

PERSON COUNTY BOARD OF COMMISSIONERS
MEMBERS PRESENT

OCTOBER 5, 2020
OTHERS PRESENT

B. Ray Jeffers
Jimmy B. Clayton
Kyle W. Puryear
Gordon Powell
C. Derrick Sims

Heidi York, County Manager
Brenda B. Reaves, Clerk to the Board
C. Ronald Aycock, County Attorney

The Board of Commissioners for the County of Person, North Carolina, met in recessed session on Monday, October 5, 2020 at 6:30pm in the Person County Office Building Auditorium for conducting informal interviews with the applicants of the Economic Development Commission.

Chairman Jeffers called the recessed meeting to order. Commissioner Puryear was absent until 6:33pm.

**APPOINTMENT TO ECONOMIC DEVELOPMENT COMMISSION VIA
INFORMAL INTERVIEWS:**

By action of the Board of Commissioners on September 21, 2020, the informal interview process was scheduled to take place with the below named applicants on October 5, 2020 starting at 6:30pm.

Three citizen applicants were present for the informal interviews; they were Ms. Elizabeth Bradsher, Mr. Larry Cole and Mr. David Ziolkowski. Mr. Michael Wilkins withdrew his application from consideration on this same date.

Chairman Jeffers asked Ms. Bradsher, Mr. Cole and Mr. Ziolkowski to introduce themselves and to speak to their interest in serving on the Economic Development Commission. Following introductions, the Board of Commissioners proceeded with its informal interviews with all three candidates for the unexpired term vacancy.

Economic Development Commission

Unexpired Term to 6/30/22; 1 position available for a citizen

- 1) Elizabeth Bradsher requested appointment
- 2) Larry Cole requested appointment
- 3) David Ziolkowski requested appointment

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A **motion** was made by Chairman Jeffers to appoint Mr. Larry Cole to the Economic Development Commission to fulfill an unexpired term to June 30, 2022.

A **substitute motion** was made by Commissioner Sims and **carried 3-2** to appoint Ms. Elizabeth Bradsher to the Economic Development Commission to fulfill an unexpired term to June 30, 2022. Commissioners Sims, Puryear and Vice Chairman Powell voted in favor of the substitute motion. Chairman Jeffers and Commissioner Clayton cast the dissenting votes.

ADJOURNMENT:

A **motion** was made by Commissioner Sims and **carried 5-0** to adjourn the recessed meeting at 7:04pm.

Brenda B. Reaves
Clerk to the Board

B. Ray Jeffers
Chairman

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The Board of Commissioners for the County of Person, North Carolina, met in regular session on Monday, October 5, 2020 at 7:00pm in the Person County Office Building Auditorium.

Chairman Jeffers called the meeting to order at 7:05pm. Commissioner Sims offered an invocation and Vice Chairman Powell led the group in the Pledge of Allegiance.

DISCUSSION/ADJUSTMENT/APPROVAL OF AGENDA:

A **motion** was made by Vice Chairman Powell and **carried 5-0** to approve the agenda.

INFORMAL COMMENTS:

Chairman Jeffers announced a 2.5-minute time limit for all speakers during informal comments. The following individuals appeared before the Board to make informal comments:

Ms. Linda Ford of 624 Hillhaven Terrace, Roxboro, a city resident, referenced an article in the local newspaper about commissioners extending the landfill contract to which she asked if the county had a contract and how much money was received and where it was going. Chairman Jeffers confirmed the County did in fact, extend a contract as well as negotiated a new contract that included additional tonnage to accept waste into the landfill. He noted that the money goes into the County's General Fund that is used to operate county services to citizens. Ms. Ford noted she had concerns related to environmental issues with a landfill. Ms. Ford asked if county residents pay city taxes to which Chairman Jeffers noted that city residents pay both city and county property taxes and those residents outside the city only pay county property taxes. Chairman Jeffers offered to meet with Ms. Ford or set up a meeting with the County Manager to answer any questions she may have.

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Ms. Patricia “PJ” Gentry of 541 Byrd Creek Lane, Hurdle Mills thanked the commissioners for moving slowly on setting its solar farm regulations. She commended the Planning & Zoning staff working to develop a better plan. Ms. Gentry said to put an industrial site in a rural residential area would be devastating to both the residents and the environment and much is unknown about the toxicity of the panels. She referenced a citizen letter with considerations that was signed by residents to which Mr. Paul Lynch would share his expertise when he addressed the Board. The Board confirmed receipt of the citizen letter.

Mr. Chris Weaver of 342 Satterfield Farm Road, Timberlake thanked the Board for its vote to appoint Ms. Elizabeth Bradsher to the Economic Development Commission noting there was much talent between the candidates. He urged the Board not to sideline those talents and to consider a Dream Team to make things happen.

Mr. John Seepe of 277 Barefoot Landing Lane, Semora thanked the Board for the support of appointing Elizabeth Bradsher and urged consideration that all the seats on Economic Development Commission be a staggered term so they don’t all expire at the same time. Mr. Seepe asked if Person County applied for CARES Act Grant funding and if there was an award or not to which County Manager, Heidi York stated an application was made for just over \$10M and the response was that funding was not available. Mr. Seepe referenced an Economic Development Commission Strategic Analysis presentation made to the Board of Commissioners in December 2018, which listed weaknesses as follows; he asked if anything has changed since that time.

- Lack of Vision
- Infrastructure
- Educated Workforce
- Appearance
- Public Funding
- Industrial Park Readiness
- Roads - Interstate
- Housing
- Lack of Development in Southern Person County
- Regional Perception
- Infrastructure at Capacity
- No Marketing
- Percentage of Unemployables

Mr. Ray Foushee of 8930 Hurdle Mills Road, Hurdle Mills stated he was one of the residents that submitted the citizen letter noting he was in full support of those considerations submitted to the Board. He noted that Person County has ten solar farms with the largest containing 37-acres of panels, which he opined being a lot for a county the size of Person County. He said county residents are prideful to maintain rural farmland and woodlands as described in the Land Use Plan and reinforced by the recent survey as presented in a recent board meeting. Mr. Foushee stated agreement with allowing Level 1 solar energy systems in residential zoned areas. However, Mr. Foushee opposed rezoning residential zoned areas to allow larger solar farms. Additionally, Mr. Foushee urged adequate setbacks for Level 2 and 3 solar energy systems to be 150' to property lines and 300' to residences.

Mr. Paul Lynch of 395 Union Grove Church Road, Hurdle Mills offered to answer any questions related to the content of the referenced citizen letter. He noted he moved to NC from bad government and bad land use policies in NJ two years ago. Mr. Lynch said he had over 30 years in process engineering for the power industry focusing on various types of power generation solar applications. He noted the most important principles in the citizen survey for the Land Use Plan rated 1) expanding employment opportunities (jobs), (2) preserving working farms and open space, and 3) maintaining rural lifestyle. Mr. Lynch further noted that solar energy farms may provide jobs during construction but thereafter there are no on-site workers and by taking up farmlands for solar farms thereby reduces the potential for job creation in industries that could provide employment opportunities. He stated his concerns related to battery storage on large solar farm projects and said the ordinance as presented lacks protections for physical and property safety.

Mr. Chris Sandifer of 3118 Green Road, Spring Hope, an independent consulting engineer who is registered in the state of NC with 40 years of experience stated there was nothing installed on solar energy systems that would endanger the health and safety of the residents in the county.

Mr. Rex Young, a Development Attorney for Oakhurst Energy of 606 Wade Avenue, Raleigh said the ordinance process has been a reaction to a single project in the Hurdle Mills community and the ordinance will impact every land owner and tax payer that wants to have solar on their property. Mr. Young stated there are benefits of clean energy and it provides a revenue. He told the Board that these larger projects will come before the Board of Commissioners for a Special Use Permit and the Board has the authority to say no or to place conditions on a project.

DISCUSSION/ADJUSTMENT/APPROVAL OF CONSENT AGENDA:

A **motion** was made by Commissioner Sims and **carried 5-0** to approve the Consent Agenda with the following items:

- A. Approval of Minutes of September 8, 2020,
- B. Approval of Minutes of September 21, 2020,
- C. Tax Adjustments for October 2020
 - a. Tax Releases
 - b. NC Vehicle Tax System pending refunds

UNFINISHED BUSINESS:**PROPOSED SOLAR ENERGY SYSTEM ORDINANCE:**

Planning Director, Lori Oakley and Kayla DiCristina, Planner presented the proposed Solar Energy System Ordinance as introduced to the Board of Commissioners on September 8, 2020 at which time the Board conducted its public hearing and heard public comments. Upon closing the public hearing, the Board of Commissioners took action on September 8, 2020 to table consideration of this item until this date.

Petition TA-03-20 was a request by the Person County Planning Department staff on behalf of the Person County Board of Commissioners to repeal the existing solar energy system regulations in the Person County Planning Ordinance Note #2 – Industrial and Manufacturing Operations and Note #10 – Solar Energy System (SES) and enact a free-standing solar energy system ordinance to address community concerns and better regulate solar energy systems. Planning staff recommended approval of TA-03-20. The proposed free-standing ordinance will address community concern and better regulate solar energy systems. Repealing the existing regulations ensures that solar energy systems are governed solely by the free-standing ordinance.

Ms. Oakley noted the Board of Commissioners could vote to approve or deny the requested text amendment and free-standing ordinance with or without modifications. The NC General Statutes require that when reviewing a text amendment, a statement as to whether the proposed text amendment is reasonable and consistent to be included with the motion.

Chairman Jeffers asked the Planning staff to describe the required buffer and screening in the proposed ordinance. Ms. DiCristina noted Section 2.4 (b) outlines the Buffers and Landscaping requirements: Level 1 systems shall be exempt from buffering and landscaping requirements. Level 2 and 3 systems shall be completely screened with a 50' vegetative buffer from view from all public streets and adjacent residences. Buffer shall include at a minimum, evergreen shrubs and a combination of deciduous and evergreen trees.

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Ms. DiCristina pointed out that as written Level 2 systems require a Special Use Permit (SUP) in the residential district and the Neighborhood Shopping B-2 residential district and is a permitted use by right in the Highway Commercial, General Industrial and Rural Conservation. Level 3 systems are prohibited in residential district and Neighborhood Shopping B-2 residential district and require a SUP in the other three districts. She added that anything over or equal to ten acres of panels are not allowed in the residential district and the Neighborhood Shopping B-2 residential district and would require a SUP before both the Planning Board and Board of Commissioners for the other three districts.

Commissioner Sims asked if anyone knew what the land owners get per solar panel. Mr. Rex Young, a Development Attorney, present in the audience, said the land owners are not paid per solar panel and the industry average, based on a number of variables, ranges between \$600 to \$1,200 per acre annually.

Chairman Jeffers voiced his concerns for the loss of agricultural land in the county noting agriculture is the #1 industry in NC and it will mean a loss in Person County's economy. He added he did not support solar energy systems to be a permitted use by right and that a SUP should be required for all in Level 2 and 3. Chairman Jeffers said the Board has to set policy for responsible growth and take heed to the recent survey results about farms.

Chairman Jeffers said the citizen letter referenced a setback from a residence and a property line and asked the Planning staff if they considered that to be the same to which they replied affirmatively noting they could be the same or different. Chairman Jeffers suggested increasing the 50' setback from the panels to the property line to 250'.

Commissioner Sims supported a 300' setback from the residence to the panels with 150' buffer from the property line.

Ms. DiCristina stated the setbacks for Level 1 are the same as an accessory structure per district regulations and for Level 2 the setbacks are 50' for residential and B-2 and all other districts are per district regulations. She asked the Board if they desired to make it a blanket requirement for Level 2 and 3 to which they replied affirmatively.

Ms. DiCristina confirmed that in Level 1, the solar systems are allowed by right in all five zoning districts, and Level 2 requires a SUP in all zoning districts. Level 3 is prohibited in residential and Neighborhood Shopping B-2 and a SUP is required in B-1, General Industrial and Rural Conservation. Planning staff confirmed that the Board desired a setback of 300' from solar panel to a dwelling with a 150' buffer for Level 2 and 3.

Vice Chairman Powell stated support of the setbacks discussed but wanted to ensure there were adequate requirements for decommissioning and abandonment to protect property and residents. Ms. DiCristina noted 2.6 Decommissioning and Abandonment of the proposed ordinance provides detail for requirements for Level 2 and 3. Chairman Jeffers cited from the proposed ordinance that a system is considered abandoned when it ceases to produce energy on a continuous basis for 12 months. Ms. Oakley stated the Board could tighten the period from 12 months to a period of less than 12 months but noted the language was clear and enforceable from her perspective. The Board consented 12 months was adequate.

Commissioner Clayton cited Section 2.6 (d) that referenced a performance guarantee equal to 1.25 times the estimated decommissioning cost satisfactory to the Planning Director. He asked consideration to add the County Attorney to that requirement to provide a legal eye. County Attorney, Ron Aycock stated a legal eye might be helpful. The Board consented to this change. Ms. Oakley added that standard practice for bonds is a sealed letter from an engineer and that Person County is the bondholder.

Chairman Jeffers asked the County Attorney if the Board of Commissioners may take action without further public hearing to which he replied affirmatively.

Chairman Jeffers asked when would any action go into effect to which Ms. Oakley stated immediately.

A **motion** was made by Vice Chairman Powell and **carried 5-0** to approve the request by the Person County Planning Department staff on behalf of the Person County Board of Commissioners to repeal the existing solar energy system regulations in the Person County Planning Ordinance Note #2 – Industrial and Manufacturing Operations and Note #10 – Solar Energy System (SES) and enact a free-standing Solar Energy System Ordinance with the changes as discussed and consented to at this meeting. Vice Chairman Powell noted the following Reasonableness and Consistency Statement: The text amendment request is consistent with the Person County Land Use Plan and future planning goals of the county, is reasonable, and in the public interest as it meets several objectives listed in the Person County Land Use Plan. Specifically, Goal 2.0 to provide a strong local planning environment that supports and enhances the economic growth potential of Person County citizens, Goal 4.0 to maintain and enhance the character and identity of Person County including established rural communities, farmland and woodland, historic sites, and other features that represent the area's heritage, and Goal 7.0 to protect water quality, significant natural features, and other natural resources that have ecological, recreational, or other important values.

Mr. Aycock confirmed the Moratorium that was set to expire upon time stated was now rescinded at the adoption of the Solar Energy System Ordinance.

PERSON COUNTY SOLAR ENERGY SYSTEM ORDINANCE

ARTICLE 1. GENERAL PROVISIONS

- 1.1 Title
- 1.2 Purpose
- 1.3 Authority and Grant of Power
- 1.4 Jurisdiction and Applicability
- 1.5 Definitions

ARTICLE 2. SITE DEVELOPMENT REQUIREMENTS

- 2.1 General Regulations
- 2.2 Setbacks
- 2.3 Height
- 2.4 Buffers and Landscaping
- 2.5 Aviation Notification
- 2.6 Decommissioning and Abandonment

ARTICLE 3. LEGAL PROVISIONS

- 3.1 Procedure for Solar Energy System Development Approval
- 3.2 Penalties for Violations
- 3.3 Severability
- 3.4 Variance
- 3.5 Amendments
- 3.6 Abrogation
- 3.7 Effective Date

Date of Adoption: October 5th, 2020

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ARTICLE 1. GENERAL PROVISIONS

1.1 Title

- a) This document shall be known and cited as "Person County Solar Energy System Ordinance".

1.2 Purpose

- a) The purpose of this ordinance is to facilitate the construction, installation, and operation of solar energy systems (SES) in Person County in a manner that promotes economic development, preserves the dignity and aesthetics of the environment in Person County, and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands. This ordinance is not intended to replace safety, health, or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not be deemed to nullify any provisions of local, state, or federal law.

1.3 Authority and Grant of Power

- a) This ordinance is adopted under the authority and provisions of the General Statute of North Carolina, Chapter 153A Article 18. Nothing herein shall be interpreted to conflict with or supersede any provision of the General Statute of North Carolina Chapter 153A.

1.4 Jurisdiction and Applicability

- a) The regulations contained herein shall govern development of land within Person County, North Carolina as provided in General Statute 153A, Article 18, except those lands lying within jurisdiction of any municipality, unless such municipality shall have by resolution requesting the County enforce these regulations within the municipality's area of jurisdiction.
- b) Solar energy systems established prior to the effective date of this ordinance shall remain exempt except if major modifications to an existing solar energy systems are proposed and require a new Special Use Permit to be issued by the Board of Commissioners. The modified area of the SES permitted under the new Special Use Permit shall be subject to the conditions of this ordinance. Maintenance and repair are not subject to this ordinance.

1.5 Definitions

- a) Abandonment: Any solar energy system that ceases to produce energy on a continuous basis for twelve (12) months will be considered abandoned.
- b) Accessory Equipment: Any equipment serving or being used in conjunction with a solar energy system. The term includes utility or transmission equipment, power supplies, generators, batteries, equipment buildings, and storage sheds, shelters, or similar structures.
- c) Decommissioning Plan: A document that details the planned shut down and removal of a solar energy system from operation or use.
- d) Major Modification: Any change which would require findings of fact or evidence in addition to those in the record of the public hearing for the original Special Use Permit, or subsequent modifications, if any. By way of example, but not of limitation, any of the following shall constitute a major modification requiring an application to be resubmitted in accordance with applicable ordinance provisions:
 - 1. Significant changes in the zoning lot's boundaries, unless the purposes of this ordinance or of the County's plan for the comprehensive development of the area within which the lot is located are satisfied to an equivalent or greater degree. Significant change in the boundaries of the site if public purposes are not satisfied to an equivalent or greater degree;
 - 2. A change in the use approved;
 - 3. Significant changes in the location of principal and/or accessory structures and/or uses;
 - 4. Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown in the plan;
 - 5. Significant changes in pedestrian or vehicular access or circulation
 - 6. Significant changes in the amount or location of required landscape screening if an alternate proposal does not provide the same or greater degree.
- e) Property Owner: The person(s), entity, or company having fee simple ownership of the property where the solar energy system is located.
- f) Solar Array: An active solar energy system that converts sunlight into electricity using either Thermal or photovoltaic methods. Such a system has multiple solar collectors, and might include transformers, generators, batteries, and other appurtenant structures and/or facilities.
- g) Solar Collector or Solar Panel: A device that converts sunlight into electricity using either thermal or photovoltaic methods.

h) Solar Energy System: The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. Area restrictions are based on the acreage of panels. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems. A system fits into one of three system types: Level 1 SES, Level 2 SES, and Level 3 SES.

1. Level 1 Solar Energy System (SES) – Includes the following in all Person County Zoning Districts:

- i. Roof-mounted on any code-compliant structure.
- ii. Ground mounted less than 1/2 acre.
- iii. Covering permanent parking lots and other hardscape areas.
- iv. Building integrated solar (i.e., shingle, hanging solar, canopy, etc.).

2. Level 2 Solar Energy System (SES) – Ground mounted systems greater than or equal to ½ acre and less than ten (10) acres in all Person County Zoning Districts.

3. Level 3 Solar Energy System (SES) – Ground mounted systems greater than or equal to ten (10) acres in all Person County Zoning Districts.

ARTICLE 2. SITE DEVELOPMENT REQUIREMENTS

2.1 General Regulations

Solar energy systems are permitted in Person County as follows:

Table 2.1 General Regulations for Solar Energy Systems in Person County					
<i>P = Permitted Use ; SUP = Special Use Permit ; X = Prohibited</i>					
	Residential (R)	Highway Commercial (B-1)	Neighborhood Shopping (B- 2)	General Industrial (GI)	Rural Conservation (RC)
Level 1	P	P	P	P	P
Level 2	SUP	SUP	SUP	SUP	SUP
Level 3	X	SUP	X	SUP	SUP

2.2 Setbacks

Setbacks for solar energy systems are measured from the nearest solar panel to the nearest dwelling.

Setbacks for solar energy systems in Person County as follows:

Table 2.2 Setback Requirements for Solar Energy Systems in Person County					
<i>X = Prohibited</i>					
	Residential (R)	Highway Commercial (B-1)	Neighborhood Shopping (B- 2)	General Industrial (GI)	Rural Conservation (RC)
Level 1	Per District Regulations contained in Person County Planning Ordinance				
Level 2 *	300'	300'	300'	300'	300'
Level 3 *	X	300'	X	300'	300'

* At a minimum, all properties shall provide the full buffer width of 150' per Section 2.4 *Buffers and Landscaping*.

EXCEPTION: Where a solar energy system facility is located on multiple contiguous lots of record in separate ownership, the building setback and buffer requirement shall apply only to the exterior perimeter of the project boundaries surrounding the facility and not the interior property boundaries within the facility. A written waiver signed by the property owner(s) shall be required.

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2.3 Height

- a) For Level 1 roof mounted systems, height is limited to the applicable district regulation. The height of Level 1, 2, and 3 ground mounted systems shall be measured from the highest natural grade below each solar panel. For ground mounted systems, panel height shall not exceed 15' in all districts. Poles and wires reasonably necessary to connect to public electric utilities for all solar energy systems shall not be subject to this requirement.

2.4 Buffers and Landscaping

- a) Level 1 systems shall be exempt from buffering and landscaping requirements.
- b) Solar collectors, accessory equipment, and associated outside storage for Level 2 and 3 systems shall be completely screened with a 150' vegetative buffer from view from all property and right-of-way lines. Buffers shall include at a minimum, evergreen shrubs and a combination of deciduous and evergreen trees as follows:
 - 1. Every 500 square feet of buffer shall include one evergreen or deciduous tree that shall be a minimum of 3' at planting and have a height and spread of at least 30' within 10 years; and,
 - 2. 5 evergreen shrubs, or 3 evergreens and 2 deciduous shrubs, that shall be a minimum of 3' at planting and have a height and spread of at least 5' in 10 years.
 - 3. Existing vegetation may be counted toward the required plantings when identified on a landscape plan and certified by an arborist, landscape architect, landscape designer. Plants identified for the buffer must be protected from all land disturbing activities and construction at a distance equal to the drip line of the plant(s) to be used toward the buffer.

2.5 Aviation Notification

- a) Level 1 systems shall be exempt from aviation notification requirements.
- b) For all Level 2 and 3 systems, a map analysis showing a radius of five (5) nautical miles from the center of the solar energy system with any airport operations within this area highlighted shall be submitted with the initial application.
 - 1. For systems not containing airport operations within five (5) nautical miles from the center of the solar energy system, attach map analysis results to permit application.

2. For systems containing airport operations within five (5) nautical miles from the center of the solar energy system, the following items must be included with the permit application:
 - i. Map analysis results.
 - ii. Determination of whether the airport is in the National Plan of Integrated Airport Systems (NPIAS).
 - iii. Documentation/certification that the project will not interfere with airport/aircraft communications systems.
 - iv. Proof of delivery of notification, date of delivery, and response(s) for the following documents:
 - a) For consideration of potential impacts to low altitude military flight paths, notification of intent to construct the solar energy system shall be sent to the NC Commanders Council at least 30 days before the Special Use Permit hearing for Level 2 and 3 solar energy systems and at least 45 days before starting construction for all other Level 2 and 3 solar energy systems. Notification shall include location of solar energy system (i.e. map, coordinates, address, or parcel ID), technology (i.e. roof-mounted PV, ground mounted fixed PV, tracked PV, solar thermal, etc.), and the area of the system (e.g. 5 acres).
 - b) If requested, a full report for each flight path and observation point, as well as the contact information for the Planning Director, shall be sent to the authority indicated below at least 30 days before the Special Use Permit hearing for Level 2 and 3 solar energy systems and at least 45 days before starting construction for all other Level 2 and 3 solar energy systems. The latest version of the Solar Glare Hazard Analysis Tool (SGHAT) shall be used per its user's manual to evaluate the solar glare aviation hazard. SGHAT can be accessed via the following website: <http://sandia.gov/glare>.
1. Airport operations at airports in the National Plan of Integrated Airport Systems (NPIAS) within five nautical miles of the center of SES: provide required information to the North Carolina Division of Aviation and Federal Aviation Administration's (FAA) Airport District Office (ADO) with oversight of North Carolina.

2. Airport operations at airports *not* in the NPIAS, including military airports, within five nautical miles of the center of SES: provide required information to the NC Commanders Council for military airports and to the management of the airport for non-military airports.
- v. Any applicable solar energy system design changes (e.g. module tilt, module reflectivity, etc.) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the contact specified in iii.b. (1) and iii.b. (2) for accurate records of the as-built system.

2.6 Decommissioning and Abandonment

- a) Decommissioning and abandonment requirements shall only apply to Level 2 and 3 solar energy systems
 1. Level 1 systems shall be exempt from decommissioning and abandonment requirements.
- b) A solar energy system that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the solar energy system provides substantial evidence (updated every six (6) months after 12 months of no energy production) to the Planning Director of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the parcel to its condition prior to development of the solar energy system. Restoration to less than the original condition is acceptable when it is requested in writing by the parcel owner.
- c) At the time of applying for permits, the applicant (solar energy system developer or property owner) shall include a decommissioning plan addressing the following items:
 1. Anticipated life of the solar energy system.
 2. Defined conditions upon which decommissioning will be initiated (i.e. end of land lease, no power production for 12 months, etc.)
 3. Removal of all non-utility owned equipment, conduit, structures, fencing, solar panels, and foundations.
 4. Restoration of property to condition prior to development of the solar energy system.
 5. Timeframe for completion of decommissioning activities, not to exceed one (1) year.
 6. Description and copy of any lease or any other agreement with the property owner regarding decommissioning.

7. Name and address of person or party responsible for decommissioning.
 8. Plans and schedule for updating the Decommissioning Plan.
 9. A verifiable means of determining if the decommissioning plan needs to be activated due to cessation of use for 365 days, such as a letter from the electric utility stating that it will notify the Planning Department within ten (10) business days if electricity is not received from an array within the solar energy system for 365 days.
 10. Estimated decommissioning costs including contingency costs of at least 25% (in current dollars), as provided by an appropriately experienced, North Carolina licensed Engineer, under seal.
- d) Prior to the issuance of a zoning compliance certificate, the county must receive a performance guarantee in favor of the county in an amount equal to 1.25 times the estimated decommissioning cost as determined by a North Carolina licensed engineer. The performance guarantee must be satisfactory to the Planning Director and may include a performance bond, irrevocable letter of credit, cash deposit or other surety approved by the Planning Director and County Attorney.

ARTICLE 3. LEGAL PROVISIONS

3.1 Procedure for Solar Energy System Development Approval

- a) After the effective date of this ordinance, no proposed solar energy system as defined in this ordinance and within Person County's jurisdiction shall proceed with construction until it has been submitted to and approved by the Planning Director or his/her designee and as evidenced by an approved Person County Zoning Permit in accordance with the provisions of this ordinance.
- b) Existing SES developments are governed under the Planning Ordinance regulations in place prior to the effective date of this ordinance unless a major modification as defined by this ordinance is proposed and requires a new Special Use Permit to be issued. If a new Special Use Permit is required, the SES will be required to meet the provisions of this Ordinance.
- c) Level 1 Solar Energy Systems as Permitted Uses

Level 1 solar energy systems allowed as permitted uses must meet the applicable height, setback, , and related district standards. Level 1 solar energy systems must complete the following for approval:

1. Approval from Person County Environmental Health or the City of Roxboro Public Works.
2. Addressing from Person County GIS.
3. Zoning permit application and site plan for Person County Planning and Zoning. *
4. Building permit application and building plans for Person County Building Inspections.

In addition to general site plan requirements, site plans submitted to Person County Planning and Zoning for Level 1 solar energy systems must show the following:

1. The entire property boundary including existing structures.
2. Planned location of each solar array and accessory equipment.
3. The front, rear, and side setbacks of the solar array and accessory equipment.
4. (If applicable) Required buffer areas with description.
5. A table containing the number, dimensions, height, and type of each proposed solar array including their generating capacity.

*Following completion of construction, Level 1 ground mounted solar energy systems may be required to submit a final as-built survey to the Planning Director. Following approval of the final as-built survey, systems may receive their Certificate of Occupancy.

d) Level 2 Solar Energy Systems as Permitted Uses

Level 2 solar energy systems allowed as permitted uses must meet the applicable height, setback, aviation notification, and related district standards. Level 2 solar energy systems must complete the following for approval:

1. Approval from Person County Environmental Health or the City of Roxboro Public Works.
2. Addressing from Person County GIS.
3. Zoning permit application and site plan for Person County Planning and Zoning. *
4. Decommissioning Plan submitted to Person County Planning and Zoning.
5. Building permit application and building plans for Person County Building Inspections.

In addition to the standards listed in the Person County Planning Ordinance *Commercial and Industrial Site Plan Requirements*, the site plan submitted to Person County Planning and Zoning must show the following:

1. Planned location of each solar array and accessory equipment.
2. The front, rear, and side setbacks of the solar array and accessory equipment.
3. (If applicable) Required buffer areas with description.
4. A table containing the number, dimensions, height, and type of each proposed solar array including their generating capacity.

*Level 2 solar energy systems in the Neuse watershed may require additional materials

Following completion of construction, all Level 2 solar energy systems shall submit a final as-built survey to the Planning Director. Following submission and approval of the final as-built survey, Level 2 solar energy systems must receive an approved final zoning inspection performed on-site by the Person County Planning and Zoning Department prior to receiving their Certificate of Occupancy. Properties located in the Neuse watershed may require additional materials prior to receiving their Certificate of Occupancy.

e) Level 2 and 3 Solar Energy Systems Requiring Special Use Permits

Level 2 and 3 solar energy systems requiring Special Use Permits must submit a completed Special Use Permit Application and site plan to the Person County Planning and Zoning Department*. Applicants may choose to provide a sketch plan to the Planning Administrator ahead of a site plan, as sketch plans do not require much investment and are an opportunity for the Planning Administrator to point out design changes ahead of more expensive site planning.

In addition to the standards listed in the Person County Planning Ordinance *Commercial and Industrial Site Plan Requirements*, the site plan submitted to Person County Planning and Zoning must show the following:

1. Planned location of each solar array and accessory equipment.
2. The front, rear, and side setbacks of the solar array and accessory equipment.
3. (If applicable) Required buffer areas with description.
4. A table containing the number, dimensions, height, and type of each proposed solar array including their generating capacity.

* Level 2 and 3 solar energy systems in the Neuse watershed may require additional materials

- f) Special Use Permit Applications and site plans shall be submitted in a timely manner so as to allow Person County Planning and Zoning staff adequate time to meet legislative advertising requirements. The Person County Board of Commissioners will conduct a public hearing to review the solar energy system Special Use Permit. Following review of the application, the Board of Commissioners will render a decision.
- g) Following approval of the Special Use Permit, Level 2 and 3 solar energy systems must complete the following for approval:
 1. Approval from Person County Environmental Health or the City of Roxboro Public Works.
 2. Addressing from Person County GIS.
 3. Zoning permit application and approved site plan for Person County Planning and Zoning.*
 4. Decommissioning Plan submitted to Person County Planning and Zoning.
 5. Building permit application and building plans for Person County Building Inspections.

* Level 2 and 3 solar energy systems in the Neuse watershed may require additional materials

- h) Following completion of construction, all Level 2 and 3 solar energy systems shall submit a final as-built survey to the Planning Director. Following submission and approval of the final as-built survey, Level 2 and 3 solar energy systems must receive an approved final zoning inspection performed on-site by the Person County Planning and Zoning Department prior to receiving their Certificate of Occupancy. Properties located in the Neuse watershed may require additional materials prior to receiving their Certificate of Occupancy.

3.2 Penalties for Violations

Any person, firm, corporation, or other entity who constructs, maintains or operates, or who controls the maintenance of a solar energy system in violation of this Ordinance shall be guilty of a misdemeanor and subject to prosecution, and if convicted, shall be punished by a fine not to exceed \$500, or by imprisonment not to exceed 30 days, or both, in the discretion of the court. Each day that said solar energy system is constructed, maintained or operated in violation of this Ordinance shall constitute a separate and distinct offense.

3.3 Severability

Should any provision of this Ordinance be declared by any court, administrative body, or board, or any other governmental body or board, to be unconstitutional, invalid, preempted, void, or otherwise inapplicable for any reason, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than the part so decided to be unconstitutional, invalid, preempted, void, or otherwise inapplicable.

3.4 Variance

A variance from the provisions of this Ordinance may be authorized by the Board of Adjustment provided that all of the following criteria are met:

- a) Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- c) The hardship did not result from actions taken by the applicant or property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- d) The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.

3.5 *Effective Date*

This Ordinance is duly adopted by the Board of Commissioners of Person County, North Carolina
this 5th day of October, 2020.

B. Ray Jeffers
B. Ray Jeffers, Chairman
Person County Board of Commissioners

10/19/20
Date

Attested by:

Brenda B. Reaves
Brenda B. Reaves, Clerk to the Person County Board of Commissioners



Date of Adoption: October 5th, 2020

14

NEW BUSINESS:

WOODSDALE FIRE DISTRICT COVERAGE PLAN AND FUNDING:

Fire Marshal, Keith Duncan provided the Board with an update on the Woodsdale Volunteer Fire Department's (WVFD) district coverage plan and funding options.

On August 9, 2019, the Office of State Fire Marshal (OSFM) notified Person County of WVFD decertification status due to failure to meet minimum standards to maintain state certification. On September 6, 2019, the County Manager provided a 30-day written notice of breach of contract to WVFD and withheld its funding for Fiscal Year 2020. WVFD filed a timely appeal to the State, which suspended the decertification process. On September 15, 2020, the WVFD formally withdrew its appeal. Decertification is still pending official notice from the OSFM following withdrawal of the appeal.

During its appeal, WVFD has continued to be dispatched to calls for service. From July 1, 2019 through September 23, 2020, the county dispatched 99 calls to the Woodsdale Fire District. WVFD did not respond to 34 (34%) of the calls in its district. In many cases, Triple Springs and Roxboro responded. Triple Springs responded to 57 (57%) and Roxboro responded to 18 (18%) of the 99 calls. Since December 1, 2019, Triple Springs has been simultaneously dispatched with WVFD to all 56 calls for service in the Woodsdale Fire District to ensure adequate response. WVFD will no longer be dispatched when its decertification becomes effective, and its contract will terminate.

The County Fire Marshal has worked with surrounding districts Ceppo, Roxboro, and Triple Springs fire departments, to develop a plan for ongoing coverage of the Woodsdale Fire District. Mr. Duncan presented a map of Person County fire districts and stations showing the expanded coverage areas for each of these departments within the Woodsdale Fire District.

Mr. Duncan said the Ceppo, Roxboro, and Triple Springs fire chiefs have responded favorably to staff's proposal, but to date, all stakeholders have not been able to meet together to finalize the coverage plan. The covering departments need clarification from the county on details such as funding for additional coverage, mapping of expanded coverage areas, mutual and automatic aid changes, etc.

Mr. Duncan also presented a draft contract addendum/supplemental aid agreement that has been reviewed by the county attorney. Covering departments would be dispatched to a pre-defined extended service area (one additional mile from each station) when there is a call for service in the Woodsdale Fire District. They would be expected to respond and supply the same level of services as they would to their home districts. County Manager, Heidi York added that the official decertification will take the residents in the district from a 9s to a 10 which will increase insurance premiums; staff were taking a proactive approach with the contracts to preserve some of the district at the 9s fire rating.

Mr. Duncan recommended the following for compensation for those districts: 1) a one-time lump sum payment of \$5,000 per department to acknowledge their willingness to expand their service area; and 2) a monthly per call reimbursement based on the FEMA rates and part-time firefighter pay for this region, to compensate departments for resources utilized during their response. He added that discussion with the fire chiefs for preference of 1) flat disbursement pro-rated as done currently, or 2) disbursements at an equal amount or 3) a per call disbursement.

For Fiscal Year 2021, the Board approved \$99,469 in unallocated fire tax district funds. The budget was amended in July to allocate \$20,000 from this line item to fund WVFD's operational expenses during its appeal through an adopted Resolution. Mr. Duncan stated the WVFD is requesting an additional \$33,700 to cover its remaining operating expenses through the end of Fiscal Year 2021 as they work towards recertification. Mr. Duncan noted the recertification process could take, at a minimum, 14 to 16 months after WVFD achieves a roster of 15 volunteer firefighters. He added he has met and supported the WVFD President, Ms. Laurie Dunn as they work toward recertification and to lower the district fire rating from a 10 to a 9s.

Mr. Duncan said the WVFD has requested a monthly funding allocation rather than the county's approving and paying invoices on its behalf. If the county continues to fund the department's operating expenses, staff recommends that the established payment process remain in place to ensure accountability. He asked for direction on allowable expenses.

Chairman Jeffers suggested that he and Vice Chairman Powell attend the meeting with the three Fire Chiefs along with the Fire Marshal to bring back to the Board for consideration. He added he would like to discuss how the county could support the new WVFD board during the recertification period to pay expenses for the department on 501. Chairman Jeffers said the WVFD Treasurer, Mr. Paul Bailey has given the Board estimated expenses for a year at \$53,700, i.e., expenses for building maintenance, fuel, inspections, testing, insurance, truck loan payments, truck repair and maintenance, supplies, utilities, electric, phone, water, propane, and Wi-Fi. Chairman Jeffers advocated for the Board to assist WVFD for the residents in that community.

Commissioner Sims asked about the \$20,000 already allocated to which Chairman Jeffers said the Board of Commissioners allocated funding to the new WVFD for the transition. He confirmed that the \$33,700 requested and the \$20,000 already allocated equals the annual estimated funding needed at \$53,700.

Assistant County Manager, Katherine Cathey told the group that \$14,000 had been spent to date on the WVFD expenses for the current fiscal year. Ms. Dunn stated she thought WVFD was approved for the same budget around \$97,000 to which Chairman Jeffers stated the Board did not allocate WVFD any funds; those funds were kept in the

Fire Tax Fund and the appropriations to date were to provide assistance as the new WVFD transitions to seek recertification.

Ms. Cathey reported the unallocated budget in the Fire Tax Fund which started with \$99,000 currently has \$79,000; she noted by funding \$33,700 would leave approximately \$45,000 in unallocated funds to potentially be used for the three covering departments.

Chairman Jeffers asked if the payment process could be sped up so that late payments are not recurring. Ms. York stated that there was a late payment, as well as all Person County vendors were paid late during COVID/Cyber; she noted this was not the standard practice to pay late. Chairman Jeffers asked the Manager and Fire Marshal to handle the payment process.

Ms. York reiterated that the recertification process might take up to two years. Mr. Duncan noted there were points to reach prior to the one-year of records. Mr. Duncan stated the WVFD has not met any of the points at this time; he added it could realistically be more like 18 months.

Commissioner Sims asked Mr. Duncan if he would be monitoring the recertification steps to report the progress to the Board of Commissioners to which he replied affirmatively.

A **motion** was made by Chairman Jeffers and **carried 5-0** to allocate \$33,700 to the WVFD.

APPOINTMENT TO JUVENILE CRIME PREVENTION COUNCIL:

Clerk to the Board, Brenda Reaves presented an application for Ashley Stone, Human Services Evaluator for the Dept. of Social Services (DSS) for appointment as the DSS designee replacing Tony Lee who is no longer with the DSS to fulfill an unexpired term to December 31, 2021.

A **motion** was made by Commissioner Puryear and **carried 5-0** to appoint Ashley Stone to the Juvenile Crime Prevention Council as the DSS representative to fulfill an unexpired term to December 31, 2021.

CHAIRMAN'S REPORT:

Chairman Jeffers had no report.

MANAGER’S REPORT:

County Manager, Heidi York reported that the Roxboro City Council would be considering the requested waterline extension for Anita Banks at its October 13, 2020 meeting. Ms. York stated should the City Council view the request favorably; the request would come before the Board at its November meeting.

COMMISSIONER REPORT/COMMENTS:

Vice Chairman Powell asked staff if Local Government Day had been cancelled to which County Manager, Heidi York stated School’s staff had advised they would not have students attend government meetings for Local Government Day this fall.

Commissioner Puryear wished the commissioner candidates running for office the best of luck.

There was no report from Commissioners Clayton and Sims.

ADJOURNMENT:

A **motion** was made by Commissioner Sims and **carried 5-0** to adjourn the meeting at 8:17pm.

Brenda B. Reaves
Clerk to the Board

B. Ray Jeffers
Chairman

October 5, 2020