
SPECIAL CALLED MEETING
June 8, 2011
3:00 p.m.

The Perquimans County Board of Commissioners met in a Special Called Meeting on Wednesday, June 8, 2011 at 3:00 p.m. in the upstairs Courtroom of the Perquimans County Courthouse Annex Building. The purpose of the meeting was to hold a Public Hearing for the Conditional Use Permit for the Large Wind Energy Facility.

MEMBERS PRESENT: Benjamin Hobbs, Chairman Janice McKenzie Cole, Vice- Chair
Tammy Miller-White Edward R. Muzzulin
Mack Nixon Sue Weimar

MEMBERS ABSENT: None

OTHERS PRESENT: Bobby C. Darden, County Manager Mary P. Hunnicutt, Clerk to the Board
Will Crowe, County Attorney Donna Godfrey, County Planner
Stephanie Graham, Court Reporter

Chairman Hobbs explained that, due to this being a quasi-judicial hearing, he asked Vice Chair, Janice McKenzie Cole, to chair the meeting. Vice Chair Cole called the meeting to order and asked Commissioner Muzzulin to give the invocation. Vice Chair Cole led in the Pledge of Allegiance. She then proceeded with Special Called Meeting.

AGENDA

The Agenda was unanimously approved on motion made by Mack E. Nixon, seconded by Tammy Miller-White.

PUBLIC HEARING

Conditional Use Permit No. CUP-11-01, by David C. Shadle, Atlantic Wind, LLC.

Vice Chair Cole opened the Public Hearing stating that we have a quorum with all Commissioners present. The purpose of the public hearing is to receive comments on the consideration of the Conditional Use Permit No. CUP-11-01, by David C. Shadle, Atlantic Wind, LLC, to construct and operate a Large Wind Energy Facility on multiple properties bounded in general by Four Mile Desert Road, Swamp Road, Sandy Cross Road, Up River Road, Mill Pond Road, Ridge Road and Turnpike Road and crossing over the northeastern County Line into Pasquotank County. Also including are two parcels on the southeast side of Four Mile Desert Road known as Tax Parcel Nos. 5-0025-0004A and B. Ms. Cole further explained that this would be a quasi-judicial hearing and that all witnesses will be sworn in. There were thirty-one people in the public present. Ms. Cole recognized Donna Godfrey, County Planner, who explained the methods of notification of the public hearing. She then asked Ms. Godfrey to give a brief summarization of the application. Vice Chair Cole explained that the focus of the Board is to provide a fair and impartial hearing on the merits of the case. The question before the Board tonight is whether the proposal meets the standards in the Ordinance. The Board will determine the facts of the case and then apply that to the standards of the Ordinance. Vice Chair Cole explained the rules of order for a quasi-judicial proceeding. The first step is to asked if the Petitioner’s Attorney if he had an opening statement.

Henry C. Campen, Jr. of Parker Poe Adams & Bernstein LLP, 150 Fayetteville Street, Suite 1400, Raleigh, NC 27601 presented his opening statement. Mr. Campen, Jr. explained that each witness will be referring to materials located in the Conditional Use Permit Application – Hearing Exhibits for the Desert Wind power project, Perquimans County, NC, June 8, 2011 which was also given to each of the Commissioners and Clerk. After making his opening statement, he explained that there are three (3) counsels that will be handling the questioning of the witnesses and that he was ready to proceed.

Vice Chair Cole added that this is a fair and impartial hearing. The Commissioners understand that they are to take into consideration only the information received at the hearing today. She further stated that the Board does not encourage ex-parte communications but, in this day of technology, the Board did receive e-mails to that effect and provided the Petitioner’s Counsel with copies of those e-mails.

Vice Chair Cole called the first four (4) witnesses: Craig Poff, Senior Business Developer – Iberdrola Renewables, Walter Meisner, Senior Project Engineer – Iberdrola Renewables, Mike Clayton, Permit Manager – Iberdrola Renewables, and Mark Bastasch, Lead Acoustical Engineer, CH2M Hill and swore them in.

After confirming that Mr. Poff was an expert witness, Mr. Campen, Jr. questioned Craig Poff on the background on Iberdrola Renewables, Atlantic Wind, LLC, described the application and project in general, and demonstrated its compliance with the standards of Perquimans County Zoning Ordinance. After Mr. Poff’s testimony, Vice Chair Cole asked if there were any questions from the Board. The following question was asked:

- **Commissioner Nixon:** Mr. Nixon asked about Senate Bill 3 and what the drop date was for the State of North Carolina. Mr. Poff said that he understood it to be phased in and the 12½% level must be reached by 2021. Mr. Nixon further asked if the State of North Carolina received a large energy stimulus grant for this. Mr. Poff said that he had no knowledge of the State of North Carolina grant. There being no further questions of Mr. Poff, Ms. Cole called the next witness.

After confirming that Mr. Meisner was an expert witness, Mr. Campen, Jr. asked the purpose of Mr. Meisner’s testimony today. Walter Meisner said that he would demonstrate that the design construction and operations of this project would insure public health and safety. After Mr. Poff’s testimony, Vice Chair Cole asked if there were any questions from the Board. The following questions were asked:

- **Commissioner Weimar:** Ms. Weimar asked, “What are some potential disasters for this project and is the public in any danger from this project?” Mr. Meisner said that any mechanical equipment can function incorrectly but it is his opinion that there would be more danger to the mechanics than to the public.
- **Commissioner Miller-White:** Ms. Miller-White asked Mr. Meisner about the icing of the blades. Mr. Meisner said that this was not his area of expertise but he could say that the design and the layout of the project takes into account all setbacks that would potentially already mitigate any concerns about this matter.
- **Commissioner Nixon:** Mr. Nixon asked how much history they have with lightning strike history. Mr. Meisner said that he was not sure about the exact damage but it actually does occur. Mr. Nixon asked if it catches the turbines on fire. Mr. Meisner said that he did not know of any incident where that occurred.
- **Commissioner Muzzulin:** Mr. Muzzulin asked if the direct cable that is buried 48” underground waterproofed. Mr. Meisner said that the cables were fully encased.
- **Commissioner Cole:** Ms. Cole asked about the foundations being either an 8 to 12 foot shallow foundation or deep piling. How deep will the pilings go? Mr. Meisner said that they have not determined how deep they will go yet but it will be essentially a pedestal of concrete on top of piling foundation. They are looking for a soil strata this has enough bearing capacity to hold multiple foundations. Ms. Cole asked Mr. Meisner to expand on the proposed road improvements. Mr. Meisner said that all the internal roads would need to be improved to accommodate their construction traffic and long-term operation. At this time, they do not know to what extent they would be improved but they all would need to a state that would accommodate the traffic.
- **Commissioner Nixon:** Mr. Nixon asked, “What bearing are you planning?” Mr. Meisner said did not know those figures off the top of his head.

- **Commissioner Hobbs:** Mr. Hobbs asked if there has ever been a case where the brakes are on and we have high winds and they have locked and go wild. Mr. Meisner said that they are controlled and the blades turn toward or away from the wind so they would not spin.

There being no further questions, Vice Chair Cole called the next witness, Mike Clayton. Thomas N. Griffin, III of Parker Poe Adams & Bernstein LLP explained that he would be taking the testimony of the next three (3) witnesses. After confirming that Mr. Clayton was an expert witness, Mr. Griffin, III asked the purpose of Mr. Clayton's testimony today. Mike Clayton said that he would discuss the environmental issues of the project. After Mr. Clayton's testimony, Vice Chair Cole asked if there were any questions from the Board. The following questions were asked:

- **Commissioner Miller-White:** Ms. Miller-White stated that they had gone through a list of permit approvals and asked how many outstanding permits do they have? Mr. Clayton said most of these agencies are coordinating with the Army Corps of Engineers and they should have all the agency reports, Stormwater Management permit through the State, and the State 401 Water Quality Certificate, by July.
- **Commissioner Nixon:** Mr. Nixon asked when they expect to have the 401 Wetland Delineation completed. Mr. Clayton said that it was already completed and they should have the final approval within the next week or so.

There being no further questions, Vice Chair Cole called the next witness, Mark Bastasch. After confirming that Mr. Bastasch was an expert witness, Mr. Griffin, III asked the purpose of Mr. Bastasch's testimony today. Mark Bastasch said that he would discuss the evaluation of the sound matters and how it complies with the Perquimans County's Zoning Ordinance. After Mr. Bastasch's testimony, Vice Chair Cole asked if there were any questions from the Board. The following questions were asked:

- **Commissioner Hobbs:** Mr. Hobbs asked, referring to the Sound Study Results Table, how far was the white line from the wind turbine. Mr. Bastasch said that it was generally 700 feet. Mr. Hobbs asked if he was estimating that the sound level was approximately 108 decibels – about the sound of a chain saw. Mr. Bastasch said that it depends on the sound power level which is an assessment of the acoustical energy that is emitted. It is not something that you actually hear. It is calculated quantity. So, 108 decibels will not be what you measure right next to the turbine. When you are beneath or close to the turbine, the general maximum level is on the order of 60-65 decibels. The reason we use these quantity called sound power levels is because they take into account the size of the source.
- **Commissioner Muzzulin:** Mr. Muzzulin asked what the background level out there had been. Mr. Bastasch said that the background levels tend to vary. It varies pending agricultural activity, wind occurring at ground level moving the trees and the foliage, and animal or bird activity. Mr. Muzzulin asked if Mr. Bastasch had visited the area. Mr. Bastasch said that he had visited it.

There being no further questions, Vice Chair Cole called the next three (3) witnesses: Richard Lampeter, INCE, Senior Scientist – Epsilon Associates, Inc., Chuck Moody - Real Estate Services, and John Wilson, Registered Landscape Architect – Kimley Horn & Associates, Inc. and swore them in. Attorney Griffin, III notified Vice Chair Cole that there was another witness, Horace Pritchard, who has not arrived yet. Ms. Cole said that we would swear him in at that time.

After confirming that Mr. Lampeter was an expert witness, Mr. Griffin, III asked the purpose of Mr. Lampeter's testimony today. Richard Lampeter said that he would report on Shadow Flickering. Mr. Lampeter explained that shadow flickering is the intermittent change in intensity of light due to the action of the operating wind turbine. After Mr. Lampeter's testimony, Vice Chair Cole asked if there were any questions from the Board. The following question was asked:

- **Commissioner Miller-White:** Since this is a fairly new form of research, Ms. Miller-White asked Mr. Lampeter if there was a general accepted standard and what entity established the standard and how long has it been in existence. Attorney Griffin, III wanted to clarify the question. He said that the question was, "Was the method Mr. Lampeter used generally accepted in the industry to evaluate shadow flickering?". Mr. Lampeter said that they were.

There being no further questions, Vice Chair Cole called the next witness, John Wilson. Brenton W. McConkey of Parker Poe Adams & Bernstein LLP explained that he would be taking the testimony of the next witnesses. After confirming that Mr. Wilson was an expert witness, Mr. McConkey asked the purpose of Mr. Wilson's testimony today. Jon Wilson said that he would discuss the visual assessment of the project. He said that of his study of eleven vantage point sites only four sites had a clear view of the wind project. The other seven had blocked views of the project. The four clear view sites were: north from Two Mile Desert Road approximately .4 miles south of intersection with Swamp Road; west from Chapanoke Road approximately .4 miles southeast of Four Mile Desert Road; east from intersection of Sandy Cross Road and Ridge Road; and northeast from intersection of Sandy Cross Road and Swamp Road. After Mr. Wilson's testimony, Vice Chair Cole asked if there were any questions from the Board. The following questions were asked:

- **Commissioner Nixon:** Mr. Nixon asked is he used any particular scale. Mr. Wilson said that this was diagrammatic exhibit so it really did not have a scale. He further stated that, when he went out to a site that had an obstruction, he shot the exact measurement of the obstruction which became part of their methodology. In essence everything that they did was to scale but the pictures were just diagrammatic. Mr. Nixon said that this really concerned him about this drawing.
- **Commissioner Weimar:** She understands that these blades and turbines are off-white. Is there any type of anti-corrosive or rust protection available for them. Mr. Wilson had no knowledge of that. She would need to get Mr. Poff to answer that question.

There being no further questions, Vice Chair Cole called the next witness, Chuck Moody. Henry C. Campen, Jr. of Parker Poe Adams & Bernstein LLP explained that he would be taking the testimony of the next two (2) witnesses. After confirming that Mr. Moody was an expert witness, Mr. Campen, Jr. asked the purpose of Mr. Moody's testimony today. Charles A. Moody, III said that he would discuss the property impact study. After Mr. Moody's testimony, Vice Chair Cole asked if there were any questions from the Board. The following question was asked:

- **Commissioner Nixon:** Mr. Nixon asked what the median price of homes in the areas discussed. Mr. Moody said that in Perquimans County it was \$82,800. Mr. Nixon asked how old the data was. Mr. Moody said that it was data from 2009.

Attorney Campen, Jr. said that he had one more witness and it was now 6:00 p.m. The Board concurred for him to go on and take his testimony. Vice Chair Cole asked Horace Pritchard, Sr. to come forward and be sworn in. Mr. Campen, Jr. took the testimony of Mr. Pritchard. The purpose of Mr. Pritchard's testimony was to notify the Board that he owns property in Perquimans and Pasquotank Counties and all this property was located within this Wind Farm. Mr. Pritchard also stated that he had served on the Pasquotank County Board of Commissioners and chaired that Board at some point in time. It was the opinion of Mr. Pritchard that this Wind Farm Project would be an asset to Perquimans County and to the farmers that had property in this area. After Mr. Moody's testimony, Vice Chair Cole asked if there were any questions from the Board. There were none.

There being no further questions or comments, Mr. Campen, Jr. stated that this concluded their direct case and reserve the right to call rebuttal witnesses as they deem necessary. Vice Chair Cole stated that the Petitioners have presented Exhibit 1A for the record.

RECESSED THE MEETING

Vice Chair Cole recessed the meeting until 7:00 p.m. to allow everyone to have supper.

RECONVENED THE MEETING

Vice Chair Cole reconvened the meeting at 7:00 p.m. and explained the process for the balance of the meeting. She stated that the individuals who have signed to speak will be called as a public witness. Each public witness will be sworn in and allowed to make their comments limiting them to three minutes, if possible. After the witness speaks, the Petitioner will be allowed to cross examine the public witnesses. The Board will then be given the opportunity to ask questions. The first witness is Sharon Chappell. Ms. Chappell was sworn in and she proceeded to give the following statement:

Sharon Chappell, 376 Swing Gate Road, Hertford, North Carolina, stated that, on the Agenda, it stated that "Also including two parcels on the southeast side of Four Mile Desert Road known as Tax Parcel Nos. 5-0025-0004A and B." She wanted to address the Board about one of these properties that is on the northern most end of this parcel. This parcel contains Turbine

G8 which will be located closest to the Chappell Farm. The Chappell Farm is owned by five brothers and sisters. They are in the process of dividing it up because they know eventually they will have to do this. All the brothers and sisters are in their 50's with the oldest being 71. If they do not divide the property now they will end up with sub-heirs. They have already outlined the property so the attempt to divide the property is underway. At this time, they do not know what direction they are going to take. Currently the land is farmland. She was asking for the same consideration that residential property owners received – 2½ times the distance instead of 1½ times the distance. She further understands that the County Board of Commissioners can approve this permit with conditions. She has researched Iberdrola's "Good Neighbor Agreement" and their "Code of Ethics". What she is asking for is the same consideration that residential property owners received and that is a setback of 2½ times the distance instead of 1½ times the distance for farmland because they do not know what direction they are going with regard to the Chappell Farm. She doesn't feel that what they are asking is unreasonable. She further stated that she has talked with Craig Poff to try to resolve this issue. She is asking that if the Board of Commissioners approve this permit, to please include this as a condition of the permit. She asked if anyone had any questions. Petitioners' Attorney, Mr. Campen, Jr. asked Ms. Chappell about the "Good Neighbor Agreement" that she referred to. Ms. Chappell said that she was not sure what it was but, here in rural North Carolina, people try to work with their neighbors whenever they are placing anything on their property that could be offensive. We don't have to do it but being a good neighbor is important and that is what we would do. Mr. Campen, Jr. asked Ms. Chappell if she was related to a Douglas Chappell. Ms. Chappell said that he was her brother-in-law. He further asked if the property in question was the same property that Mr. Chappell had referred to. Ms. Chappell said that it was. He asked her if she was aware of the fact that the setbacks are consistent to the County's setback requirements. Vice Chair Cole stated that Ms. Chappell understands that this is nothing that she can require but she is only asking for consideration for this request. Vice Chair Cole asked if the Board had any questions of Ms. Chappell. There being none, Ms. Cole proceeded with the next public witness, William Dufault.

The second witness, William Dufault, was sworn in and proceeded to give the following statement:

William F. DuFault, AICP, Community Plans Liaison Officer, NSA Norfolk, Northwest Annex located in Currituck County, North Carolina and Chesapeake, Virginia. He is here to show his support of a letter submitted by the Regional Director. The letter was address to Commissioner Benjamin Hobbs a few days ago. The crutch of this letter is the Navy is in the process of completing a study on the possible impact that the Atlantic Winds project will have on the Navy's radar systems. He was asking for additional time so that this study can be completed. Petitioner's Attorney, Henry Campen, Jr., stated his objection to Mr. DuFault's testimony stating that it was not relevant to this proceeding. He further stated that the purpose of this proceeding is to determine if the application complies with the Zoning Ordinance requirements of Perquimans County and nothing contained in his letter made reference by Mr. DuFault or his testimony addresses the issues at hand. Vice Chair Cole asked if Mr. DuFault had a response to Mr. Campden's comments. Mr. DuFault stated that as part of the requirements of the clearinghouse process is this study, he feels that it is premature to comment on this until the study is completed. He is just asking for additional time to get this study completed. Vice Chair Cole stated that she was going to have to grant the objection because our purpose here is to determine whether or not what they are proposing is in compliance with our Ordinance and what Mr. DuFault was proposing was outside the purpose of this hearing.

Vice Chair Cole asked if there was anyone else that wanted to make a comment or ask a question. Ms. Cole asked if the Petitioners had any rebuttal evidence. Mr. Campen asked Craig Poff to take the witness stand. There was a question posed by the Commissioners where the witness stated that it was out of his area of expertise and that Mr. Poff could better respond to that question. Ms. Cole did ask the Commissioners if it they needed Mr. Poff to respond and they said that it was not necessary. Mr. Campen, Jr. made his closing statement. After his closing statement, Ms. Cole stated that the Board's task tonight is two-fold: to determine the facts in the case and to determine if these facts comply with County Ordinances. Vice Chair Cole reviewed the following facts of evidence:

- they had not heard any testimony to contradict the evidence presented by the Petitioner;
- they had received and consider as evidence, nine exhibits (Exhibits 1-8 and Exhibit 1A);
- Atlantic Wind, LLC, has presented an application for a Conditional Use Permit from Perquimans County to construct and operate the Desert Wind Power Project.
- Atlantic Wind, LLC is a wholly owned subsidiary of Iberdrola Renewables which currently operates more than 40 wind facilities in the United States.
- The project is located on multiple properties bounded in general by Four Mile Desert Road, Swamp Road, Sandy Cross Road, Up River Road, Mill Pond Road, Ridge Road and Turnpike Road including two parcels on the southeast side of Four Mile Desert Road.
- The proposed project will consist of a total of 150 turbines with 68 being located in Perquimans County.
- In addition, a collection substation, a transmission voltage set-up substation, an inter-connection switching station, and overhead sub-transmission lines, operations and maintenance facility, and several meteorological towers will be constructed.
- Atlantic Wind, LLC provided substantial information to support the liability of the project and to demonstrate compliance to the Perquimans County Zoning Ordinance.
- We received evidence regarding the compliance with setbacks from occupied buildings and non-participating property lines.
- We received information regarding the height requirement for each turbine which is limited to 600 feet.
- We received information on the plan to decommission and the bond to be posted but for the salvage value that would exceed the cost of decommission.
- We received information on the various permits that they will be getting which some have already been applied for – Department of Transportation, environmental approvals, Federal Aviation Administration, etc.
- We received evidence of the 48" minimum depth for fiber optic cable and 18" above conduit which would be there also at the demarcation layer.
- We received evidence about the Anti-Stanford, the ICE, and the IEE standards.
- We received evidence with regard to the use of 8 x 12 deep shallow or deep pilings that would be used, the amount of cement that would be used, and the amount of steel that would be used.
- We received evidence on the environmental impact with regard to reports being prepared by the Corps of Engineers, U.S. Department of Wildlife, Division of Cultural Management, DENR, Division of Water Quality, and Coastal Review.
- We received evidence regarding the acoustical impact and its compliance based on the testing that was done or surveyed and study that was done to determine if it was in compliance with our Ordinance.
- We received evidence regarding shadow flickering and its impact on the area.
- We received evidence regarding visual assessment and information on its impact on the area.
- We received information on the impact it would have on the values of surrounding properties.
- We received evidence from a homeowner with regard to the boundaries set for his and surrounding properties.

Vice Chair Cole asked the Board if they felt that this was a true and accurate summary of the evidence received during this Public Hearing. The Board concurred with her information. The Petitioners concurred with her information. With this being said, Ms. Cole would entertain a motion. Mack E. Nixon asked Mary P. Hunnicutt, Clerk to the Board, to read the following motion: "Mack E. Nixon made a motion to approve Atlantic Wind, LLC's proposed Conditional Use Permit No. CUP-11-01 to construct and operate the "Desert Wind Power Project," a Large Wind Energy Facility, on multiple properties

bounded in general by Four Mile Desert, Swamp, Sandy Cross, Up River, Mill Pond, Ridge, and Turnpike Roads and the County Line shared with Pasquotank County, and also including Tax Map Nos. 5-0025-0004A & B located on the southeast side of Four Mile Desert Road about 5,100 feet northwest of Lowes Lane, subject to the conditions listed in said Conditional Use Permit, Project Narrative, Conceptual Site Plan and Inventory of Non-Participating Residences and Occupied Buildings adopting the following Findings to support the motion:

- (1) That the CUP will not materially endanger the public health or safety, if located according to the plan submitted and approved;
- (2) That the use meets all required conditions and specifications;
- (3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- (4) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Perquimans County Land Use Plan.”

Tammy Miller-White seconded the motion. Vice Chair Cole asked for any discussion. Commissioner Hobbs asked, even though it isn't required, is there any way that Iberdrola Renewables could work with the Chappell Family regarding their unique situation. The Petitioners said that they would try. County Manager Darden explained that in an e-mail that was sent out to the Commissioners and distributed to them tonight giving twenty conditions – nineteen from the Planning Board and one from the Planning Staff. Those conditions were as follows:

- (1) The Applicant shall conduct operations strictly in accordance with the plans and application materials submitted to and approved by the Board of Commissioners (BCC), a copy of which is contained in the County Planning & Zoning Office and recorded with the Register of Deeds Office. Any major modification proposed to the approved plans shall require reapplication and approval by the BCC.

The approved Site Plan includes 150 Wind Turbines throughout the entire project area spanning both Perquimans and Pasquotank Counties, with 68 Turbines proposed in Perquimans County. In Perquimans County, any Major Modification proposed to the approved Conceptual Site Plan shall require reapplication and reapproval by the BCC. “Major Modification” is defined as “*Any significant change in land use, any change in Project Boundary, and/or any change that results in an increase in the density or intensity of the project, as shown and described in the approved Project Narrative and Conceptual Site Plan.*” However, it is understood that the conceptual layout of the Wind Turbines will require adjustments in location pending the outcome of geotechnical studies and other site considerations as needed or desired to maximize potential wind power. Therefore, changes to the final number and locations of the Wind Turbines in Perquimans County shall be considered as followed:

- a) With no exception, all Wind Turbines must comply with the minimum setbacks required by Section 907.27 of the Perquimans County Zoning Ordinance. Based upon the Applicant's 475-foot maximum height of the proposed Wind Turbines, this would equate to 1,187.5 feet (or 2.5 times the actual height) from Residences and Occupied Buildings and 712.5 feet (or 1.5 times the actual height) from Project Boundary).

The County Zoning Permit(s) and Building Permits will not be issued until after the Conditional Use Permit is approved and recorded with the Conceptual Site Plan, which is in accordance with this Conditional Use Permit and the Perquimans County Zoning Ordinance.

- (2) The Applicant must obtain necessary permits or approvals from the Albemarle Regional Health Services (ARHS) for the sewage disposal system that will serve the O & M (Operations and Maintenance) Facility.
- (3) Within 12 months of completion of construction, the Applicant shall provide certified “as built” drawings to the County showing the locations of the wind turbines, roads, transmission lines, and all related improvement.
- (4) For a period up to 12 months after the Applicant submits the certified “as built” drawings, the County, at the expense of the applicant, may employ assistance of outside consultants to determine compliance with Sections 903 through 907.27 of the Perquimans County Zoning Ordinance.
- (5) Construction activity associated with the Project, including operation of the concrete batch plant, shall not commence before 6 a.m. nor continue past 9 p.m. on any day of the week unless approved by the County Manager or their designee and shall not be unreasonably conditioned or denied. Furthermore, sound from any construction activity occurring at anytime on a Sunday shall not exceed 70dbA for more than 5 minutes when measured at any existing church located within one mile of the project boundary as identified on the County's GIS Map or any new church constructed since the approval of this CUP.
- (6) The Decommissioning Study by Garrad Hassan of America, Inc. submitted by the Applicant and dated April 20, 2011, shall be updated every 5 years to account for market conditions for scrap and/or resale/residuals values, as long as the Project is in production. If at any time the updated Decommissioning Study concludes that the scrap value and/or resale residual values of the Wind Energy Facility is less than the decommissioning cost, the Applicant will provide financial security as required by the Perquimans County Zoning Ordinance. Such monies or securities will be set aside then until the scrap value and/or resale/residual values exceeds the decommissioning cost as determined by a subsequent study or the Project is decommissioned upon completion of which, the County will return and/or release any and all financial security to Applicant.
- (7) Collector substations, interconnecting switching stations, transmission voltage step-up stations and any other substations located within the project area shall be secured with fencing at least 7 feet in height and must be setback at least 1320 feet from any existing Residence or Occupied Building.
- (8) The concrete batch plant will be considered a temporary use and cannot be sited within 3,960 feet (3/4 mile) of a Residence, as defined by the Perquimans County Zoning Ordinance. The batch plant must be decommissioned and completely removed within 180 days after completion of the Project or within 3 years after the start date of the Project, whichever occurs sooner. For purpose of determining this condition, the Project start date will be the date the first building permit is issued by Perquimans County.
- (9) The permanent meteorological tower shall not exceed 350 feet in height and must meet a minimum set back distance equal to one (1) linear foot for every one (1) foot of height as measured from the Project Boundary. The meteorological tower must be removed as part of any decommissioning process required by the Perquimans County Zoning Ordinance.
- (10) The Applicant shall prepare a Site Access Plan that designates Project access roads, directions for construction and maintenance workers, main points of ingress and egress, and demonstrates how Project access roads will link to public roads. This plan shall be submitted to the County prior to commencing construction.
- (11) The access roads within the Project area will be constructed of an all-weather, gravel surface to a minimum width of 16 feet. The roads must be maintained to allow access for emergency vehicles.
- (12) The Applicant shall develop an Emergency Response Plan including an Emergency Action Plan to address natural disasters at a minimum and a Fire Prevention Plan. Measures in these plans should include: providing detailed maps to local fire departments and Perquimans County Emergency Management showing all Project access roads; providing information on employee training and capabilities on fire protection and emergency medical response; and annual meetings with local emergency services to review emergency response to the facility. These plans shall be submitted to the County prior to commencing construction.
- (13) The Applicant shall obtain all required permits from other governmental agencies (local, state, and federal) prior to commencing construction or as otherwise required by the applicable laws and regulations. Building permits shall be obtained from Perquimans County for all components of the project which are required by the North Carolina Building Code.
- (14) An engineer registered in the State of North Carolina shall certify that the turbine and foundation designs are sufficient to meet all applicable building code regulations.
- (15) The project shall utilize minimal lighting at substations and O&M facility. No lighting other than normal security lighting and that required by the government agencies shall be permitted.

- (16) Prior to construction of the Operation and Maintenance Facility and concrete batch plant, the Applicant must provide a detailed Site Plan of the Operation and Maintenance facility pursuant to Section 509 of the Perquimans County Zoning Ordinance. Included in the Site Plan, the Applicant must comply with Article XIX Parking and Loading of the Perquimans County Zoning Ordinance. Where applicable, all handicapped parking spaces shall be marked in accordance with State law.
- (17) A separate Sign Permit must be obtained from the Planning & Zoning Office and the Building Inspections Department for any sign not exempted by the Perquimans County Zoning ordinance, Article XX.
- (18) The Applicant shall establish a method to receive and address complaints and concerns from area residents and the general public through the construction process and throughout the operating life of the Project.
- (19) During construction of the project, the Applicant shall provide the County with annual reports outlining progress to date along with circumstances that may result in delays. If the Conditional Use Permit is not recorded within 12 months from the date of BCC approval, the BCC may revoke the Conditional Use Permit
- (20) Cultural Resources: The Applicant shall submit a copy of any inventory, study, plan, etc., required or prepared by State or Federal regulations or agencies which documents historical or archaeological resources found within the project boundaries.

The Board discussed the condition to require the applicant to come before the Planning Board and Board of Commissioners if there is any movement of the turbines. The Staff looked at several ways to measure this and comply with what the Planning Board desired and they could not find one. He said that there were several ways to handle this: (1) accept what the Planning Board recommended; (2) rely on the setbacks; and (3) try to come up with some kind of measurement to require that it come back before the Board. Petitioner's Attorney, Henry Campen, Jr., said that the Boards had determined the setbacks at the adoption of the Ordinance and feels that there is probably going to be some movement of the turbines depending upon Corps of Engineer's reports and feels that having to come back to the Boards would mean a lot more work and more meetings like this to resolve the issue. Commissioner Nixon does not feel that we have the resources to monitor these things any way. He feels that we should adhere to the setbacks in the Ordinance. Craig Poff said that there are residents all along this property and moving it from one place to another may affect another resident. He further stated that he will do everything to work with the landowners when building these turbines. Vice Chair Cole asked if Commissioner Nixon was willing to amend the motion to approve the Conditional Use Permit with the changes that County Manager Darden had presented on Condition No. 5 and Condition No. 1. Commissioner Nixon said that he would like to leave the Ordinance with the understanding that we have setbacks and it is not necessary to drag this process through both Boards again if they have to move one of the turbines a certain number of feet. Commissioner Nixon amended the motion with this change to the Condition No. 1 and the change to Condition 5. Commissioner Miller-White seconded the amended motion. Vice Chair Cole asked for a vote. The amended motion was unanimously approved by the Board. Petitioner's Attorney Campen, Jr. asked for clarification of the changes to Condition No. 1 and Condition No. 5. After some discussion, the Board left the wording of these Conditions to the attorneys and County Manager Darden.

ADJOURNMENT

There being no further comments or business to discuss, the Regular Meeting was adjourned by the Chairman at 7:50 p.m.

Benjamin C. Hobbs, Chairman

Clerk to the Board
