Virginia Solar Energy Development and Energy Storage Authority Meeting

**Minutes**

**January 9, 2024**

**Fairfield Area Public Library**

**Members Present**

Paul Duncan, Michael Walsh, Skyler Zunk, Gregory Habeeb, Colleen Lueken, Jo Anne Webb, Katharine Bond, Robert Birdsey, James Colgary, Michael Herbert

**Members Joining Remotely:** Harry Godfrey, Paul Duncan, Michael Walsh

**Members Absent:** Rumy Mohta

**Virginia Energy Staff Present:**

Glenn Davis, Al Christopher, Ken Jurman

**Call to Order and Introductions**

Authority Chair Skyler Zunk called the meeting to order at 10:00 and asked those present to introduce themselves. It was noted that because there was not yet a physical quorum present, a motion could not be made to allow members participating remotely to join the discussion. This was resolved later halfway through the first presentation.

**Virginia Association of Counties (VACO)**

Joe Lerch, Director of Local Government Policy for VACO provided some perspectives on solar energy and energy storage and the impacts being faced by different counties, noting that before 2015 solar energy was limited to smaller rooftop systems. Utility-scale development only began in Accomack County with the 80 MW Amazon Solar US East project.

Mr. Lerch addressed how the amount of land being taken up by large solar projects has become a growing concern to VACO’s member counties.

He noted that solar projects are typically being applied for in agricultural zones, which may include a combination of different uses, such as for row crops, pasture, or forest, and that the solar development changes the typical use for which the land is zoned, typically requiring a special use permit that tries to address the impacts from the change in usage.

He went on to describe the process by which the local planning commissions review projects and typically produce a report and recommendations to the County Board of Supervisors to approve or deny the permit request.

He described the so-called “2232 review” (based on Virginia code § 15.2-2232), which requires planning commissions to review all zoning and development, including solar and energy storage, through the lens of a county’s comprehensive plan and gives the planning commissions the ability to make land use decisions. These decisions can and sometimes are appealed to the Board of Supervisors.

While some projects are being denied, Mr. Lerch indicated that based on a Virginia Energy and UVA study, 80-82% of all solar applications submitted to counties have been approved, noting that there was some percentage of developers who withdrew projects from the permitting process.

He discussed lost revenues to counties caused by a 2014 law exempting solar energy facilities owned by a business from the state sales and local machinery and tools tax, but said this issue was resolved through 2020 legislation enabling counties to enter into sighting agreements that made up for lost revenues, as well as allowing counties to address other impacts such as stormwater issues, damage to secondary roads caused by heavy truck traffic during construction of the solar facility, and other issues.

He briefly discussed the *Virginia Energy Land Navigator*, a tool being created by Virginia Tech to develop a GIS tool that counties can use to locate prime agricultural lands, transmission lines that could accommodate utility-scale solar, and other data layers that can assist in their decision-making.

When asked whether VACO has made any policy standards or recommendations to counties considering adopting solar ordinances, Mr. Lerch responded they do not advocate for standard policies because each county and each application is different.

A member asked for Mr. Lerch’s thoughts regarding the fact that while the Clean Economy Act has aggressive clean energy goals, the final decision on land use is vested with the individual counties - with some of them becoming increasingly hostile to solar development.

Mr. Lerch acknowledged this and indicated that because of Virginia’s growing energy demand, and the increasing number of data centers, we may not be able to meet this demand with solar or solar plus storage alone. He referenced an SCC working group he sat on that showed that when renewable energy makes up more than 50% of the load in an electric company’s service territory, current energy storage technology alone could not make up the difference because of the storage’s discharge capacity.

Mr. Lerch indicated he is aware of the estimates that to meet the solar goals of the Clean Economy Act would require solar development on about 1% of Virginia’s land. However, if you're in a magisterial district, which is how counties are broken up, and you approve several large solar projects within that magisterial district, you're impacting a lot more than one to 2% of the land and that this has an impact on the local economy in agricultural areas.

When asked whether VACO has taken a position on whether or not it is legal for localities by ordinance to ban or limit a particular type of development within their jurisdiction, Mr. Lerch responded that the law is clear that localities can determine land use, but for solar specifically, localities must allow solar as a by-right land use when the power is serving the load at that location like a home or business. Localities can, however, put certain limits on other types of solar development. An example given was that they can put limits on the total percentage of prime agricultural land developed for solar.

The discussion continued for some time with both pro-solar/storage and pro-county rights views expressed.

**Approval of Minutes**

The minutes from the Authority’s October 4, 2023 meeting were circulated in advance of the January 9, 2024 meeting. After a final brief review and correction of several minor errors, Mr. Zunk called for a motion to approve the minutes. Mr. Habeeb made a motion, which was seconded by Ms. Webb. The motion was unanimously approved.

**Annual Report**

The 2023 Annual Report was approved unanimously at the October 3, 2023 meeting and sent for review by the Governor’s policy office. It was then returned to the Authority with a multitude of edits, including the removal of several recommendations. For this reason, Mr. Zunk said he was not comfortable accepting the changes before bringing the edited report back to the Authority for discussion. Additionally, he indicated that he reached out to the Authority’s representative in the Office of the Attorney General (OAG) to see if the report could be submitted to the Governor, House, and Senate without accepting the proposed edits by the Governor’s policy office.

Virginia Energy Director, Glenn Davis, began the discussion by giving some additional background information and saying the Governor is very appreciative of the work of the Authority. He also said formal opinions from the OAG are taking upwards of six months.

He said the Governor’s policy office had a few concerns about the report, the first being they want the report to be limited in scope and not a “regurgitation” of the meeting minutes, and that the report was overly detailed. The purpose of the report is to give policymakers something they can quickly pull from to make decisions. He also said they don’t want the report to look like the Authority is picking winners and losers and to focus on projects, initiatives, and technologies. The Authority should make sure all sides are heard before making recommendations. He cited recommendations in the report addressing local governance being made before local governments had a chance to present their side.

Members discussed the Authority’s statutory obligation to accept the edits, pointing out this obligation is not in the Authority’s enabling legislation.

Mr. Davis said the standard practice is for internal review by Virginia Energy and external review by the Administration, and that the position of the Administration is the Authority and policy team work in collaboration before a report is released.

Mr. Zunk offered two possible steps forward. One was to take a vote of the members on the policy office’s edits, and the other to wait for an opinion from the OAG.

He further felt that the Authority’s recommendations could be helpful and that they were developed by a broad coalition of members appointed by current and past Governors, Republicans and Democrats, and House and Senate members.

Mr. Davis countered that while that may be the case, there’s an assumption that when a Board or Authority endorses something that is the current Governor’s Board or Authority. When a lobbyist endorses a recommendation, there’s a perception that the recommendation is endorsed by that Governor, which may not be the case, and that this is the reason for the Administration’s review.

He also said that while some of the recommendations may make sense, they should not call out specific entities such as specific counties, and they should not make broad sweeping assumptions or generalizations. While there may be issues with some localities, it shouldn’t read like there are issues with all localities. Authority members were in general agreement that the removal of county names from the report would be an acceptable modification.

Mr. Habeeb pointed out that the Authority is not established as an executive authority but as a political subdivision, which is an independent body staffed by an executive branch agency. He felt that while the Authority has the legal authority to disregard the Governor’s policy office’s edits, it would be an unwise move to disregard them as a stakeholder.

Mr. Zunk then asked the members if they wanted to wait for the opinion of the OAG, accept the edits from the Administration, or for other ideas. Authority members did not indicate that they supported the edits from the administration except for the removal of county names and examples. Authority members felt that the original, Authority-approved draft should be submitted given its unanimous approval.

Mr. Christopher suggested that if there are any recommendations the Authority feels are important policy goals but which are removed from the Annual Report’s recommendations, the Authority should work with Virginia Energy, serving as a liaison to the Governor's policy team, to bring these issues forward.

Mr. Godfrey (online) said the Authority is an advisory body for both the executive branch and the legislative branch, and that accepting the executive branch edits would be problematic from a precedential standpoint. He asked if it might be helpful to include language making clear that the report and recommendations are those of the Authority and not the Governor or legislature.

Mr. Davis indicated the report as drafted, or without an opinion from the OAG, would not be submitted. As such, Mr. Zunk indicated the Authority would await a response from the OAG and expected one shortly.

**Future Meetings**

The members revisited future meeting topics presented at the October 4, 2023 meeting. These included securing a presenter from the Data Center Coalition, someone representing electric vehicles and vehicle charging, Dominion’s planned long-duration energy storage facility, someone to address PJM interconnection reform, and someone from Dominion and other utilities to address state interconnection issues, possibly even a panel discussion including PJM.

**Adjournment**

Mr. Zunk called for a motion to adjourn. A motion was made by Mr. Habeeb and seconded by Ms. Lueken and unanimously approved. The meeting was adjourned at 11:45.