

BOARD OF COUNTY COMMISSIONERS  
FOR SOMERSET COUNTY  
JUNE 14, 2016

At 7:00 p.m., at the Somerset County Civic Center, 11828 Crisfield Land, Princess Anne, MD 21853, Commissioner President Randy Laird declared a Public Hearing open regarding proposed amendments to the Somerset County Zoning Ordinance concerning the regulation of poultry house development. Also in attendance: Commissioner Vice-President Charles F. Fisher, Commissioner Craig N. Mathies, Sr., Commissioner Rex Simpkins, Commissioner Jerry S. Boston, County Administrator-Clerk, Ralph D. Taylor; DTCS Director, Gary Pusey and Administrative Aide, Lory E. Ebron.

President Laird then asked Commissioner Mathies to lead those attending the meeting in repeating the Lord's Prayer and the Pledge of Allegiance.

Mr. Taylor then proceeded to read the Notice of Public Hearing into record as follows:

"In accordance with Section 13 of the Somerset County Zoning Ordinance, Somerset County is considering amending the Zoning Ordinance as it regulates poultry house development. The Planning Commission has recommended certain proposed amendments to the Board of County Commissioners for its consideration. The County Commissioners will hold a Public Hearing to solicit input from the public prior to making a decision.

#### Fair Summary

The commercial raising of poultry, and associated structures such as poultry houses, composters and manure sheds, is permitted "by right" in certain zoning districts and by Special Exception from the Board of Zoning Appeals in other zoning districts, subject to various standards such as parcel size; setbacks from property lines, roads and distance from residences and other uses such as schools, places of worship and day care centers.

The Planning Commission has recommended to the County Commissioners that certain standards be amended by increasing the setbacks for poultry operations from property lines and from residences and other uses; adding a setback requirement for tunnel fans from residences and other uses; requiring vegetated buffers around the active portions of poultry operations; and requiring a Special Exception from the Board of Zoning Appeals if a poultry operation is proposed to exceed 200,000 s.f. in floor area.

As proposed by the Planning Commission, new poultry operations would be subject to more stringent requirements than the addition of new poultry houses to existing operations.

The County Zoning Ordinance has a provision for "reverse setbacks," which means the same setback requirements that apply to new poultry houses will also apply to new residences, schools, places of worship and day care centers proposed to be built near existing poultry houses. The amendments recommended by the Planning Commission will therefore also apply to these uses when proposed.

For additional information please contact the Somerset County Department of Technical and Community Services at 410-651-1424. Board of County Commissioners for Somerset County  
Ralph D. Taylor, County Administrator."

President Laird proceeded to explain the procedure of the hearing. Anyone wishing to make comments will be asked to come forward to the podium, state their name and address, and present their testimony.

Mr. Gary Pusey first reviewed the handout provided to those attending today which summarized the proposed recommendations. He explained that the Planning Commission (PC) had studied the development of standards for poultry houses from late 2014 through December 2015. Many work sessions were held, during which public input was obtained. Additionally, staff was asked to obtain information from other counties and experts in the field to address specific questions. The PC held a Public Hearing on November 5, 2015, followed by two additional work sessions before providing its final recommendation to the Board of Commissioners. He noted that before any revisions to the zoning code can be made, the County Commissioners are required to hold a public hearing, which is the purpose of today's hearing. The following is a brief summary regarding the recommended revisions (the complete list of recommendations is included with meeting exhibits):

- A distinction was made between existing poultry operations and proposed new operations. Expansion of existing operations would utilize the same front setbacks for the existing poultry houses so that all houses would be consistent from a setback standpoint.
- For new operations, side and rear setbacks would be increased from 50' to 75' respectively to 100'.
- For new operations, the setback from a poultry house or manure shed to a nonparticipating residence would be increased from 200' to 400'.
- For all new poultry houses, a 30' wide vegetated buffer would be required around the "active portion" of the poultry operation.
- For new operations, setbacks will be established for tunnel fans to a nonparticipating residence as follows:
  - o 1,000' to a nonparticipating residence (with a required 30' buffer);
  - o For new poultry operations less than 120,000 s.f. in floor area, a 750' setback applies in the buffer is increased by 40';
  - o For new poultry operation between 120,000 s.f. and 200,000 s.f. in floor area, the 1,000' setback may be reduced by 20' for every 10' of buffer added to the required 30', but in no case shall the setback be reduced below 800'. In order to have a setback of 800', a landscaped buffer would need to be 130' wide.
  - o No provision for a reduction to the 1,000' setback was made for poultry operations larger than 200,000 s.f., but an applicant has the right to request a setback variance.
- For all poultry house operations, when the total size exceeds 200,000 s.f. in floor area, a Special Exception from the Board of Zoning Appeals is required.
- For all new poultry houses, either in an existing operation or for a new operation, a Landscaping Plan will be required to be submitted to the Planning Department for approval prior to the issuance of any permits. It was noted that currently there is not a rule in place addressing landscaping requirements.
- A definition of "tunnel ventilation fan" will be added to the Code.
- Section 4.4.d. remained unchanged. It states that replacement poultry houses on existing poultry farms can be constructed using the same setbacks for the poultry houses that were removed.
- It was noted that the current Code requires "reverse setbacks", which would not be changing. With the increased setbacks required for new poultry house operations, someone wanting to build a house on a parcel next to poultry houses will also have to comply with the increased setbacks, unless they seek a variance from the BZA.

At the conclusion of Mr. Pusey's summary of recommend revisions as drafted by the Planning Commission, President Laird asked the Board if they had any questions for Mr. Pusey or his staff. Commissioner Mathies questioned the purpose of tunnel fans, asking for clarification as to the major function of the tunnel fans, whether they actually reduce the odor, or improve air quality. Mr. Pusey advised that the information received stated that the primary function of the tunnel fans is to keep the birds comfortable through increased cooling.

President Laird then asked if there were any proponents present wishing to speak. He advised that each person will be permitted 3 minutes to speak. He also asked those present to refrain from repeating the same comment if possible.

Mr. Eddie Johnson, 31312 Curtis Chapel Road, Westover, Maryland came forward. Mr. Johnson discussed and provided drawings that represented a visual description of the acreage that will be needed based on the proposed recommendations, totaling a \$2 million dollar investment. He also questioned the amount of tax base this investment will represent for Somerset County.

Mr. Bill Satterfield, 16686 County Seat Highway, Georgetown, DE (his business address for Delmarva Poultry), came forward. He began by stating they somewhat support the property and dwelling setback recommendations, which are generally in line with what was presented a year ago. He reminded the Board and read Section 5 which describes the purpose of the "AR" district, which entails a full range of agricultural activity. He noted Ordinance 719 (Right to Farm), reading a section of the ordinance. He reviewed the various maximum building coverage percentage requirements. He stated the 1000' tunnel fan setback is unreasonable, and not in line with other county requirements. It is felt this will eliminate usable land, and it was questioned where the number actually came from. It was also felt that the reverse setbacks could impact adjacent property owners negatively. A better definition of a "tunnel fan" within the proposed ordinance was requested. It was also noted that based on AR regulations, chicken houses are permitted by right in an AR district, it was questioned why farms with a 200,000s.f. capacity would be required to go through the special exception process. Mr. Satterfield closed his comments by confirming the length permitted for written comments following the hearing. President Laird advised the written comment period is 10 days.

Mr. Steve Farr, Berlin Maryland, representing Assateague Coastal Trust (ACT) came forward. Mr. Farr explained he was here today on behalf of Ms. Kathy Phillips who was not able to attend today's meeting, representing the Board of Directors, and members of ACT, including their members residing in Somerset County. He read a letter drafted by Ms. Phillips (a copy of which will be provided to the

Board) which expressed comments regarding location, setbacks, density and buffer concerns. Several scientific studies by agricultural professors at Penn State, University of Kentucky and Iowa State were discussed and offered to the Board as well. Mr. Farr closed his comments in stating that nitrogen deposition should be a real concern for the County Commissioners considering the number of resident's with wells that do not get tested regularly by government agencies.

Commissioner Simpkins questioned the number of Somerset County residents that are a member of ACT. Mr. Farr stated he did not have that information at this time.

President Laird clarified that he had asked for proponents to speak, this being those in favor of the ordinance as presented. He then asked if there was anyone else present to speak in favor of the proposed ordinance as recommended.

Ms. EJ Monheiser, 5076 Whittington Road, Marion, Maryland came forward. Ms. Monheiser questioned the 400' setback rule and the 1000' rule for tunnel fans, questioning that if you have an adjacent residential lot, currently without a home on it, how this law would affect the homeowner should they want to build a home on the lot. She also had additional questions regarding preventative measures that a residential homeowner could take to protect the property owner's rights. President Laird advised Ms. Monheiser that the purpose of today's hearing was to receive public comment, and that Mr. Pusey would answer her questions after the hearing.

President Laird asked for any other proponents wishing to testify. There were none.

President Laird then asked if there were any opponents present wishing to speak.

Ms. Maria Payan, 104 W. Mill Pond Drive, Selbyville, DE came forward. Ms. Payan represented the Socially Responsible Agricultural Project and residents of Somerset County. Her comments were directed to the packet submitted by Kathy Phillips, ACT. She stated that the recommendations for special exceptions, setbacks and revisions to the location of tunnel fans were appreciated. Concern was expressed about the cumulative impacts of pollution in regard to public health and density issues were, as it is felt these issues have not been addressed in the proposed ordinance. She mentioned the Johns Hopkins Bloomberg Study, reviewing some of the excerpts contained within the study which addressed many health concerns associated with broiler production. She discussed co-existence between farmers and residents, and the property rights of both. She stated that family farms and residents have coexisted for years, but she feels this is not what is happening today. Concerns regarding well water and air quality in Somerset County were expressed as well as concerns that people with no attachment to the land that are building on these small parcels.

Mr. Sam Berley, 31548 College Backbone Road, Princess Anne, Maryland came forward. Mr. Berley expressed his concern regarding the proposed regulations in that they don't address air and water quality. Living so close to a large poultry farm, he stated he has seen a change in both his air and water quality at his own home. In response to the claims that there are no adverse health effects to the environment in relation to the poultry farms, he presented a glass of water from his well, and questioned if Mr. Satterfield or anyone in the room would like to drink the water he brought here today. His offer was declined. He closed in stating that he hopes the regulations will go into more detail on how his concerns will be addressed.

Mr. Joseph Inzerillo, 13006 Backbone Road, Princess Anne, Maryland came forward. He stated that he and his wife Lisa live on the farm that has been in her family since 1875. He stated he is an Emergency Room Physician, experienced with respiratory issues. His house sits back 1400' from the tunnel fans of a 6 mega chicken house put in a year ago. He stated the noise is obvious and annoying, but the odor from the fans and the particulate matter is very detectable. There is a huge increase in number of flies, and he thanked the Planning Commission for recognizing the need for a change regarding setbacks, and density issues, and the residential property owner rights. He stated he is hoping that the county will involve the health department regarding air quality. He feels setbacks need to be increased, and noted that the vegetative buffers just hide the chicken houses from sight and are not the solution. He requested the establishment of a policy regarding how many of these monstrous houses will be allowed to be in proximity of local residences, and find a solution that will make everybody happy.

Ms. Margaret Wheeler, 9405 Rum Ridge Road, Delmar, Maryland came forward. Ms. Wheeler noted she was raised on a family chicken farm that was around for many generations and she is hearing a lot of allegations against farming, stating she would like to see the cause and effect and proof that those claims are being caused by chicken houses, and not by other environmental causes. She stated you can't get rich growing chickens. Regarding the water sample provided by Mr. Berley, she said that she was raised on her chicken farm, and her well water is crystal clear. She feels it's not just chicken houses causing the ills of the world, and she closed in requesting to see proof that chicken houses are causing all the problems.

Ms. Margaret Barnes, 211 East Isabella Street, Salisbury, Maryland came forward. Ms. Barnes is the founder of Moms Across America - Eastern Shore Chapter. She stated her organization is concerned about the health of our children, and discussed the toxic environment for children, and

expressed concern about what is happening on the Eastern Shore. Noting that Ms. Lisa Inzerillo asked her to attend today in her place, she stated she understands the concerns of these farmers who work very hard and are self-employed, as she is also self-employed. But family farms of old are very different from today's farms popping up today, described as "farms with no family". She added that she does not consider it farming if it's not planted in the ground. She disagreed with the previous comment that you can't get rich, pointing out Minh Vinh, a chicken farmer near the Inzerillo's, who has changed their lives forever. She stated these chicken houses have destroyed the fresh air they used to enjoy. Mr. Vinh is an opportunist who is working within the laws, so therefore guidelines must be at fault. Ms. Barnes closed her comments by presenting brief information on various studies that prove the health dangers of chicken houses.

Mr. Woody Jackson, Mt. Vernon Road, Princess Anne, Maryland came forward. Mr. Jackson stated he works for Mountaire Farms, and noted that you are not going to be able to satisfy everyone no matter what is done. He felt the 1000' setback is a bit much, and feels the proposed recommendations will create the most stringent laws as compared to the surrounding counties. He noted we need to realize the economic demand for Somerset County and the need for a tax basis. He closed in saying that we need to have something here in the county, and that it is very important to keep the chicken industry alive in the county.

Mr. Ian Poisker, 27733 Oriole Road, Princess Anne came forward. Mr. Poisker feels that the problem we are creating is to put as much as we can on these parcels, and feels in time the poultry industry will kill itself. He stated that if we continue to build all of these mega houses in a small area, eventually we will have some real problems regardless of setbacks or anything else.

Mr. Rick Green, 28329 Canterbury Drive, Salisbury, Maryland came forward. Mr. Green commended the Board on the excellent effort put forward during this process. He feels a great deal of serious thought was put into this matter. He read a portion of the North Hampton VA ordinance regarding their setback regulations, as well as noting other county regulation distances as compared to what is being proposed today. Wicomico County is also dealing with this same discussion, and he stated options should be considered, and that it is a matter of concentration as to where these houses are placed, noting that is what the purpose should be. He asked the Board to keep this in mind going forward, noting Wicomico County is interested in a win-win situation which would be a desire for good management practice and good neighbors, noting that it can be accomplished. He closed in saying he prays that the "Wisdom of Solomon" is theirs.

Mr. Kevin Anderson, 21591 Big Monie Road, Princess Anne, Maryland came forward. Mr. Anderson noted he is a member of the Planning Commission (PC), and asked if the Board can see what they have been wrestling with for 9 months. They have been kicking around the 1000' buffer for some time. He explained the give and take regarding the 1000' buffer recommendation. He said the PC searched deep to see how they can put value into existing farms, and detour someone from taking open farm space and add value to a farmer who wanted to retire. He noted the public desire for input, and also reminded the Board that this ordinance provides the criteria that needs to be presented to get a permit, and appeals can be made to the Board of Zoning Appeals. None of this is cast in stone. He also discussed some of the statistics presented by Mr. Satterfield, noting the 2002 data found on the internet, provided by the USDA 2002 Census data that stated Somerset County has 248 chickens per acre compared to 119 and 119.5 for Wicomico and Worcester counties, respectfully. Somerset County is more than double the density in either Wicomico or Worcester counties. Mr. Anderson closed his comments by urging the Board to approve the ordinance as written.

Reverend Charles Bagley, 30006 Fairmount Road, Westover, Maryland came forward. Reverend Bagley, President of the NAACP stated to him, it is a "no-brainer" that the PC sees the need to address the poultry house ordinance issue. He noted the lady before him said she just wanted to feed people; he acknowledged that he doesn't want chicken all the time, there needs to be a variety. Noting that this has been going on now for a while, he feels that people in opposition are not against poultry farming per say; but too much of anything is not good for anyone. He feels there needs to be more consideration, more respect and some equity to come to a balanced resolution for both the poultry farms and Somerset County residents for a peaceable life for all.

Mr. Leonard Dietz, 14230 Backbone Road, Princess Anne, Maryland came forward. He stated he travels Backbone Road often, and the pollutants were bad last summer, so he can't imagine what it will be like this summer. He is mainly concerned about the density of the chicken houses. He thanked the Board for their time.

President Laird asked if there was anyone else present wishing to speak. There were none.

With no further testimony, President Laird declared the public hearing closed at 8:08 p.m.

Written comments will be taken for 10 days, until June 24, 2016.

Approved By:



Board of County Commissioners  
For Somerset County

Respectfully Submitted:



Lory E. Ebron  
Administrative Aide