Board of Supervisors and the Planning Commission. All Commissioners present voted aye.

B. Board of Supervisors

ON MOTION OF SUPERVISOR TOLLIVER, second by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby adjourn the March 25, 2024 Joint Public Hearing of the Board of Supervisors and the Planning Commission. All Commissioners present voted aye.