

Voluntary Agricultural Districts - Public Hearings



North Carolina Department of Agriculture and Consumer Services

Farmland Preservation Division

Steve Troxler, Commissioner



Today's Presenters

- Evan Davis
 - Farmland Preservation Director
NCDA&CS
- Kristina Fischer
 - Eastern Region Coordinator
NC Division of Soil and Water Conservation
NCDA&CS
- Lisa Childers
 - Cumberland County Extension Director



The Purpose of VADs

- N.C.G.S. 106-738
 - “The purpose of such agricultural districts shall be to **increase identity and pride in the agricultural community and its way of life** and **to decrease the likelihood of legal disputes**, such as nuisance actions between farm owners and their neighbors, and **other negative impacts on properly managed farms.**”
- VAD is the first step in Farmland Preservation efforts



VAD Components

- Required in ordinances:
 - Qualifying farmland requirements
 - **Agricultural advisory board**
 - Creation of VADs
 - Record notice of proximity to farmlands
- Optional in ordinances:
 - Minimum size, including acreage, number of tracts, and appropriate proximity of multiple tracts
 - **Public hearings on condemnation of farmland**
 - Waiver of water and sewer assessments
 - Enhanced Voluntary Agricultural Districts



Public Hearings

- Optional provision available for VAD programs
- No state or local public agency or governmental unit may formally initiate any action to condemn any interest in farmland enrolled in VAD until such agency has requested the Ag Advisory Board to hold a public hearing on the proposed condemnation
- VAD landowner requests a public hearing to the Agricultural Advisory



Public Hearings

- Have 30 days after receiving a request to hold the public hearing and submit its findings and recommendations to the agency.
- The Ag Advisory Board submits written findings and a recommendation to the decision-making body of the agency proposing the acquisition.
- The agency may not formally initiate a condemnation action while the proposed condemnation is properly before the advisory board within these time limitations.

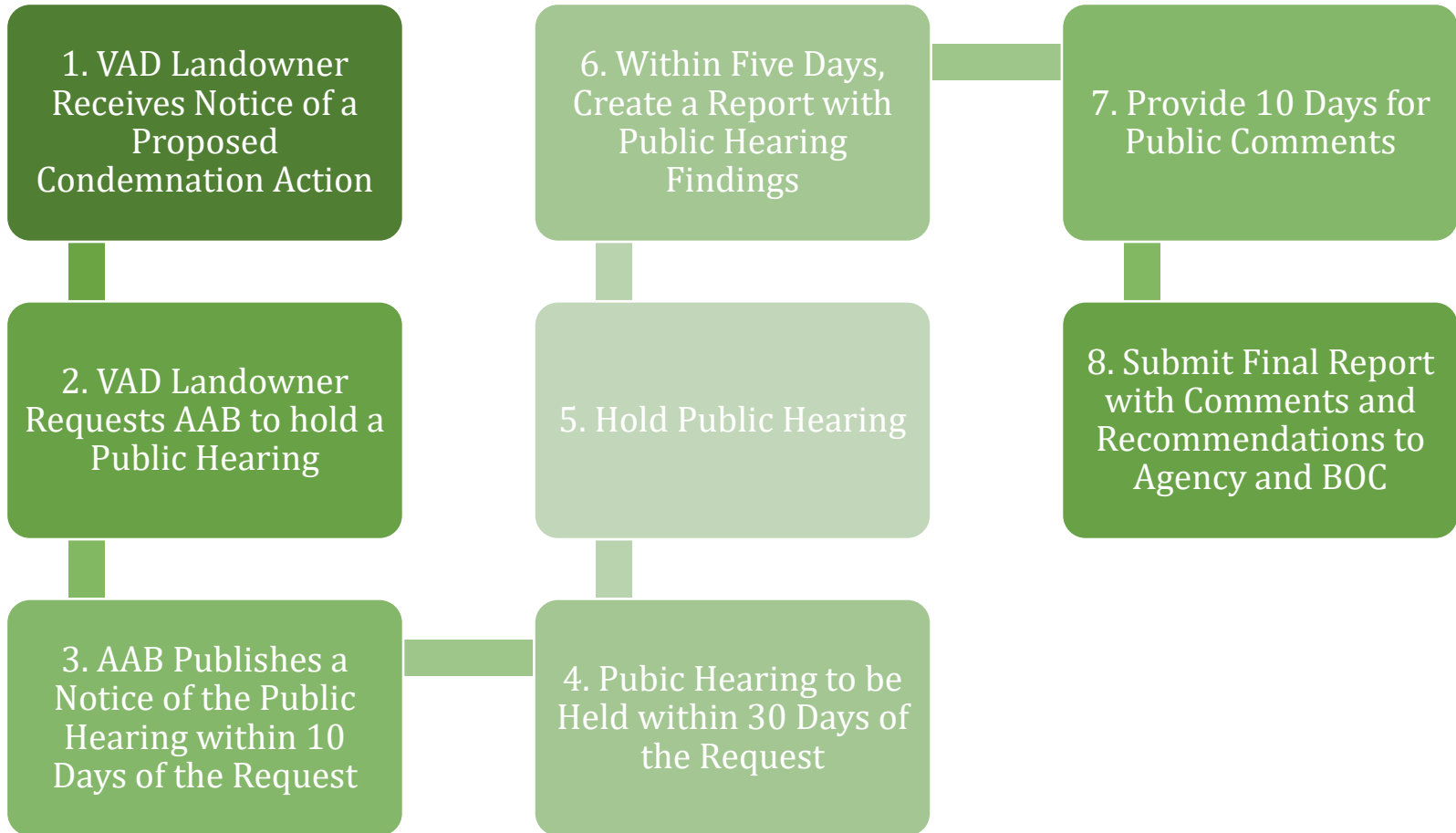


Agricultural Advisory Boards

- Duties
 - Hold public hearings on public projects likely to have an impact on agricultural operations, particularly if such projects involve condemnation of all or part of any qualifying farm*
 - Advise the governing board of the county or city that adopted the ordinance on projects, programs, or issues affecting the agricultural economy or way of life within the county



The VAD Public Hearing Process



VAD Public Hearing Components

- Has the need for the project been satisfactorily established by the agency or unit of government involved?
- Has a fiscal impact analysis been conducted by the agency involved? If so, has it been reviewed by the AAB?
- Has an environmental impact assessment been conducted by the agency involved? If so, has it been reviewed by the AAB?



VAD Public Hearing Components

- Are alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the VAD?
- Consult with SWCD, CES, NRCS, or any other individuals, agencies, or organizations deemed by the AAB to be necessary for its review.
- Final Report should include public hearing minutes, reviews of analysis and reports, public comments, and final recommendations to the agency and Board of Commissioners.



Your Role as VAD Administrator

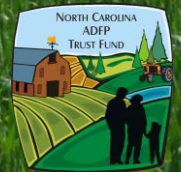
- Organizing Meetings for Agricultural Advisory Board
- Providing Public Notice
- Recordkeeping
 - Meeting minutes
 - Compiling notes into a report



Questions?



www.ncvad.org



OPEN MEETINGS PROCEDURES FOR AGRICULTURAL ADVISORY BOARDS

KRISTINA FISCHER - EASTERN
REGION COORDINATOR

NCDA&CS DSWC



DISCUSSION OVERVIEW

Purpose of Open Meetings Law

What is a public body?

Are Agricultural Advisory Boards qualifying public bodies

Notice requirements – Regular and Special meetings

Purpose and procedure for closed sessions

Summary



PURPOSES OF THE OPEN MEETINGS LAW

The policy of the state of North Carolina is to allow public access to the business of government

Public bodies must conduct business in public

Allow public access to a public body's deliberations in real time

Provide for privacy when warranted

WHAT IS A PUBLIC BODY?

Defined by Open Meetings Law

Must have at least two members

Someone or some entity created the group

Someone must elect or appoint members

Body is part of NC state or local government

Body exercises or is authorized to exercise at least 1 of 5 powers

FIVE POWERS OF PUBLIC BODIES



ADMINISTRATIVE



LEGISLATIVE



POLICY
MAKING



QUASI JUDICIAL



ADVISORY

HOW DO AG ADVISORY BOARDS MEASURE UP?



ALL AG ADVISORY
BOARDS HAVE MORE
THAN 2 MEMBERS



AG ADVISORY BOARDS
ARE CREATED BY
LOCAL ORDINANCES



ALL BOARD MEMBERS
ARE APPOINTED BY
COUNTY
COMMISSIONERS



AG ADVISORY BOARDS
ARE ENTITIES OF
LOCAL GOVERNMENT

HOW ABOUT THE POWERS?

Administrative— Ag
Advisory Boards approve
applications for inclusion
in VAD and EVAD locally

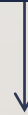
Advisory – Ag Advisory
Boards routinely advise
community leaders
regarding agricultural
operations at the county
level

TAKE HOME MESSAGE #1

- Ag Advisory Boards meet all requirements for designation as a public body under the Open Meetings Law
- Therefore, Ag Advisory Boards must comply with the law
- All official meetings of public bodies are open to the public – thus, if a quorum is together to discuss Ag Advisory Board business, this is an official meeting
 - A social meeting or other informal assembly or gathering together of the members of a public body does not constitute an official meeting unless called or held to evade the spirit and purposes of the law

NOTICING A REGULAR PUBLIC MEETING

A schedule of regular meetings must be noticed at least seven calendar days before the day of the first meeting held



The schedule must be kept current if meetings change

COUNTY AGRICULTURAL ADVISORY BOARD REGULAR MONTHLY BOARD MEETING

Thursday, February 8, 2024

10:30am

Auditorium

Home County Agricultural Center

165 Agriculture Drive, Kenansville NC



REGULAR MEETING NOTICE DETAILS

- Notices shall include time and place of meetings
- Notices should be filed with the clerk to the board of county commissioners at least seven calendar days in advance of a regular meeting
- If the Ag Advisory Board has a website and has established a schedule of regular meetings, the schedule shall be posted to the website
- Minutes must be kept for all meetings

NOTICING A SPECIAL PUBLIC MEETING

- For any other meeting, except an emergency meeting, the public body shall cause written notice of the meeting stating its purpose
 - Posted on the principal bulletin board
 - Mailed, emailed or delivered to each media outlet and persons who have filed a written request to have notice
- Notice must be 48 hours before the time of the meeting

PUBLIC HEARINGS ARE CONSIDERED SPECIAL PUBLIC MEETINGS

If a county has a VAD ordinance with a public hearing requirement, the Ag Advisory Board must hold a hearing if requested by the VAD landowner if there is a condemnation action on the property.

• § 106-740. Public hearings on condemnation of farmland.

• An ordinance adopted under this Part or Part 3 of this Article may provide that no State or local public agency or governmental unit may formally initiate any action to condemn any interest in qualifying farmland within a voluntary agricultural district under this Part or an enhanced voluntary agricultural district under Part 3 of this Article until such agency has requested the local agricultural advisory board established under G.S. 106-739 to hold a public hearing on the proposed condemnation.

• (1) Following a public hearing held pursuant to this section, the board shall prepare and submit written findings and a recommendation to the decision-making body of the agency proposing acquisition.

• (2) The board designated to hold the hearing shall have 30 days after receiving a request under this section to hold the public hearing and submit its findings and recommendations to the agency.

• (3) The agency may not formally initiate a condemnation action while the proposed condemnation is properly before the advisory board within these time limitations. (1985 (Reg. Sess., 1986), c. 1025, s. 1; 2005-390, ss. 3, 14.)

COUNTY AGRICULTURAL ADVISORY BOARD PUBLIC HEARING ON CONDEMNATION OF LAND

Thursday, February 8, 2024

10:30am

Auditorium

Home County Agricultural Center

165 Agriculture Drive, Kenansville NC


-

The Home County Agricultural Advisory Board will meet as referenced above to hear comments on the proposed condemnation of Jones Farm in Home County.



NOTICING AN EMERGENCY PUBLIC MEETING

An “emergency meeting” is one called because of generally unexpected circumstances that require immediate consideration by the public body



The reason for the emergency meeting must be noticed



The meeting notice must be mailed, emailed or delivered to each media outlet and persons who have filed a written request to have notice



QUESTIONS

CLOSED SESSIONS

The law makes provisions for privacy when open sessions might harm public interests or an individual's privacy

But public bodies can go into closed sessions only for certain purposes

ALLOWED PURPOSES OF CLOSED SESSIONS

Attorney-client matters

Personnel

Real property negotiations

Economic development

Confidential records

Honorary degrees or other awards

Criminal investigations

School violence

Responding to terrorism

EXACT INSTRUCTIONS FOR CALLING A CLOSED SESSION

- **§ 143-318.11. Closed sessions.**
- (c) Calling a Closed Session. – A public body may hold a closed session only upon a motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite one or more of the permissible purposes listed in subsection (a) of this section. A motion based on subdivision (a)(1) of this section shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on subdivision (a)(3) of this section shall identify the parties in each existing lawsuit concerning which the public body expects to receive advice during the closed session.

IN A NUTSHELL...

A closed session is part of an official open meeting

Notice of meeting required even if all of meeting will be closed

Closed session is required to discuss confidential information even if no “public” is present

During open part of the meeting, must have motion to go into closed session

Motion must state purpose of going into closed session

If to discuss confidential records, must reference the specific law regarding that record

IN A NUTSHELL, CONTINUED...



Persons other than the board members may be asked to assist the board by attending the closed session



A statement must be read before going into closed session citing the Law 143-318.11 which gives the board the authority to go into closed session



Motion must be made and seconded to leave closed session and return to the public meeting



Actions related to VAD and EVAD applications should be handled only in Open Session



The board may not adjourn the meeting from closed session



Every public body shall keep full and accurate minutes of official meetings, including closed sessions

A SAMPLE STATEMENT BEFORE GOING IN TO CLOSED SESSION

Chair; “We have a motion and a second to go into closed session pursuant to General Statute **143-318.11(a)(1)**

to prevent disclosure of information that is privileged or confidential. The information to be reviewed is protected by NC General Statute 139-8.2.

All those in favor say “aye”. Motion carries.”

“This board will now go into closed session. We would like for our staff to please remain seated and assist us with this issue.”



RECORDS OF CLOSED SESSIONS

Requires a general account of subjects discussed

If action taken, minutes to capture the action are required

General account and minutes may be merged into one document

SEALING MINUTES / GENERAL ACCOUNT

When a public body meets in closed session, it shall keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired

Minutes from closed session may be withheld from public inspection so long as release would frustrate the purpose of the closed session

OK to seal if opening defeats purposes of the closed session

Must unlock when need to keep information confidential passes

Some minutes or general accounts may never be unlocked

SUMMARY

- Ag Advisory Boards must comply with the Open Meetings Law
- Open Meetings Law requires public access and notice of the meeting
 - The regular schedule posted 7 days prior to the first meeting with the clerk to the county commissioners
 - Called meetings (including Public Hearings) posted 48 hours
 - Emergency meetings noticed to all who have requested notice
 - And if you have a Web site the meeting must be noticed there

SUMMARY

- Closed sessions can be called for specific reasons
 - Must have a motion to go into closed session, the session law allowing closed sessions must be cited, and the reason for the closed session must be stated
 - Minutes must be taken during closed session
- See § 143-318.11. Closed sessions for more information



QUESTIONS

Lisa's Top 5 Helpful Hints

“VAD Public Hearings”

**NC Cooperative Extension
Cumberland County Center**



**So you receive a public
hearing request...**





#1

Contact your legal department.



#2

**Follow your ordinance.
(look in the Procedure section)**



#3

Room setup is imperative!



#4

**Write a script for the Chairman,
if needed!**

Ryan-at 10am *"I call the Farm Advisory Board to order"*

- Approval of agenda *-"I need a motion and a second to approve."*

"I am going to ask Lisa Childers, County Extension Director, to provide us with an overview and to give us our charge for what we need to accomplish today as a board. "

Lisa -thank you Mr. Chairman.

Members of the Farm Advisory Board, I was contacted by XYZ with a Public Hearing request. NCXYZ project 12345 in regards to widening of Wolf Road in Cumberland County, the proposed, will affect one parcel currently in the VAD program: (Tax # 1234) belonging to James Smith. It is my understanding that all parties, XYZ and the Smith family are here to provide additional information in regards to this request.

As Farm Advisory Board members you are here today review the following:

- a. If the need for the project has been satisfactorily established by the agency or unit of government involved, including a review of any fiscal impact analysis conducted by the agency involved;
- b. Alternatives to the proposed action that have less impact and are less disruptive to the agricultural activities of the District within which the proposed action is to take place.
- c. The Farm Advisory Board shall consult with the Cooperative Extension Director, the Natural Resources Conservation Service District Conservationist, and any other individuals, agencies or organizations deemed by the Farm Advisory Board to be necessary for its review of the proposed action. Land value will not be a factor in the selection between properties under consideration for the proposed action.



#5

Send all parties a final report!



Lisa Childers

*Cooperative Extension
Director,
Cumberland County*

Lisa_Childers@ncsu.edu

910-321-6880

