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Highland County plans Dominion public hearings

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BY JOHN BRUCE • STAFF WRITER



Highland County planning commissioners, from left, are Randy Richardson, Casey Thaler, Dean Beverage and Ronald Wimer. (Recorder photo by John Bruce)

MONTEREY — Highland County residents will get at least one more chance to ask questions about Dominion’s plans for the proposed Atlantic Coast Pipeline this spring.

On Thursday, Feb. 22, the planning commission voted to ratify a decision to indefinitely postpone a public hearing on proposed pipeline storage yards in McDowell and Monterey until the required information is received.

County attorney Melissa Dowd reported a Dominion attorney informed her the company does not need to apply for a conditional use permit to build the pipeline because of a legal doctrine called “preemption,” which provides federal law supersedes state law when federal law is in conflict with a state law. Dowd commented the certificate of need conditionally issued by the Federal Energy Regulatory Commission does not address vehicular traffic. Law says whenever there is a proposed public facility, the planning commission has to make a determination to see if it complies with the comprehensive plan.

Plan’s details needed

Because of preemption, the county cannot say no to the pipeline. However, it provides an opportunity for a public hearing to determine exactly what the plan is and why it is consistent with county land use, Dowd explained.

A hearing will give the public one more opportunity to review the pipeline.

On Dowd's recommendation, the commission voted to set a public hearing for March 29 on state code section 15.2- 2232 pertaining to "legal status of plan."

The section states, "Whenever a local planning commission recommends a comprehensive plan or part thereof for the locality and such plan has been approved and adopted by the governing body, it shall control the general or approximate location, character and extent of each feature shown on the plan. Thereafter, unless a feature is already shown on the adopted master plan or part thereof or is deemed so under subsection D, no street or connection to an existing street, park or other public area, public building or public structure, public utility facility or public service corporation facility other than a railroad facility or an underground natural gas or underground electric distribution facility of a public utility as defined in subdivision (b) of § 56-265.1 within its certificated service territory, whether publicly or privately owned, shall be constructed, established or authorized, unless and until the general location or approximate location, character, and extent thereof has been submitted to and approved by the commission as being substantially in accord with the adopted comprehensive plan ..."

The specific purpose of the March 29 public hearing will be to see how Dominion's proposed plan fits with the county comprehensive plan, Dowd explained. As of Feb. 22, Dominion's land use applications for the storage yards were incomplete. The company agreed to pay for Darren Coffey and the Berkley Group to consult the county.

"Dominion has more homework to do," Coffey told the planners, adding he expects another Dominion-related public hearing to be set for April 26 concerning the storage yards because Dominion had not yet provided necessary documents from the Virginia Department of Transportation.

"First and foremost, you don't have a complete application. If we had the VDOT stuff, but we don't, it (the public hearing) would be in March. Now it's in April," Coffey said.

Coffey asked the planners about their concerns on the storage yards other than hours of operation, lighting, signage and the passing lane at the proposed McDowell location.

The scenic and historic nature of Bullpasture River Road (Route 678), poor road conditions, distance to the pipeline work area, flood zone on the McDowell site, impact on emergency services, traffic on commuter route U.S. 250 and school buses were among concerns mentioned.

Commission chair Casey Thaler asked about enforcement should issues arise. Coffey replied the issues would need to be addressed before either site's application is approved. The commission could choose not to approve one or both. If a problem arises after approval, then the use would be terminated. If a course of mitigation is not satisfactory to the county, then that's reason enough to deny the application.

Yard uses locally controlled

Thaler asked if both sites were rejected, then what is Dominion's plan. Planner Randy Richardson commented Bath County offered its industrial park to serve as a storage yard. Coffey said that unlike the proposed pipeline, the storage yard applications were outside of federal control and were an exercise in communications. "It offers an opportunity for the public to comment," Coffey said.

Planner Dean Beverage said Dominion needs to give clearer responses on issues such as traffic, lighting and portable toilet location.

Richardson commented construction activities would not be limited to hauling pipe sections: "It's going to be trucks hauling all sorts of equipment." He said he heard Dominion was acquiring land to rebuild the CCC Road to handle movement of construction equipment.

Coffey said a benefit of an April public hearing would be to give Dominion more time to put together its application package. "Rezoning has everything to do with mitigating adverse impacts," Coffey said.