

VIRGINIA: At an Adjourned Meeting of the Board of Supervisors for the County of Accomack held in the cafeteria at Metompkin Elementary School in Parksley, Virginia on the 3rd day of February, A.D., 2016, at 6:00 p.m.

Members Present: Ron S. Wolff, Chair
William J. "Billy" Tarr
Grayson C. Chesser
Paul E. J. Muhly
Harrison W. Phillips, III
Laura Belle Gordy
Robert D. Crockett, Vice Chair
Donald L. Hart, Jr.
C. Reneta Major

Others Present: Steven B. Miner, County Administrator
Cela Burge, County Attorney
Rich Morrison, Planning and Community Development Director
Shelia West, Administrative Assistant

Call to Order

The meeting was called to order by the Chair, and open with a prayer by Ms. Major after which the Pledge of Allegiance to the Flag was recited.

Proposed Amendment to Chapter 106, Zoning, Article X, Section 102-232, Poultry of the Code of the County of Accomack, Virginia – Public Hearing

Planning and Community Development Director Rich Morrison explained that Virginia had a by- right to farm act that covers all agriculturally zoned property and explained the new proposed zoning was more restrictive in every case. He gave a brief PowerPoint presentation and presented the proposed changes and responded to questions.

County Attorney Cela Burge read the rules governing conduct during Public Hearings.

The Chair opened a Public Hearing to afford interested persons the opportunity to be heard or to present written comments concerning a proposed amendment to Chapter 106, Zoning, Article X, Section 102-232, Poultry, of the Code of the County of Accomack, Virginia.

The following offered comments in support of the proposed amendment:

Steve Mallette – Locustville, VA, representing the Eastern Shore of Virginia Chamber Commerce endorsing the ordinance amendments
Diana Wyatt – Painter, VA
Peggy Barnes - Saxis, VA
Charlie Broaddus – Richmond, VA
Chip Turlington – Melfa, VA
Calvert Seybolt – Mappsville, VA
Bryan Maness – Pocomoke, MD
Anne Godwin – Onancock, VA
Danny Shrieves – Hallwood, VA

Calvin Washington – Nelsonia, VA
Danny Mills – Onancock, VA
Shirley Zamora – Onancock, VA
Dave Lovell – Onancock, VA
Bill Satterfield – Georgetown, DE
Phil Hickman – Horntown, VA
John Schneider – Chincoteague, VA

The following persons offered comments in opposition of the proposed amendment.

Lisa Insirrella – Princess Anne, MD
Jay Ford – Belle Haven, VA
Patricia Bragg – Wachapreague, VA
Eddie Kelly – New Church, VA
David Fick – Pungoteague, VA
Kitty Croak – Onancock, VA

Neutral comments concerning environmental issues, general concerns, setbacks, etc. were offered by the following:

Donald Varney – Melfa, VA
Haydon Rochester – Onancock, VA
Jim Warren – Parksley, VA
John Sanns – Hallwood, VA
James Davis - Painter, VA
Tony Picardi – Belle Haven, VA
Mariam Riggs – Onancock, VA

The Chair closed the Public Hearing.

Mr. Crockett asked Chairman Wolff if he could be heard. He explained that the vote he would be making tonight was about Accomack County's future; stating that the employees at Perdue and Tyson had a \$116 million payroll that included 3,000 jobs and approximately \$500 million to the local economy. He said he felt that two anti-poultry groups that have come to Accomack County disliking poultry and spreading fear delay, and rumors and that the Citizen's for a Better Eastern Shore and the Virginia Eastern Shore Keepers were stirring anger in Northampton County as well. He said he felt Accomack County should send a clear statement to both organizations and told the audience that both organizations had gained prominence in the recent Northampton elections and were bringing that strength to Accomack to accomplish the same goal.

Board members commented on Mr. Crockett's comments and said the proposed changes were a compromise for both sides and felt the proposals were good.

Mr. Crockett made a motion to adopt the following amendment to Chapter 106, Zoning, Article X, Section 102-232, Poultry, of the Code of the County of Accomack, as recommended by the Accomack County Planning Commission on November 4, 2015.

Mr. Phillips seconded the motion. The motion was unanimously approved.

**AN ORDINANCE TO AMEND CHAPTER 106, ZONING, ARTICLE X,
SECTION 102-232, POULTRY OF THE CODE OF THE COUNTY OF
ACCOMACK, VIRGINIA**

Sec. 106-232. - Poultry.

- (a) *Intent.* It is the intent of this article to provide all residents of the county benefit from the orderly and responsible growth of the poultry industry. The following standards have been promulgated to address the larger scale and more intense nature of modern poultry operations.
- (b) *Definitions.* For the purpose of this section, the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adjacent properties means adjacent properties shall be defined as those properties which are either (a) contiguous, or (b) separated only by a street or road.

Campground means a licensed business operating a tract of land developed to accommodate paying guests, or non-paying guests as in a group-sponsored outing, for short duration in tents designed for single families or travel trailers owned by the guests.

Child day center means a licensed child day program offered to ten or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care.

Confined poultry operation means a structure for the occupancy of 200 or more chickens, 132 or more turkeys, or 200 or more other fowl which are not permitted to graze, roam, or exercise frequently outside the structure. This definition also includes litter storage sites, incinerators, disposal pits, composters, and cold storage units for the collection of dead birds.

Existing dwelling or business mean a structure, designed for residential or commercial use which is completed or in the process of being completed on the date a complete application for a confined poultry operation permit is received by the zoning administrator.

Improved Subdivision means a division of land which has secured final plat approval from the County consisting of ten (10) or more lots, or is a subdivision of record which consists of ten (10) or more lots and which improvements (streets, monuments, etc.) have been installed.

Nutrient Management Plan means a plan developed or approved by the Department of Conservation and Recreation that requires proper storage, treatment and management of poultry waste, including dry litter, and limits accumulation of excess nutrients in soils and leaching or discharge of nutrients into state waters

Poultry grower means any permit holder, successors and/or assigns who owns and operates a confined poultry operation.

Unimproved Subdivision means a division of land which has secured preliminary plat approval from the County, prior to the effective date of this ordinance amendment approval date consisting of ten (10) or more lots.

Vegetative Buffer means a row of plant material, either preexisting or created, consisting of either evergreen or deciduous species suitable for the visual screening of confined poultry operations from roads and residences

- (c) *Zoning permit required.* Zoning approval shall be obtained from the zoning administrator for all proposed confined poultry operations before any construction begins. To obtain a zoning permit, the owner or agent for the owner shall submit a completed application form and a site plan, drawn to scale and in sufficient detail to show that the proposed confined poultry operation meets all applicable requirements of this section, to the zoning administrator for approval. The site plan shall show the size of the parcel, the location and size of existing and proposed buildings and structures on the parcel, the location of proposed entrances and access roads, the location of adjacent zoning district or incorporated town boundaries, and the location of any streams, ditches, or other water bodies on or adjacent to the property. A landscape plan shall be submitted along with the application for a zoning permit. The site plan shall also include a written statement by which the applicant certifies to the zoning administrator that the confined poultry operation shown on the site plan

meets all applicable setback requirements of this ordinance and that the site plan is a complete and accurate depiction of the confined poultry operation as it is to be located on the parcel.

Zoning permits for confined poultry operations shall expire one year after the date of issuance unless substantial construction of the approved facilities has actually commenced, and is progressing toward completion in accordance with the approved site plan.

- (d) *Posting of permit.* A copy of the zoning permit for approved confined poultry operations shall be posted at the entrance to the property in a location that is clearly visible from the roadway.
- (e) *Setback verification.* The permittee shall contact the county prior to beginning construction on a confined poultry operation to arrange for an on-site verification of the required minimum setbacks specified within this article.
- (f) *Minimum standards.*
 - (1) *Lot size.* The minimum lot size for confined poultry operations shall be six acres.
 - (2) *Poultry House Density.* The overall density per parcel of poultry houses is one (1) house per five (5) acres of land.
 - (3) *Poultry House Limit.* The maximum limit of poultry houses is twelve (12) per parcel.
 - (4) *Minimum Separation Distance.* The minimum separation distance between poultry operations shall be four hundred (400) feet.
 - (5) *Setbacks.* The minimum setbacks for any portion of a confined poultry operation shall be as follows:
 - a. Five hundred (500) feet from any existing dwelling on an adjacent property, except where tunnel fans are on the end next to the dwelling, in which case the minimum setback shall be six hundred (600) feet.
 - b. Four hundred (400) feet from any existing business on an adjacent property.
 - c. Two hundred (200) feet from any property line.
 - d. Two hundred (200) feet from the center of US Route 13, measured from the center of the northbound or southbound lanes, whichever is closer. One hundred twenty-five (125) feet from the center of state or county maintained roads, other than US Route 13, or one hundred fifty (150) feet from state or county maintained roads, other than US Route 13, if the tunnel fans directed towards the road.
 - e. Five hundred (500) feet from schools, churches, nursing homes, day care centers, campgrounds, public recreation areas, and public wells, except where tunnel fans are pointed toward the school, church, nursing home, day care center, campground, public recreation area, and public well, in which case the minimum setback shall be six hundred (600) feet.
 - f. In agricultural or general business zoning districts: five hundred (500) feet from incorporated towns or residential zoning district boundaries, improved subdivisions of ten or more lots, and mobile home parks or travel trailer parks with ten or more units, except where tunnel fans are pointed toward the incorporated town or residential zoning district boundary, improved subdivision of ten or more lots, and mobile home park or travel trailer park with ten or more units, in which case the minimum setback shall be six hundred (600) feet.

In residential zoning districts: five hundred (500) feet from incorporated towns, improved subdivisions of ten or more lots, and mobile home parks or travel trailer parks with ten or more units, except where tunnel fans are pointed toward the incorporated town, improved subdivision of ten or more lots and mobile home park or travel trailer park with ten or more units, in which case the minimum setback shall be six hundred (600) feet.
 - g. In agricultural, residential or general business zoning districts: four hundred (400) feet from unimproved subdivisions of ten or more lots. In

the event that preliminary subdivision approval expires after the effective date of this ordinance amendment, the setbacks shall be as specified in section 106-232(f)(5)(a) through section 106-232 (f)(5)(f).

- (6) *State permits required.* Confined poultry operations must obtain a Virginia Pollution Abatement General Permit for Poultry Waste Management, in accordance with regulations established by the Virginia State Water Control Board, which is submitted to the Virginia Department of Environmental Quality and establishes requirements for the storage, treatment and management of poultry waste, including dry litter. A Virginia Pollutant Discharge Elimination System General Permit may also be required through the Department of Environmental Quality. A Nutrient Management Plan is required for approval by the Virginia Department of Conservation and Recreation and is necessary to complete the application for either a Virginia Pollution Abatement General Permit or a Virginia Pollutant Discharge Elimination System General Permit.
- (7) *Earthen Berms.* Earthen Berms may be required as determined by the zoning administrator in order to protect environmentally sensitive areas and open waters from poultry litter runoff.
- (g) *Landscaping.* A landscaping plan shall be submitted to the zoning administrator demonstrating a vegetative buffer suitable for the visual screening of the confined poultry operation. A vegetative buffer may not be required if sufficient existing vegetation exists as determined by the zoning administrator.

The vegetative buffer shall be installed as follows:

- (1) A minimum of three (3) staggered rows of plant materials shall be placed at a width of 10 to 20 feet between rows from closest to the poultry operation outwards as follows:
 - (a) The row closest to the poultry operation shall consist of evergreen trees/shrubs, deciduous trees/shrubs or suitable grasses.
 - (b) The middle row shall consist of deciduous trees.
 - (c) The row furthest from the poultry operation shall consist of evergreen trees.
- (2) Buffers should be installed in accord with best management practices and to insure growth and plant material survival. Suitable resources are the Delmarva Poultry Industry, Inc. Vegetative Environmental Buffer Coordinator, the 'Guide to Vegetative Environmental Buffers for Tunnel – Ventilated Poultry Houses Tool Kit' prepared by Delmarva Poultry Industry, Inc., or the Eastern Shore of Virginia Nurserymen's Association's Recommended Species Listing.
- (3) Plant material spacing within the rows shall be as follows:
 - (a) Evergreens – Pines/Spruce shall be spaced between eight (8) and fourteen feet apart.
 - (b) Evergreens – All others shall be spaced between six (6) and ten feet apart.
 - (c) Small Shrubs shall be spaced between three (3) and four (4) feet apart.
 - (d) Large Shrubs shall be spaced between three (3) and six (6) feet apart.
 - (e) Small Deciduous Trees shall be spaced between five (5) and eight (8) feet apart.
 - (f) Large Deciduous Trees shall be spaced between eight (8) to fourteen feet apart.
- (4) *Maintenance of Vegetative Buffer.* All required vegetative buffers shall be preserved and maintained so as to effectively provide visual screening along with other benefits. Routine maintenance of the vegetative buffer is permitted, provided that it does not diminish the effectiveness of the buffer. Dead or dying vegetative buffer materials shall be replaced with similar plant materials within six (6) months. Modifications to approved vegetative buffers may be made by the zoning administrator.

- (h) *Zoning districts.* Confined poultry operations are allowed by right in the agricultural zoning district and by special use permit in general business and residential zoning districts.
- (i) *Traffic Safety.* Care should be taken in the site selection process for a confined poultry operation regarding traffic safety and existing road conditions.
- (j) *Existing confined poultry operations.* Confined poultry operations in existence and operation on the effective date of this section as determined by the zoning administrator that do not meet the minimum acreage and/or setback requirements, shall be considered nonconforming uses and nonconforming structures so long as the existing use of the facility or structures is not interrupted for more than two years. (Grandfathered).

(Ord. of ~~3-20-2002~~)

Adjournment

Mr. Crockett made a motion to adjourn at 8:20p.m. Mr. Tarr seconded the motion. The motion was unanimously approved.

Ron S. Wolff, Chair

Date