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**SPECIAL CALLED MEETING**

March 30, 2011

6:00 p.m.

The Perquimans County Board of Commissioners met in a JOINT SPECIAL CALLED MEETING with Pasquotank County Board of Commissioners on Wednesday, March 30, 2011, at 6:00 p.m. in the Auditorium of the Albemarle Commission Building.

- MEMBERS PRESENT: Benjamin Hobbs, Chairman Edward R. Muzzulin  
 Tammy Miller-White Mack E. Nixon  
 Janice McKenzie Cole, Vice Chairman Sue Weimar
- MEMBERS ABSENT: None
- OTHERS PRESENT: Bobby Darden, County Manager Hackney High, County Attorney  
 Mary P. Hunnicutt, Clerk to the Board Bill Diehl, County Engineer  
 Pasquotank County Commissioners, County Manager, Clerk, Finance  
 Officer, and Water Supervisor

Chairman Benjamin C. Hobbs called the meeting to order. Chairman Hobbs gave the invocation and the Pasquotank County Board of Commissioners Chairman led the Pledge of Allegiance.

RO PLANT UPDATE

Pasquotank Water Supervisor, Johnny Gregory, updated the Boards on the RO Plant Project.

2010 CENSUS

Pasquotank County Manager, Randy Keaton, explained that the only area that is affected by the 2010 Census figures would be the Albemarle District Jail Project. There is no change with Perquimans County's share.

WATER PURCHASE AGREEMENT

Perquimans County Manager, Bobby C. Darden, gave background information on the request for Perquimans County to purchase water from Pasquotank County. After some discussion, the Boards decided that the County Manager's, Water Staffs, and interested Commissioners would meet again to discuss the reduction in Perquimans County's water request and the number of years the Agreement would run and bring their recommendations back to the full boards for action.

AGENDA

The Agenda was unanimously approved on motion made by Mack E. Nixon, seconded by Edward R. Muzzulin. Tammy Miller-White made a motion to amend the Agenda to go into Closed Session to discuss an Economic Development matter. The motion was seconded by Edward R. Muzzulin and unanimously approved by the Board.

CLOSED SESSION

On motion made by Janice McKenzie Cole, seconded by Tammy Miller-White, the Board approved the motion to go into closed session to discuss an economic development matter.

The Closed Session was adjourned and the Regular Meeting reconvened on motion made by Edward R. Muzzulin, seconded by Janice McKenzie Cole, and unanimously passed. There was no action was to be taken after the Closed Session.

ADJOURNMENT

There being no further business to discuss, the Special Called Meeting was adjourned by the Chairman at 9:07 p.m.

\_\_\_\_\_  
Benjamin C. Hobbs, Chairman

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Clerk to the Board

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**REGULAR MEETING**

April 4, 2011

6:45 p.m.

The Perquimans County Board of Commissioners met in a regular meeting on Monday, April 4, 2011, at 6:45 p.m. in the Commissioners' Room located in the Perquimans County Courthouse Annex.

- MEMBERS PRESENT: Benjamin Hobbs, Chairman Sue Weimar  
 Janice McKenzie Cole, Vice Chair Tammy Miller-White  
 Edward R. Muzzulin Mack E. Nixon
- MEMBERS ABSENT: None
- OTHERS PRESENT: Bobby C. Darden, County Manager Hackney High, County Attorney  
 Mary Hunnicutt, Clerk to the Board

After the Chairman called the meeting to order and Commissioner Muzzulin gave the invocation, the Chairman led the Pledge of Allegiance. Chairman Hobbs proceeded with the Public Hearings.

PUBLIC HEARINGS

Administrative Text Amendment No. TXT-10-08 and TXT-10-05SR

Chairman Hobbs opened the Public Hearing stating that the purpose of the public hearing was to receive comments concerning the Administrative Text Amendment No. TXT-10-08 and TXT-10-05SR, to establish standards, conditions, procedures and related cross references for "Flag Lots" in the Subdivision Regulations and Zoning Ordinance, and to establish Article-based page numbers with the date of the latest text amendment per Article, throughout the entire Zoning Ordinance. There were four (4) people present. The Chairman recognized Donna Godfrey, County Planner, who gave an overview of the Text Amendments. She also explained that the Board will need to take two steps in approval – one for the Subdivision Regulations and one for the Zoning Ordinance. The Chairman asked for questions. After some discussion, and no further comments from the public, the Chairman opened the second Public Hearing.

**Proposed Parent-To-Child Subdivision by Dottie W. Lowe**

Chairman Hobbs opened the second Public Hearing stating that the purpose of the public hearing was to receive comments concerning the Proposed Parent-to-Child Subdivision by Dottie W. Lowe, to Gift Deed a 2.0-acre parcel to nephew Thomas Lowe and his wife Wendy, located off 45' private easement known as Dempsey-White Lane via 25-foot private easement, about 7/10 mile from Four Mile Desert Road (SR 1223). Subject property previously occupied and known as 251 Dempsey-White Lane (portion of Tax Map No. 5-0025-0001). There were twelve (12) people present. Again, the Chairman recognized Donna Godfrey, County Planner, who gave an overview of the proposed Parent-to-Child Subdivision on Dempsey-White Lane. The Chairman asked for any comments from the Board or Public. There being none, the Chairman closed the Public Hearings at 7:05 p.m.

**AGENDA**

The Agenda, as amended, was unanimously approved on motion made by Mack E. Nixon, seconded by Edward R. Muzzulin.

**CONSENT AGENDA**

Commissioner Miller-White asked that Resolutions #V.E.3, #V.E.4, and #V.E.5 be removed for discussion. On motion made by Edward R. Muzzulin, seconded by Mack E. Nixon, the Board unanimously approved the Consent Agenda, less the three Resolutions listed:

1. **Approval of Minutes:** March 7, 2011 Regular Meeting & March 30, 2011 Special Called Meeting
2. **No Tax Releases/Refunds**
3. **Personnel Matters**

Employee Name	Employee Job Title	Action Required	Grade/Step	New Salary	Effective Date
LeAnna Marie White	EMT – Fill-in	Appointment	63/1	\$12.75/hour	4/1/2011
James Bielski	EMT – Fill-in	Appointment	63/1	\$12.75/hour	3/1/2011

4. **Budget Amendments:**

**BUDGET AMENDMENT NO. 18  
GENERAL FUND**

CODE NUMBER	DESCRIPTION OF CODE	AMOUNT	
		INCREASE	DECREASE
10-690-920	Jail	92,150	
10-690-925	Jail Debt Service	7,400	
10-345-008	Medicaid Hold Harmless	99,550	
<b>EXPLANATION:</b> To increase Jail Expenses to cover remaining estimated expenses for FY 2010-11 (\$73,500 – operating/\$18,650 – additional medical). Also to increase Jail Debt Service due to delay in closing USDA Loan.			

**BUDGET AMENDMENT NO. 19  
SCHOOL CONSTRUCTION FUND**

CODE NUMBER	DESCRIPTION OF CODE	AMOUNT	
		INCREASE	DECREASE
65-500-040	Professional Services	15,000	
65-399-000	Fund Balance	15,000	
<b>EXPLANATION:</b> To increase Professional Services for additional analysis of High School underbilling.			

5. **Resolutions:** The following Resolutions were presented for approval:

**RESOLUTION OPPOSING THE HOUSE BILL DRH60052-SB-13  
“DESIGNATION OF COASTAL GAME FISH”**

**WHEREAS**, the Fisheries Reform Act (FRA) recognizes that commercial fishermen perform an essential function by providing wholesome food for the citizens of the State while struggling to earn a living in an industry whose resources are managed by both the State and Federal agencies and whose labor accounts for revenue, jobs and is significant to the tax base; and

**WHEREAS**, designating “Game Fish Status” for Red Drum, Striped Bass, Spotted Sea Trout and other fish species will deprive consumers in North Carolina and the nation of access to fresh, locally harvested seafood; and

**WHEREAS**, allocating 100% of the resources to less than 3% of the population of our state and to specific user groups would be a travesty of fairness, a violation of the Fisheries Reform Act, and devastating to the economies of coastal communities; and

**WHEREAS**, designating a resource to “Game Fish Status Only” has never enhanced the resource, and will threaten coastal communities with the loss of jobs and access for all citizens; and

**WHEREAS**, North Carolina, as a recognized leading producer of seafood, has one of the most diverse fisheries in the United States and should be allowed to continue harvesting wild caught fish species in order to bring to market a wonderfully fresh, sustainably managed, revenue producing, proven resource for all its citizens;

**NOW, THEREFORE BE IT RESOLVED** that the Perquimans County Board of Commissioners strongly oppose imposing “Game Fish Status” by the legislature, and ask that they honor the Fisheries Reform Act by continuing to make all fish species available for the benefit and enjoyment of all North Carolina citizens.

Adopted this the 4<sup>th</sup> day of April, 2011 in Perquimans County, North Carolina.

\_\_\_\_\_  
Benjamin C. Hobbs, Chairman  
Perquimans County Board of Commissioners

Attested by:

\_\_\_\_\_  
Mary P. Hunnicutt, Clerk to the Board  
Perquimans County Board of Commissioners

**RESOLUTION OPPOSING ANY ATTEMPT TO REDUCE COUNTY REVENUES  
FOR SCHOOL CAPITAL NEEDS OR TO SHIFT ADDITIONAL COSTS TO COUNTIES TO BALANCE THE STATE BUDGET**

**Whereas**, counties in North Carolina are statutorily responsible for providing public school facilities in North Carolina and contribute significant county funds for classroom expenses; and

**Whereas**, counties spend more than \$1.5 billion annually for public school capital needs and \$2.5 billion for public school operating expenses; and

**Whereas**, counties rely on local sales taxes, property taxes, the county share of lottery funds and the county share of the corporate income tax to help fund public school capital needs and have issued public debt based on these revenue streams; and

**Whereas**, counties have lost more than a quarter billion dollars in lottery and corporate income tax school construction funds over the current biennium; and

**Whereas**, the Governor’s budget proposal permanently eliminates the county share of the corporatize income tax and reduces the county lottery share by 75 percent, costing counties more than \$200 million per year in revenues dedicated to public school construction needs; and

**Whereas**, the budget proposal shafts responsibility to pay for replacement school buses (\$56.9 million per year) to counties; and

**Whereas**, the budget proposal also takes the unprecedented step of forcing counties to assume the workers’ compensation costs for state-paid public school employees (\$34.6 million per year) and community college employees (\$1.7 million per year) and to fund school tort claims \$94.6 million per year); and

**Whereas**, the budget proposal reflects an overall cost shift to counties of \$345 million in 2011-12 alone, requiring counties to raise property taxes to manage a loss of this magnitude;

**Now, Therefore Be It Resolved**, that the Perquimans County Board of Commissioners, adamantly opposes the unfunded mandates and the loss of county revenues included in the Governor’s budget proposal; and

**Be It Further Resolved**, that copies of this resolution be transmitted to members of the General Assembly to let them know of our opposition to these unprecedented changes in county responsibility and the use of county revenues to balance the state budget.

Adopted this the 4<sup>th</sup> day of April, 2011 in Perquimans County, North Carolina.

\_\_\_\_\_  
Benjamin C. Hobbs, Chairman  
Perquimans County Board of Commissioners

Attested by:

Mary P. Hunnicutt, Clerk to the Board  
Perquimans County Board of Commissioners

**RESOLUTIONS**

Chairman Hobbs asked Commissioner Miller-White to discuss the three Resolutions removed from the Consent Agenda.

**Ferry Toll Resolution:** Ms. Miller-White asked about the three recitals before the last recital. She said that she did not feel comfortable addressing these items without more knowledge about it and she requested that those three recitals be removed prior to their voting on the Resolution. On motion made by Edward R. Muzzulin, seconded by Tammy Miller-White, the Board unanimously approved the Ferry Toll Resolution removing the three recitals prior to the last recital as follows:

**RESOLUTION BY THE COMMISSIONERS OPPOSING THE INSTITUTION OF TOLLS ON FERRY SERVICE OPERATIONS TO AND FROM OCRACOKE ISLAND OR THE INCREASE IN EXISTING TOLLS**

**WHEREAS** Ocracoke Island, located in Hyde County, is the State’s only barrier island with no alternate form of public transportation infrastructure provided to them in return for the payment of State tax dollars, and

**WHEREAS** the continuance of a toll-free ferry service is guaranteed to residents in North Carolina by General Statute 136-89.197 and

**WHEREAS** Hyde County is among the poorest Counties in North Carolina as indicated by their Tier I designation, and

**WHEREAS** placing tolls and or increasing tolls on existing ferry service would create a financial hardship for local residents, and would impede their ability to obtain supplies and other services necessary to maintain their quality of life, and

**WHEREAS** tourism is the leading industry on Ocracoke Island and the addition or increase of tolls, coupled with decreased ferry runs, would threaten the capability of businesses and working families to earn a living, and

**WHEREAS** this loss in revenue to the citizens of Hyde County would also result in loss of revenue to the State of North Carolina, and would negatively impact the economy, the cultural, and the overall well-being of entire State, and

**WHEREAS** 6,013 acres of Ocracoke Island’s total acreage of 6,429 acres is part of the Cape Hatteras National Seashore and is owned by the federal government, and

**NOW, THEREFORE BE IT RESOLVED** that the Perquimans County Board of Commissioners strongly oppose imposing new tolls on ferry service to or from Ocracoke Island, and do also oppose the increase of tolls on said ferry service, and do oppose any decrease in the level of ferry service to and from Ocracoke Island, North Carolina.

Adopted this the 4<sup>th</sup> day of April, 2011 in Perquimans County, North Carolina.

Benjamin C. Hobbs, Chairman  
Perquimans County Board of Commissioners

Attested by:

Mary P. Hunnicutt, Clerk to the Board  
Perquimans County Board of Commissioners

**Resolution Supporting the Amending of NC G.S. 87-90:** Ms. Miller-White requested clarification on this Resolution. On motion made by Janice McKenzie Cole, seconded by Edward R. Muzzulin, the Board unanimously tabled any action on this resolution and requested County Manager Darden to get clarification of this Resolution.

**Resolution Supporting the Amending of NC G.S. 87-97:** Again, Ms. Miller-White requested clarification on this Resolution. On motion made by Edward R. Muzzulin, seconded by Sue Weimar, the Board unanimously tabled any action on this resolution because she felt that it might compromise what the County is trying to do with regard to having all County residents on County Water. County Manager Darden will get additional information about this Resolution.

**CAROL CANNON, RECOVERING INNOVATIONS – EAST CAROLINA**

Ms. Cannon presented information on the Outreach Wellness City Program subsidized by East Carolina Behavioral Health and asked the Board to consider some financial assistance during their Budget process.

**CAROLYN ANDERSON, LITC DIRECTOR/HOUSING COUNSELOR**

Ms. Anderson informed the Board that April is Fair Housing Month and requested that the Board consider adopting the Proclamation that was included in their Agenda Packets. On motion made by Mack E. Nixon, seconded by Tammy Miller-White, the Board unanimously approved the following Proclamation:

**PROCLAMATION FOR FAIR HOUSING MONTH APRIL 2011**

**WHEREAS**, April 2011 marks the 43<sup>rd</sup> anniversary of the Federal Housing Act of 1968 and the 28th anniversary of the North Carolina Fair Housing Act. Both laws prohibit discrimination in housing because of race, color, sex, religion, national origin, handicap and familial status; and

**WHEREAS**, the Perquimans County Board of Commissioners, Albemarle Area Association of Realtors, Elizabeth City State University Community Development Program, and Northeastern Community Development Corporation, and county and local governments, concerned citizens and the housing industry, are working to make fair housing opportunities possible for all our citizens. Through their efforts, they are encouraging others to abide by the letter and the spirit of the fair housing laws; and

**WHEREAS**, one of the most important concerns of Perquimans County citizens is the availability of housing to them as individuals and families. By supporting and promoting fair housing and equal opportunity, we are contributing to the health of our County and our State;

**NOW, THEREFORE**, the Perquimans County Board of Commissioners, do hereby proclaim April 2011 as “Fair Housing Month” in Perquimans County and urge our citizens to rededicate themselves to ensuring that fair housing laws are always upheld and citizens are protected against discrimination.

**ADOPTED**, this the 4<sup>th</sup> day of April, 2011.

Benjamin C. Hobbs, Chairman  
Perquimans County Board of Commissioners

ATTEST:

(SEAL)

Mary P. Hunnicutt, Clerk to the Board  
Perquimans County Board of Commissioners

**HOMERIA JENNETTE, TELECOMMUNICATIONS**

Ms. Jennette presented her monthly report and asked if there were any questions.

**FRANK HEATH, TAX ADMINISTRATOR**

Mr. Heath presented his monthly report and informed the Board that the Board of Equalization & Review was scheduled to open next month. At this time, he has no appointments.

## COMMISSIONER'S CONCERNS/COMMITTEE REPORTS

**Commissioner Muzzulin** thanked all that attended the Museum of the Albemarle Perquimans County Day on April 3<sup>rd</sup>. Everyone seemed to enjoy it.

**Commissioner Miller-White** presented her Committee Report ~~from the~~ regarding Northeastern Workforce Development Board as follows:

*The First New Northeastern Workforce Development Board (NWDB) meeting was held at the Albemarle Commission Building March 15, 2011. It was attended by the new Board, some Consortium Members and the Staff of NWDB. The Board Certification was received from the North Carolina Division of Workforce Development in Raleigh, prior to the board meeting.*

**Organization Structure/staffing:** As of 3/15 recruiting for the following positions:

- Assistant Director
- Youth Training & Employment Specialist
- Adult/DW/Youth TES Hyde County
- Job Link Liaison-contracted position

**Counts:** As of the end of February 2011 the NWDB was serving a total of 621 clients of that 62 were youth.

**State fiscal monitoring** was completed; as of 3/15 the staff was writing for exit interview and report.

*She also presented the NWDB Fund Report as of 2/23/11.*

**Commissioner Weimar** asked that the Minimum Housing Committee be reinstated after the Budget is adopted. The Board had no problems with that.

## UPDATES

County Manager Darden updated the Board on the following projects:

### **Water System Projects:**

- **Bethel Water Treatment Plant:** The Pilot Plant was moved into the Bethel Water Plant today and will be brought on line sometime this summer.
- **Pasquotank RO Plant:** Mr. Darden said that there has been no follow up date for another meeting with Pasquotank Board. The Commissioners were welcomed to go.

**Jail Project:** County Manager Darden explained that he had received a request for the under-budget funds for the balance of the year. Commissioner Muzzulin presented his report from the Albemarle District Jail. Commissioner Cole asked about the employee retirement plan. Mr. Muzzulin said that it was his understanding that the Albemarle District Jail personnel had no retirement fund benefits and they are looking into that with the County's input.

## PLANNING BOARD ITEMS

Donna Godfrey, County Planner, presented the following items for Board action:

**Administrative Text Amendment No. TXT-10-05SR:** A Public Hearing was held earlier in the meeting. Janice McKenzie Cole made a motion to approve Administrative Text Amendment No. TXT-10-05SR (Ordinance No. 76), to amend Article IV, Sections 402B(9), (a) through (h) and Article VII to establish standards, conditions, procedures and definition for "Flag Lots" in the County's Subdivision Regulations (no prescribed guidelines or findings). The motion was seconded by Mack E. Nixon and unanimously approved by the Board. **(See Attachment A – Ordinance No. 76)**

**Administrative Text Amendment No. TXT-10-08:** A Public Hearing was held earlier in the meeting. Janice McKenzie Cole made a motion to approve Administrative Text Amendment No. TXT-10-08 (Ordinance No. 77), to amend Article VII, Section 701.C of the County's Zoning Ordinance to add a cross reference to the Subdivision Regulations for "Flag Lots," and to establish Article-based page numbers with the name of the ordinance and date of the latest text amendment per Article, throughout the entire Zoning Ordinance, considering policy guidelines as follows to support the motion:

- 1) The proposal will place all property similarly situated in the same category or in appropriate complementary categories.
- 2) There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.
- 3) There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. *(When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements and not merely uses which applicants state that they intend to make the property involved.)*
- 4) There is convincing demonstration that the character of the neighborhood will not be materially or adversely affected by any use permitted in the proposed change.
- 5) The proposed change is in accord with the Land Use Plan and sound planning principles.

The motion was seconded by Mack E. Nixon and unanimously approved by the Board. **(See Attachment B – Ordinance No. 77)**

**Proposed Parent-to-Child Subdivision by Dottie W. Lowe:** A Public Hearing was held earlier in the meeting. Considering the Section 206 Findings (as follows), Janice McKenzie Cole made a motion to approve the Parent-to-Child Subdivision requested by Dottie W. Lowe, to transfer by Deed of Gift to nephew Thomas Lowe and wife, Wendy Lowe, a 2.0-acre parcel (portion of Tax Map No. 5-0025-0001), accessed by the 45-foot private easement known as Dempsey-White Lane via another 25-foot private easement about 7/10 mile from Four Mile Desert Road (SR 1223), subject to compliance with Section 701(e) of the Subdivision Regulations, *with the exception of street design and construction requirements of Section 402, and the following conditions – a disclosure statement should be placed on the face of the plat regarding the Grantee's responsibilities to maintain the private easement:*

- a) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his land.
- b) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- c) That the circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this ordinance, and
- d) That the granting of the variance will not be detrimental to the public health, safety, and welfare or injurious to other property in the territory in which said property is situated.

The motion was seconded by Mack E. Nixon and unanimously approved by the Board.

## TRI-COUNTY ANIMAL SHELTER MOA DRAFT

County Manager Darden presented the following Draft of the Tri-County Animal Shelter Memorandum of Agreement for Board review but explained that no action needed to be taken tonight since Chowan County Board of Commissioners were considering with a new caveat #C:

Tri County Animal Shelter  
138 Icaria Rd. Tyner, NC

### **MEMORANDUM OF AGREEMENT**

This agreement entered into by Chowan County; Gates County and Perquimans County.

WHEREAS, the operation and maintenance of the Tri County Animal Shelter, 138 Icaria Rd. Tyner, NC is of mutual interest and benefit to Chowan, Gates and Perquimans Counties, and;

NOW, THEREFORE, the parties hereto agree as follows:

- A. Chowan County will operate and maintain an Animal Shelter at 138 Icaria Rd. for use by the three counties, supervision, review and evaluation of shelter personnel will be done by the Chowan County Manager.
- B. The annual budget for the Tri County Animal Shelter will be requested by the Animal Shelter Department Head with input from the Tri County Animal Shelter Advisory Board. The Chowan County Manager, in conjunction with the County Managers from Gates and Perquimans Counties, will prepare a recommended budget for the Tri County Animal Shelter.

- C. All Capital Outlay Expenditures that exceed \$20,000 will be undertake with approval of the Tri County Animal Shelter Advisory Board, if the Board members comprise of County Commissioners from the three counties.
- D. Chowan County will invoice Gates and Perquimans bi-annually (July and January).
- E. Funding for the operation and maintenance (excluding capital improvements) will be based on a per capita (latest census data) of each County (i.e. population of the three counties will be totaled and budgeted accordingly). Capital Outlay expenses will be divided among the three counties by thirds. Any revenues specific to a county for animal reclamation will be credited to that County's operation and maintenance expenses.
- F. This Memorandum of Agreement may be terminated by either party upon sixty (60) days written notice.
- G. This Memorandum of Agreement shall become effective \_\_\_\_\_

\_\_\_\_\_, Chairperson  
 Chowan County Board of Commissioners  
 \_\_\_\_\_ (ATTEST)

\_\_\_\_\_, Chairperson  
 Gates County Board of Commissioners  
 \_\_\_\_\_ (ATTEST)

\_\_\_\_\_, Chairperson  
 Perquimans County Board of Commissioners  
 \_\_\_\_\_ (ATTEST)

**The following questions were asked by the Commissioners:**

- **Commissioners Weimar & Hobbs:** Initially, we talked about the Tri County Animal Shelter Advisory Board being Commissioners. At some point, it was changed to an appointed position but that is not mentioned in this Memorandum of Understanding. County Manager Darden said that they could include something in the Agreement to reflect that, if the Tri County Animal Shelter Advisory Board does not include Commissioners, then these Capital Outlay expenses would have to go before all three Commissioner Boards.
- **Commissioner Miller-White:** Where does Perquimans County stand if there is a large Capital Outlay and we terminate the Agreement?
- **Chairman Hobbs:** Mr. Hobbs asked about what happens to the original buy-in of \$75,000 if the Agreement is terminated.
- **Commissioner Muzzulin:** What is the County's percentage of expenses? Mr. Darden said that it was close to one-third of the expense.
- **Commissioner Nixon:** He said that item C needed to be reworded. Also, he requested that we put the language together with the other two County Managers regarding the buy-in funding.

On motion made by Edward R. Muzzulin, seconded by Sue Weimar, the Board tabled this matter until next month.

**BOARD APPOINTMENTS**

County Manager Darden reported that we have lost two individuals on a couple of our Committees. Debra Sheard, Regional Ombudsman, has no recommendations at this time for their replacement. These vacancies are as follows:

NAME	BOARD	ACTION	TERM	APPOINTMENT DATE	EFFECTIVE DATE
Griffin, Celia	Adult Care Home Advisory Committee	Deceased	3 years	3/1/09	3/23/11
McNeal, Cathleen*	Nursing Home Advisory Committee	Resignation	3 years	12/1/10	3/23/11
<b>*completing Tony Key's term which is due to expire on 10/31/11.</b>					

Commissioner Weimar said that she had someone that is possibly interested in serving on one of these committees but she had just received a job description of these positions. On motion made by Sue Weimar, seconded by Edward R. Muzzulin, the Board unanimously agreed to table this matter until next month.

**PUBLIC INFORMATION OFFICER AGREEMENT**

County Manager Darden explained that Thomas M. Ponte has been performing this task as Public Information Officer (PIO) at no cost for a couple of years. He served as PIO for a Fire Department in Connecticut. Mr. Darden stated that this monthly fee can be paid by the State Grant for Emergency Management. On motion made by Mack E. Nixon, seconded by Tammy Miller-White, the Board unanimously approved the following Agreement with Mr. Ponte:

**AGREEMENT**

Agreement is hereby made between Perquimans County, North Carolina and Thomas Morris Ponte as set forth below according to the following terms, conditions and provisions.

- |                           |  |
|---------------------------|--|
| 1. Identity of Client     | Perquimans County Emergency Management<br>104 Dobbs Street<br>Hertford, NC 27944   |
| 2. Identity of Contractor | Thomas Morris Ponte<br>111 Green Ct W<br>Hertford, NC 27944  |
| 3. Work to be Performed   | Contractor agrees to provide services as the Public Information Officer for Perquimans County Emergency Management on a best efforts basis. This will include serving as media contact for planned events (exercises); emergencies and as a representative for any seminars, conferences or meetings involving Public Information for Perquimans County. |
| 4. Terms of Payment       | Client shall pay the Contractor the sum of \$100.00 per month.   |
| 5. Expenses               | Client shall not be liable for any expenses paid or incurred by Contractor unless agreed to in writing.  |
| 6. Terms of Agreement     | This agreement shall terminate on June 30, 2011 and shall be renewed on a yearly basis. This contract can be terminated by either party with thirty (30) days written notice to the other party.   |

Client: Perquimans County Emergency Management  
 By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Contractor: Thomas M. Ponte  
 By: Thomas M. Ponte Date: \_\_\_\_\_

**PERQUIMANS COUNTY BROADBAND TASK FORCE**

At their last meeting, the Economic Development Commission discussed the formation of a Perquimans County Broadband Task Force. Dave Goss, Economic Development Consultant, has presented the following as a recommendation for appointments to this task force:

Technical People

Victor Eure  
Steve Lane  
Steve Burkett  
Greg Tarranova  
Communications Engineer who resides in Heritage Shores  
Donna Sullivan (E-NC representative)

Community Representatives

At least one County Commissioner  
Bobby Darden (or your representative)  
Brandon Shoaf  
Peter Raimondi (a major home-based user of broadband)  
Winfall representative  
Dave Goss

On motion made by Tammy Miller-White, seconded by Sue Weimar, the Board unanimously approved to move forward with the development of this Broadband Task Force, to contact the individuals listed above to see if they were interested in serving on this Task Force, and to appoint Tammy Miller-White as the County Commissioner representative.

DEBRIS CONTRACT EXTENSION – ASHBRIIT ENVIRONMENTAL

County Manager Darden explained that the contract with AshBritt Environmental to dispose of our debris after a natural disaster is due to be extended until May 26, 2012. On motion made by Tammy Miller-White, seconded by Edward R. Muzzulin, the Board unanimously approved the following amendment to the Debris Contract with AshBritt Environmental:



**RE: AMENDMENT OF CURRENT CONTRACT**

THIS EXTENSION OF CONTRACT (“Extension”) is made this 22<sup>nd</sup> day of March, 2011, for the purpose of extending the contract known as Disaster Recovery and Debris Removal dated May 25<sup>th</sup>, 2007 (Original Contract”) between AshBritt, Inc. and the Perquimans County NC.

1. The Original Contract is described below and will end on May 26<sup>th</sup>, 2011.
  - a. Disaster Recovery Contract for Emergency Services in the event of a natural or man-made disaster.
2. The Parties agree to extend the Original Contract for an additional One (1) year, which will begin immediately upon the expiration of the original time period and will end on May 26<sup>th</sup>, 2012.
3. This Extension binds and benefits both Parties and any successors or assigns. This document, in addition to the Original Contract, is the entire agreement between the Parties.

All other terms and conditions of the Original Contract remain unchanged.

\_\_\_\_\_  
Authorized Signor for AshBritt, Inc.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signor for Perquimans

\_\_\_\_\_  
Benjamin C. Hobbs, Chairman

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
April 4, 2011

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signor for Hertford

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signor for Winfall

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

PUBLIC COMMENTS

Their being no comments from the public, Chairman Hobbs proceeded with the Closed Session.

CLOSED SESSION

The Chairman explained that the Board needed to go into Closed Session to discuss a property acquisition, an economic development matter and to approve Closed Session Minutes.

On motion made by Mack E. Nixon, seconded by Edward R. Muzzulin, the Board approved the motion to go into closed session to discuss a property acquisition, an economic development matter and to approve Closed Session Minutes.

The Closed Session was adjourned and the Regular Meeting reconvened on motion made by Janice McKenzie Cole, seconded by Sue Weimar, and unanimously passed. The following action was taken after the Closed Session.

PERQUIMANS 20/20

On motion made by Janice McKenzie Cole, seconded by Tammy Miller-White, the Board unanimously approved to offer Perquimans 20/20 \$25,000 to release the Deed of Trust on this building.

ADJOURNMENT

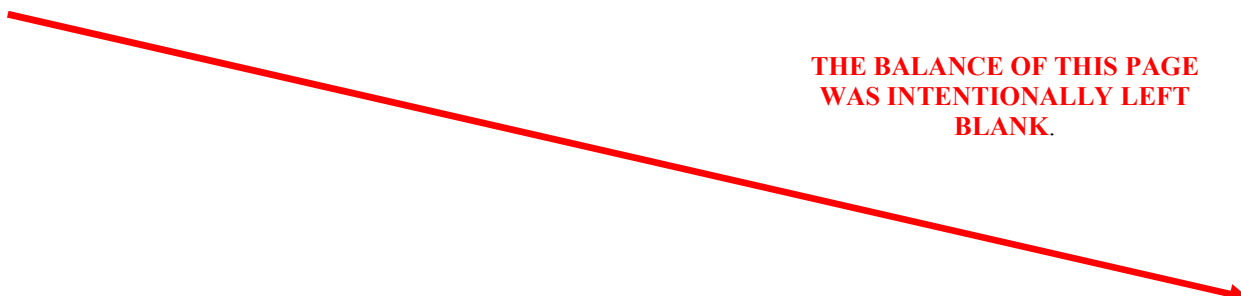
There being no further business to discuss, the Regular Meeting was adjourned by the Chairman at 9:08 p.m.

\_\_\_\_\_  
Benjamin C. Hobbs, Chairman

\_\_\_\_\_  
Clerk to the Board

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**ATTACHMENT A**

**ORDINANCE NO. 76**

**AN ORDINANCE OF PERQUIMANS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF NORTH CAROLINA, AMENDING, ADDING AND REPEALING SECTIONS OF THE PERQUIMANS COUNTY SUBDIVISION REGULATIONS AS ADOPTED BY ORDINANCE NO. 19, AS PREVIOUSLY AMENDED; THIS ORDINANCE AMENDS ARTICLE IV, SECTIONS 402B(9) (a) THROUGH (h) AND ARTICLE VII TO ESTABLISH STANDARDS, CONDITIONS, PROCEDURES AND DEFINITION FOR “FLAG LOTS”; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PERQUIMANS COUNTY, NORTH CAROLINA THAT:**

**Section 1.** Perquimans County Ordinance No. 19 (Subdivision Regulations), as previously amended, is hereby amended by revising Article IV, Sections 402B(9)(a) through (h), and Article VII to establish standards, conditions, procedures and definition for “Flag Lots” thereof and by adding and substitution the following excerpts of Articles IV and VII attached hereto as Exhibits A and B, respectively, and incorporated herein by reference, in its stead;

**Section 2. Severance Clause.** It is the intent of the Board of County Commissioners of Perquimans County, North Carolina, and it is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance; and

**Section 3. Effective Date.** This Ordinance shall take effect upon its passage and enactment. This Ordinance shall be recorded in a book kept and maintained by the Clerk of the Board of County Commissioners of Perquimans County, North Carolina.

**PASSED AND ENACTED by the Board of County Commissioners of Perquimans County, North Carolina, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.**

**BOARD OF COUNTY COMMISSIONERS OF PERQUIMANS COUNTY, NORTH CAROLINA**

By: \_\_\_\_\_  
Benjamin C. Hobbs, Chairman

ATTEST:

\_\_\_\_\_  
Mary P. Hunnicutt, Clerk to the Board

Effective Date: \_\_\_\_\_

**Exhibit “A”**

**Excerpt of: ARTICLE IV, MINIMUM DESIGN STANDARDS**

**Section 402. Improvement Design Standards**

**B) Lots**

Lot sizes, shapes and locations shall be made with due regard to topographic conditions, contemplated use, and the surrounding area. Land subject to flooding and land deemed by the Planning Board to be uninhabitable for other reasons shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard; but such land may be set aside for such uses as will not be endangered by periodic or occasional flooding, or will not produce unsatisfactory living conditions.

- (1) Every lot shall front or abut on a public or private street. Each lot shall have a minimum width and depth as established by the Perquimans County Zoning Ordinance, Article VII, Dimensional Requirements.
- (2) Lots fronting on the turnaround portion of a cul-de-sac (dead-end) road may have a reduced lot width of no less than fifty (50) feet as measured at the front property line/road right-of-way as long as the standard lot width is provided at the actual building line, as applicable to the zoning district, including ninety (90) feet in the RA-15 Zone, one hundred twenty-five (125) feet in the RA-25, RA-43 and RA Zones, etc.
- (3) Residential lots served by a community water system but lacking service by a community sewer system shall be at least 43,000 square feet.
- (4) The subdivider, at his own expense, shall have the site investigated under the supervision of the Albemarle Regional Health Services and shall present proof in their Application for Subdivision that appropriate soil tests have been conducted and that each lot in the subdivision not served by a public sewage disposal systems has been approved by the Albemarle Regional Health Services for individual sewage disposal systems.
- (5) All residential lots must be graded to allow for proper drainage. At a minimum, each residential lot must be properly graded to provide for adequate drainage of water away from the lot; each lot having a gradual slope of one (1) inch of increase in height for each ten (10 feet) and part thereof when measuring the lot from both side lot lines to the center point of the lot. The results of this requirement will be to create a

contoured lot. Each lot must also be provided a 4':1' slope at the property lines; this will provide for adequate drainage of water away from the residential lot.

- (6) Double frontage and reverse frontage lots shall be avoided, except where required to separate residential development from through traffic.
- (7) Side Lot lines shall be substantially at right angles or radial to street lines.
- (8) All lots shall conform to the minimum standards or dimensions noted herein and those contained in an applicable zoning ordinance, building codes, and other official regulation.
- (9) **Flag Lots shall be approved only where the configuration of the parcel or site features warrant such a lot design. Authorizing a flag lot design is intended to accommodate a particular extenuating circumstance which makes conventional lot design infeasible. Therefore, flag lots should be judiciously approved. Requests for the creation of more than one flag lot from the same parcel shall be reviewed by the Planning Board using the Major Subdivision review procedures. Flag lots requirements are as follows:**
  - (a) **Access shall be provided from the public road or an approved private road to the flag lot by means of an easement with a minimum width of 25 feet along the "pole."**
  - (b) **The area inside the "Flag" portion of the lot must satisfy the minimum lot area requirements for a conventional development within the underlying zoning district." The area considered the "Flag Pole" consists of that area from the road right-of-way to the "Flag" portion of the lot and shall not exceed 1,000 feet.**
  - (c) **Use of a single driveway to serve a flag lot and an adjoining conventional lot is permitted provided that a Shared Access Agreement is recorded in the Register of Deeds Office on the plat or in a separate document, in order to acknowledge the conditions under which the shared access will operate. The preferred location for the driveway is in the flagpole easement, with the Flag Lot granted an access easement over the flagpole.**
  - (d) **The flag portion of the flag lot must satisfy the minimum yard requirements of the applicable zoning district. The "building setback line" for the Front Yard runs parallel to the street and is measured from within the "Flag" part of the lot, not the "pole" part.**
  - (e) **Where applicable, a Driveway Permit shall be required from the North Carolina Department of Transportation (NCDOT). Failure to obtain a driveway permit shall result in denial of the flag lot.**
  - (f) **The minimum separation between the flagpole portion of the lot and that of another flag lot shall be guided by the minimum design standards governing lots.**

**EXHIBIT "B"**

**Excerpt of: Article VII: DEFINITIONS**

Section 702 General Definition of Terms

**Easement**

A grant by the property owner for use by the public or others of a strip of land for specified purposes.

**Flag Lot**

**A lot having frontage on a street via a narrow strip of land or "flagpole" having a minimum width of twenty-five (25) feet as measured at the road and along its entire length. Flag lots shall comply with the requirements of Article IV, Section 402.**

**Interior Lot**

A lot other than a corner lot with only one frontage on a street.

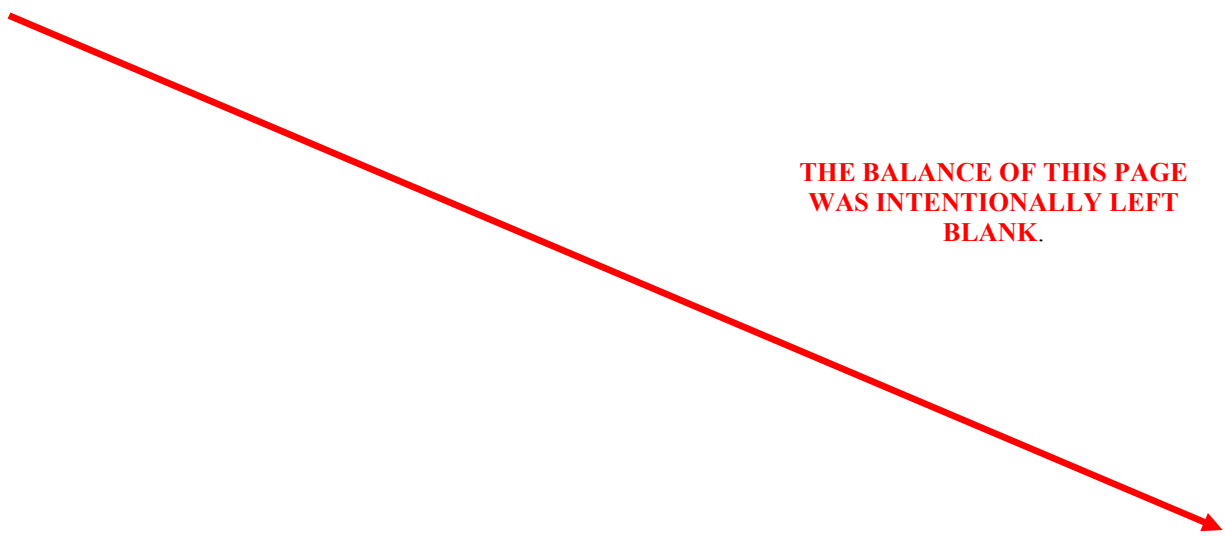
**Lot**

A portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership or for development, or both. The word "lot" includes the word "parcel" or "plot".

**Lot of Record**

*-End of Ordinance document to be recorded-  
Administrative Text Amendment No. TXT-10-05SR  
Perquimans County Subdivision Regulations, Articles IV and VII  
Establish Flag Lot Requirements and related cross references*

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**ATTACHMENT B**

**ORDINANCE NO. 77**

AN ORDINANCE OF PERQUIMANS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF NORTH CAROLINA, AMENDING, ADDING AND REPEALING SECTIONS OF THE PERQUIMANS COUNTY ZONING ORDINANCE AS ADOPTED BY ORDINANCE NO. 35, AS PREVIOUSLY AMENDED; THIS ORDINANCE AMENDS ARTICLE VII, SECTION 701.C, DIMENSIONAL REQUIREMENTS, TO ADD A CROSS REFERENCE TO THE SUBDIVISION REGULATIONS FOR “FLAG LOTS,” AND TO ESTABLISH ARTICLE-BASED PAGE NUMBERS WITH THE NAME OF THE ORDINANCE AND DATE OF THE LATEST TEXT AMENDMENT PER ARTICLE, THROUGHOUT THE ENTIRE ZONING ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PERQUIMANS COUNTY, NORTH CAROLINA THAT:

**Section 1.** Perquimans County Ordinance No. 35 (Zoning Ordinance), as previously amended, is hereby amended by revising Article VII, Dimensional Requirements, Section 701.C, to **add a cross reference to the Subdivision Regulations for “Flag Lots,” and to establish Article-based page numbers with the name of the ordinance and date of the latest text amendment per Article, throughout the entire Zoning Ordinance** thereof and by adding and substitution the following excerpt of **Article VII** attached hereto as **Exhibit A** and incorporated herein by reference, in its stead;

**Section 2. Severance Clause.** It is the intent of the Board of County Commissioners of Perquimans County, North Carolina, and it is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance; and

**Section 3. Effective Date.** This Ordinance shall take effect upon its passage and enactment. This Ordinance shall be recorded in a book kept and maintained by the Clerk of the Board of County Commissioners of Perquimans County, North Carolina.

**PASSED AND ENACTED** by the Board of County Commissioners of Perquimans County, North Carolina, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**BOARD OF COUNTY COMMISSIONERS OF PERQUIMANS COUNTY, NORTH CAROLINA**

By: \_\_\_\_\_  
Ben Hobbs, Chairman

ATTEST:

\_\_\_\_\_  
Mary P. Hunnicutt, Clerk to the Board

Effective Date: \_\_\_\_\_

**Exhibit “A”**

**Excerpt of: ARTICLE VII. DIMENSIONAL REQUIREMENTS**

**Section 701. Exceptions to Lot Requirements**

A. **Availability of Community Water and Sewer Service:** When individual sewage disposal systems are planned, the minimum lot sizes specified in Section 703 of this Ordinance shall be increased as required by the standards of the Albemarle Regional Health Services serving the County. Community water supply and sewage facilities shall comply with applicable laws and regulations as administered by the Albemarle Regional Health Services and the North Carolina Department of Environment and Natural Resources.

(1) Residential lots located in the RA-15, Residential and Agricultural Zone which are served by a community water system and by a community sewer system that have been approved by the North Carolina Department of Environment and Natural Resources and the Albemarle Regional Health Services may have a minimum lot size of 15,000 square feet with a minimum lot width of ninety (90) feet as established by Section 704, Area, Yard and Height Requirements Table.

(2) Residential lots located in the RA-25, Residential and Agricultural Zone which are served by a community water system and by a community sewer system that have been

approved by the North Carolina Department of Environment and Natural Resources and the Albemarle Regional Health Services may have a minimum lot size of 25,000 square feet with a minimum lot width of one-hundred twenty-five (125) feet as established by Section 704, Area, Yard and Height Requirements Table.

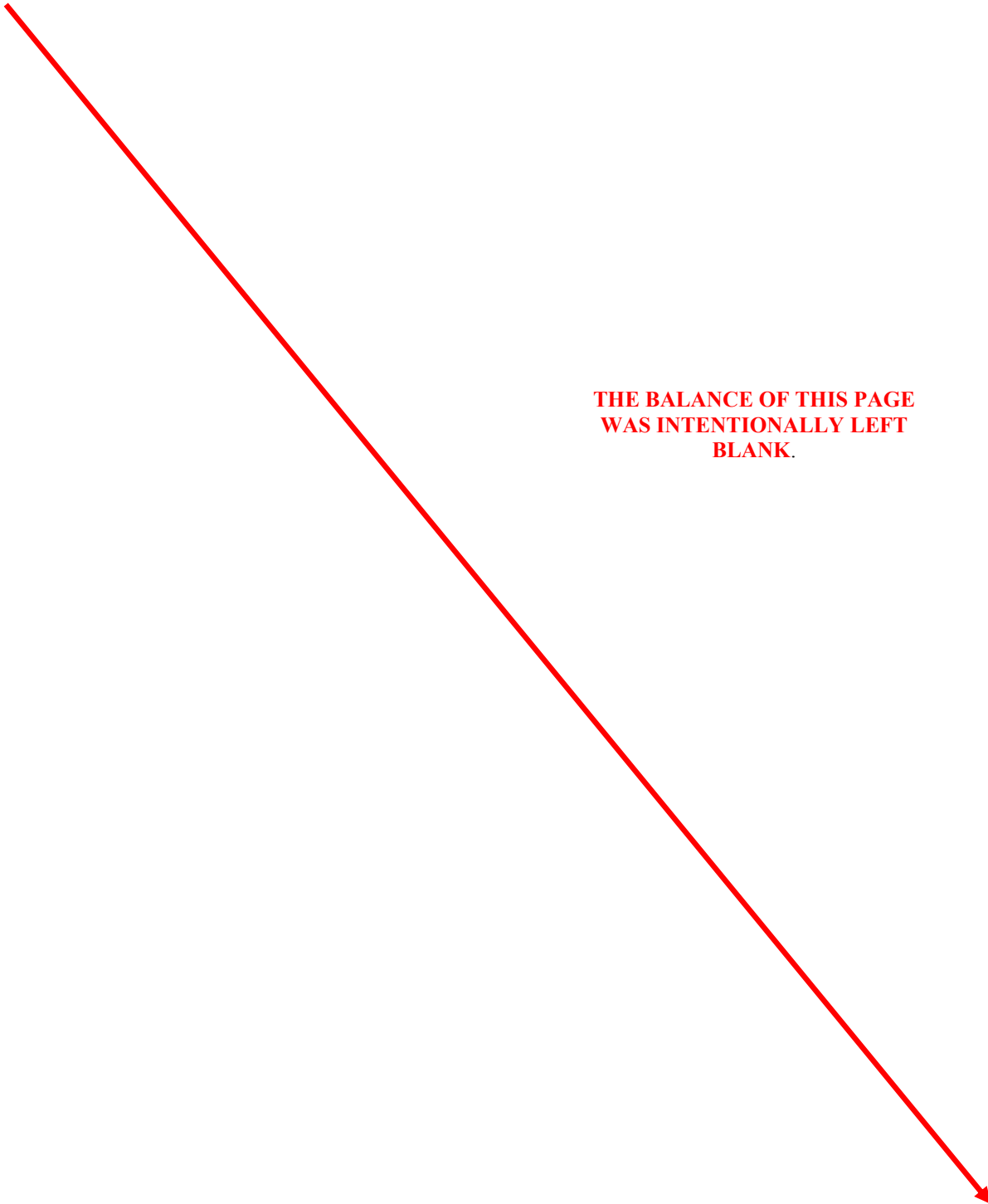
(3) Residential lots located elsewhere (including the RA-15, RA-25, RA-43, RA, HA, and CH Zones) which are only served by a community water system and which land service by a community sewer system, shall have a minimum lot size of 43,000 square feet in usable area or larger as required by the Albemarle Regional Health Services.

B. **Cul-de-sac Lots:** Lots fronting on the turnaround portion of a cul-de-sac (dead-end) road may have a reduced lot width of no less than fifty (50) feet as measured at the front property line/road right-of-way as long as the standard lot width is provided at the actual building line, as applicable to the zoning district, including ninety (90) feet in the RA-15 Zone, one hundred twenty-five (125) feet in the RA-25, RA-43 and RA Zones, etc.

C. **Flag Lots:** A flag lot shall comply with the Minimum Design Standards of the Perquimans County Subdivision Regulations, including the special standards, conditions and procedures governing the creation of a flag lot.

*-End of Ordinance document to be recorded-  
Administrative Text Amendment No. TXT-10-08  
Perquimans County Zoning Ordinance, Article VII  
Establish Flag Lot Requirements and related cross references*

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**SPECIAL CALLED MEETING**

April 25, 2011

7:00 p.m.

The Perquimans County Board of Commissioners met in a SPECIAL CALLED MEETING on Monday, April 25, 2011, at 7:00 p.m. in the upstairs Courtroom located in the Perquimans County Courthouse Annex.

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

MEMBERS ABSENT: None

OTHERS PRESENT: Bobby Darden, County Manager Hackney High, County Attorney  
Mary P. Hunnicutt, Clerk to the Board

Chairman Benjamin C. Hobbs called the meeting to order. Commissioner Miller-White gave the invocation and Chairman led the Pledge of Allegiance. Chairman Hobbs proceeded with the Public Hearing.

**PUBLIC HEARING**

**Economic Development Incentives to Atlantic Wind, LLC**

Chairman Hobbs opened the Public Hearing stating that the purpose of the public hearing was to receive comments concerning the proposed economic development incentives to Atlantic Wind, LLC, a private entity. The following notice was posted on meeting doors, published in the local newspaper, and placed on the County's Website:

**PERQUIMANS COUNTY BOARD OF COMMISSIONERS  
NOTICE OF SPECIAL MEETING  
AND PUBLIC HEARING (NCGS § 158-7.1)**

Notice is hereby given that the Board of Commissioners of Perquimans County (the "County"), pursuant to NCGS Section 158-7.1, will hold a public hearing at a special meeting of the Board beginning at 7:00 p.m. on Monday, April 25, 2011, at the Perquimans County Courthouse Annex, 110 North Church Street, Hertford, North Carolina, in the Second Floor Courtroom, on a proposal to provide certain economic development incentives to Atlantic Wind, LLC, a private entity (the "Company"). The County proposes to appropriate and spend from the County's general fund amounts to make certain annual cash grants to the Company, for a term of up to 30 years in the case of personal property and up to 15 years in the case of real property, in varying amounts of between 5.91% and 70.88% of the real and personal property taxes the Company pays directly or indirectly to the County. The purpose of these grants would be to encourage the Company to construct and operate a wind energy facility that would generate electricity and that would be located on a multi-acre site in Perquimans County and Pasquotank County (the "Facility"). The cash grants described above would be (i) conditioned on the Company's paying the applicable real property and personal property taxes for the particular year, and (ii) subject to partial recapture via a refund payment, if the Company does not invest at least \$240 million in the County on or before December 31, 2015, or if the development of the Facility does not result in the creation of an average, over a defined four-year period, of at least eight new full-time jobs at the Facility. The Company's construction and operation of the Facility would further the economic interests of the County in numerous ways, including through the following specific benefits: (a) by creating a construction project at the Facility that would last approximately nine months which, in addition to creating employment at the Facility, would likely result in greater revenues to local businesses; (b) by offering a number of full time jobs at the completed Facility with an average wage greater than the median wage in the County; (c) by enhancing the County's property tax base and increasing the County's property tax revenues; and (d) by supporting the diversification of the County's economy and locating in the County a portion of the first commercial scale wind energy facility in North Carolina. In addition to holding the public hearing, at this special meeting the Board of Commissioners of the County may approve the making of the cash grants as described above and may approve and enter into an economic development agreement with Atlantic Wind, LLC.

\_\_\_\_\_  
Benjamin Hobbs, Chairman of the  
Board of County Commissioners

**PERSONS WITH DISABILITIES:**

Individuals needing assistance should contact the Clerk to the Board of County Commissioners at 252-426-8484 within a reasonable time prior to the meeting. Access to the building for individuals with disabilities is at the front of the building with an elevator at the end of the hall. Participation in public meetings is without regard to race, color, national origin, sex, religion, age, or disability.

PUBLISH: Friday, April 15, 2011 for the *Daily Advance*  
Wednesday, April 18, 2011 for the *Perquimans Weekly*

There were nineteen (19) people present. The Chairman recognized Bobby Darden, County Manager, who presented a PowerPoint presentation giving the background of the project and the benefits that it will bring to the County. The Chairman asked if there were any questions or comments from the Board. The following comments were made:

- Chairman Hobbs:** Mr. Hobbs said that this was an unexpected boost to our tax base since the decrease in construction in our County. He feels that it is a plus for the County.
- Commissioner Nixon:** Mr. Nixon said that this property has always been agricultural and that the only business that has shown an interest in this property was the U.S. Navy and he would much prefer to have the Wind Mill Operation than the OLF Landing Field.
- Commissioner Miller-White:** Ms. Miller-White feels that this is compatible with our County and with what our County stands for and she also liked the idea of an alternative energy source.
- Commissioner Muzzulin:** Mr. Muzzulin feels that it is a great boom for the County and it will enable us to proceed with projects like the Senior Center and Library.
- Commissioners Weimar & Cole** concurred with the other commissioners.

Chairman Hobbs asked if there were any comments from the public: The following comment was made:

**Horace Pritchard:** Mr. Pritchard said that he owns some property in this area in Perquimans and Pasquotank Counties. He supports this project because it will ask very little from the County. In addition, they will fix the landowners' roads and drainage problems. He feels that it will be a windfall for both Counties. Now that some of the roads have been fixed, he invited the County Manager and Commissioners to contact him and he would be glad to take them back to the site.

There being no further comments, Chairman Hobbs closed the Public Hearing at 7:17 p.m. and proceeded with the Special Called Meeting.

**AGENDA**

The Agenda was unanimously approved on motion made by Mack E. Nixon, seconded by Sue Weimar.

**ECONOMIC DEVELOPMENT INCENTIVES TO ATLANTIC WIND, LLC**

Chairman Hobbs stated that the Board will need to take action on a Resolution approving to enter into this agreement with Atlantic Wind, LLC and on the actual Economic Development Incentive Agreement. County Attorney High said that it would be best to first take action on the following Resolution:

**RESOLUTION  
BOARD OF COMMISSIONERS, PERQUIMANS COUNTY**

*Authorizing County to Pay Economic Development Incentives and to Sign Economic Development Agreement*

WHEREAS, Atlantic Wind, LLC (“**Company**”), may lease certain real property in Perquimans County (“**County**”) and Pasquotank County with the intent of constructing on that property a wind energy facility, including wind turbines and related equipment;

WHEREAS, if the Company moves forward with the project and signs an economic development agreement (“**EDA**”) with the County, the Company will commit to make expenditures on wind turbines and other property it would locate in the County that will equal or exceed \$240 million dollars;

WHEREAS, the Company’s construction and operation of the wind energy facility would create at least eight full-time jobs at the facility;

WHEREAS, the average wage that would be paid to the persons holding those eight full-time jobs at the wind energy facility would be substantially higher than the County’s average wage;

WHEREAS, the Company’s leasing land in the County on which to construct a portion of the facility would result in substantial rent payments to those County landowners leasing land to the Company;

WHEREAS, the Company has requested that the County provide economic development incentives to induce the Company to make the capital investment in the County and to create the jobs at the facility;

WHEREAS, the Company has informed the County that if the County does not provide those economic development incentives, the Company will not locate the facility in the County;

WHEREAS, under the EDA, the Company would agree to refund to the County a portion of the economic development incentive grants it receives if it does not make at least a \$240 million investment in property in the County by December 31, 2015, or if an average of eight jobs are not maintained at the facility during a defined four-year period;

WHEREAS, if the Company constructs the wind energy facility, it is expected to create an estimated 200 construction jobs during a nine-month construction period and, additionally could produce more revenues for, and expand, local businesses as the Company would agree to use reasonable efforts to use vendors and contractors based in the County or the region as it deems appropriate;

WHEREAS, the Company’s construction of the wind energy facility would substantially enhance the County’s property tax base, increase the County’s property tax revenues, and make the Company one of the County’s largest taxpayers and probably the County’s largest taxpayer;

WHEREAS, the County has reviewed and considered the North Carolina Department of Commerce’s May 2010 economic impact analysis study regarding the potential economic impact of a proposed private wind energy electric power generation facility in North Carolina;

WHEREAS, the Company’s construction of the wind energy facility would help diversify the County’s economy and create new employment opportunities and could serve as a model by which the County could attract similar or complementary businesses and industries;

WHEREAS, the County would be home to a portion of the first commercial scale wind project in the state of North Carolina, creating a new industry in the area;

WHEREAS, the County has recently adopted changes to its zoning ordinance that help protect the County if an owner of a wind energy facility fails to continue to operate the facility, including requiring the decommissioning and removal of the wind energy facility if no electricity is generated for a continuous period of 12 months and requiring the owner of a large wind energy farm to provide a bond or irrevocable letter of credit in favor of the County to cover the estimated removal costs, less equipment salvage value; and

WHEREAS, the Board of Commissioners deems its desirable and in the best interests of County and its businesses and residents to offer certain economic development incentives to the Company and to enter into an EDA with the Company.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Perquimans County, North Carolina, as follows:

1. The Board of Commissioners approves appropriating and spending from the County’s general fund amounts to make the following annual cash grants to the Company:

(a) Cash grants, for a term of up to 15 consecutive years, equal to 70% of the real property taxes paid to the County with respect to the facility each year (both directly by the Company and indirectly by a lessor of the real property on which the facility is located if there is an increase in that lessor’s real property taxes as a result of the facility and the Company reimburses that lessor); and

(b) Cash grants, for a term of up to 30 years, equal to a percentage of the personal property taxes the Company pays to the County each year ranging from 70.88% to 5.91%, such amount being more specifically described in the draft EDA attached to this Resolution as **Exhibit A (“Economic Development Agreement”)**.

2. To implement these incentives and the Company’s associated refund obligations, the Board of Commissioners hereby approves the Economic Development Agreement and authorizes the Chair of the Board of Commissioners and the County Manager (or either of them) to execute that Economic Development Agreement on the County’s behalf and to take all actions necessary to implement the actions and grants required by that Agreement. The Board of Commissioners also authorizes the Chair of the Board of Commissioners and the County Manager (or either of them), before executing the Economic Development Agreement, to negotiate and approve changes to that Economic Development Agreement’s language that do not increase the amounts of the cash grants the County is required to pay the Company, or decrease the amount the Company is required to refund to the County, under the Agreement.

This 25<sup>th</sup> day of April, 2011.

\_\_\_\_\_  
Benjamin C. Hobbs  
Chair, Board of Commissioners, Perquimans County

**Exhibit A**

See attached draft Economic Development Agreement

Mack E. Nixon made a motion to approve the above Resolution. Tammy Miller-White seconded the motion. The Chairman asked for any questions. Commissioner Cole asked about the use of “average wage” in paragraph #4 of the Resolution and “median wage” in the Economic Development Incentive Agreement. She wanted to make sure that they were in agreement with each other. County Attorney High reviewed it and assured Ms. Cole that it was okay. Also, Commissioner Cole asked about verification of the percentages in paragraph #2 of the Economic Development Incentive Agreement and Exhibit A. Again, County Attorney High explained that there had been corrections which were included in the copy that was at their chairs tonight. County Manager Darden also confirmed this. There being no further questions or comments, the motion was unanimously approved by the Board.

Chairman Hobbs stated that the Board will need to take action on the following Economic Development Incentive Agreement.

**Economic Development Agreement**

Perquimans County, a political subdivision of the State of North Carolina (“**County**”), and Atlantic Wind, LLC, an Oregon limited liability company (“**Company**”), enter into this Economic Development Agreement (“**Agreement**”) as of \_\_\_\_\_, 2011 (“**Effective Date**”).

**Background.** The Company proposes to construct a wind energy facility, including wind turbines, transmission lines, electric substations, roads, and related buildings spanning an area that is in the County and Pasquotank County and to acquire and install equipment related to the wind turbines at the facility. To locate the facility in the County and in Pasquotank County, the Company would lease and/or purchase land in those areas from landowners. As part of the facility, the Company expects to make expenditures in the County of at least \$240 million by December 31, 2015.

Pursuant to the authority of the Local Development Act of 1925, North Carolina General Statutes §158-7.1 *et seq.* (“**Act**”), the County has agreed, after having conducted a public hearing and having made all findings and determinations required by law, to provide certain incentives

to the Company as more particularly described in this Agreement to induce the Company to construct the facility, to locate certain equipment at the facility, and to facilitate the creation of certain jobs at the facility.

In connection with the facility construction, the Company will engage local and regional contractors and will purchase supplies from businesses in the County and the region as the Company determines appropriate.

It is anticipated that the Company's capital investment in the facility and its operations of the facility will generate significant *ad valorem* property tax revenues to the County. That additional revenue constitutes a material part of the financial basis for the County's entering into this Agreement.

The development of the facility is expected to result in the creation of at least eight new full-time jobs at the facility, at an average compensation of approximately \$80,000 per year, and at least 200 construction jobs for a period of approximately nine months during the construction of the facility.

The Company acknowledges that but for the County's providing the economic development grants and other incentives in this Agreement, it would not have agreed to locate a portion of the facility in the County, to make the associated investment in the County, or to enter into this Agreement.

**The parties agree as follows:**

1. Definitions. As used in this Agreement the following terms will have the following meanings:

"**Affiliate**" means any entity that the Company controls, that controls the Company, or that is under common control with the Company.

"**Company**" means Atlantic Wind, LLC and its successors and assigns.

"**Facility**" means the wind energy facility the Company constructs in the County and in Pasquotank County, including all Personal Property and Real Property.

"**Grant**" means a Real Property Grant or a Personal Property Grant the County makes pursuant to **Section 3**.

"**Grant Notice**" means the date on which the Company gives the County written notice that it desires to activate the Personal Property Grant schedule on **Exhibit A** attached to this Agreement.

"**Job Retention Period**" means the four calendar years beginning on the January 1<sup>st</sup> immediately following the second anniversary of the Facility's commercial operation date. For purposes of this definition, the term "commercial operation date" means the date upon which the Wind Turbines have been erected and interconnected to a transmission system and are capable of generating and transmitting electrical energy continuously and reliably to such transmission system in connection with commercial sales, excluding, however, electric energy delivered to such transmission system in connection with testing, start-up or commissioning. There will be only one Job Retention Period with respect to the Facility.

"**Minimum Initial Investment**" means the Company's making aggregate Qualifying Expenditures of at least \$240 million.

"**Person**" means any individual, partnership, trust, estate, association, limited liability company, corporation, custodian, nominee, governmental instrumentality or agency, body politic or any other entity in its own or any representative capacity.

"**Personal Property**" means all personal property of the Company located in the County. "**Personal Property**" includes (a) all Wind Turbines, (b) all equipment supporting the operations of the Facility, including interconnection and switching equipment and generators, (c) all electricity infrastructure and fiber installations, collector lines, collection substations, sub-transmission lines, tap lines, step-up substations and operations and maintenance facilities, (d) all meteorological towers, (e) all furniture, furnishings, fixtures, machinery and equipment, and (f) all property that is capitalized for federal or state income tax purposes, and all additions to, replacements of, and repowering of any of the foregoing.

"**Personal Property Grant**" means an annual Grant the County makes to the Company pursuant to **Section 3**.

"**Qualifying Expenditures**" means all expenditures the Company makes for Real Property and Personal Property located in the County.

"**Real Property**" means all of the following located in the County and owned by the Company: (a) real estate; and (b) buildings, building systems, and building improvements the Company constructs or installs, or causes to be constructed or installed. "**Real Property**" does not include Personal Property regardless of the manner in which it is affixed to Real Property.

"**Real Property Grant**" means an annual grant the County makes to the Company pursuant to **Section 3**.

"**State**" means the State of North Carolina.

"**Tax**" or "**Taxes**" means *ad valorem* property tax levied on real or personal property located in the County pursuant to Article 25, Chapter 105 of the North Carolina General Statutes or any successor statute relating to *ad valorem* property tax the County levies on property.

"**Term**" means the period beginning on the Effective Date and ending on the earlier of (a) the termination of this Agreement or (b) the date the County pays the last Grant payment to the Company required by this Agreement.

"**Wind Turbines**" means wind turbine generators, including the foundation, the blade, the towers, the nacelles, the rotors and all related transmission and other equipment.

2. Investment; Job Creation and Retention.

a) On or before December 31, 2015, the Company will construct the Facility and in doing so will make the Minimum Initial Investment. If the Company does not make the Minimum Initial Investment on or before that date, it will refund a portion of the Grants to the County pursuant to **Section 4**.

b) In constructing the Facility, the Company will use reasonable efforts to use vendors and contractors based in the County or the region as the Company deems appropriate.

c) During the Job Retention Period, an average of eight full-time persons will be employed at the Facility ("**Jobs Minimum**"). If the average number of full-time persons employed at the Facility over the four-year Job Retention Period is less than eight, then the Company will refund a portion of the Grants to the County pursuant to **Section 4**.

d) Except as set forth in **Section 4** below, the Company's failure to meet the commitments in this **Section 2** will not (i) constitute a breach of this Agreement or result in any obligation to refund any Grant or (ii) relieve the County of its obligation to make any Grant payment pursuant to this Agreement. The County's sole and exclusive remedies for the Company's breach of any provision in this **Section 2** are those provided in **Section 4**.

3. Grants. To induce the Company to locate a portion of the Facility in the County, to make the Minimum Initial Investment, and to facilitate the creation of jobs at the Facility, each year during the Term (beginning as provided below in this **Section 3**) the County will make to the Company the Real Property Grants and the Personal Property Grants pursuant to this **Section 3**.

a) The amount of each annual Grant will be equal to the applicable Grant percentage of the Tax the Company actually pays to the County.

i) Each annual Real Property Grant will be in an amount equal to 70% of the total of (A) the Tax that the Company pays the County for Real Property with respect to that year and (B) any amount the Company pays to Persons who own land in the County pursuant to the terms of a lease or option agreement between such Person and the Company in order to reimburse such Person for any increased *ad valorem* real property taxes that Person pays to the County as a result of the Facility. The County will pay the Company the Real Property Grants beginning with the first year the Company pays Taxes to the County and continuing through the end of the 15-year period that begins with the Start Year (defined in **Section 3(a)(ii)** below).

ii) Each annual Personal Property Grant will be in an amount equal to a percentage of the Tax that the Company pays the County for the Personal Property in the County with respect to that year. The initial percentage for Personal Property Tax Grants will be 70.88% of the Personal Property Taxes. After the Company gives the County the Grant Notice, the County will begin making Personal Property Grant payments to the Company using the percentages listed on **Exhibit A** attached to this Agreement for the 15-year period that schedule covers. When it gives the Grant Notice, the Company will specify to the County whether the first year on the **Exhibit A** schedule will apply to Taxes due with respect to (A) the year in which it gives the Grant Notice or (B) the following year (such year, the "**Start Year**"). The Company will give the County the Grant Notice on or before December 31, 2015.

Once the Company has received Personal Property Grants under the **Exhibit A** schedule for the full 15 years of that schedule with respect to Taxes it pays for a particular item of Personal Property, the Taxes the Company pays the County with respect to that particular item of Personal Property for subsequent tax years will not be eligible for further Grants.

b) If the Company makes an additional investment in Personal Property in the County after it makes the Minimum Initial Investment, and that additional investment totals at least \$1,000,000 over a 12-month period (each such additional investment, an “**Additional Investment**”), then the County will pay the Company an additional Personal Property Grant with respect to that Additional Investment for 15 years, but not for 2042 or any subsequent year. The County will base the Grant percentage with respect to the Personal Property Grants on Additional Investments on the schedule on **Exhibit A** beginning with the percentage stated for Year 1.

If the County pays the Company a Personal Property Grant with respect to some or all of an Additional Investment before the County receives the Company’s written notice pursuant to **Section 5(c)**, then within 60 days after receiving the Company’s written notice pursuant to **Section 5(c)**, the County will pay the Company a catch-up Grant payment for any difference the County owes the Company resulting from re-calculating the Personal Property Grant with respect to the Additional Investment starting with Year 1 on **Exhibit A**.

c) During each year the Company is eligible for a Grant payment, after the Company pays its Tax bills for that year on its Real and Personal Property in the County that is subject to Tax, the County will pay the Company the Real Property Grant and Personal Property Grant for such year by the following March 1<sup>st</sup>. The Company’s payment of all Tax it owes the County as a condition to receiving a Grant is a material condition of this Agreement and will not be construed as implying that the County is reimbursing to the Company any annual *ad valorem* property tax the Company has paid the County.

d) Examples of the operation of this **Section 3** are on **Exhibit B** attached to this Agreement.

#### 4. Refund.

a) If the Company does not make the Minimum Initial Investment on or before December 31, 2015, or if the Jobs Minimum is not met during the Job Retention Period, then, as the County’s sole and exclusive remedy for any such failure (which failure will not constitute a breach of this Agreement), the Company will pay the County a refund in the amount set forth in this **Section 4**. The refund formulas described in this **Section 4** are weighted such that 75% is assigned to the Minimum Initial Investment and 25% is assigned to the Jobs Minimum.

b) Minimum Initial Investment. If the Company does not make the Minimum Initial Investment on or before December 31, 2015, then the Company will refund to the County an amount equal to (i) 75% multiplied by (ii) a pro rata percentage (specified below) multiplied by (iii) the sum of all Grant payments the County actually made to the Company through December 31, 2015, plus any Grant payments the County is scheduled to pay, but has not yet paid, the Company with respect to the tax years through 2015. The pro rata percentage will be the percentage derived by subtracting the amount of the Qualifying Expenditures the Company has actually made on or before December 31, 2015 from \$240 million and dividing the result by \$240 million.

c) Job Creation and Retention. If the Jobs Minimum is not met during the Job Retention Period, then the Company will refund to the County an amount equal to (i) 25% multiplied by (ii) a pro rata percentage (specified below) multiplied by (iii) the sum of all Grant payments the County actually made to the Company with respect to the first, second, and third calendar years of the Job Retention Period, plus any Grant payments the County is scheduled to pay, but has not yet paid, the Company with respect to the fourth calendar year of the Job Retention Period. The pro rata percentage will be the percentage derived by subtracting the average number of full time persons employed at the Facility during the Job Retention Period from eight and dividing the result by eight.

d) The County will calculate the amount of the refund payment(s) described above, will offset it against the amount of any outstanding unpaid Grants, and will notify the Company in writing setting out in reasonable detail the County’s calculations in arriving at the refund amount. If any balance is due to Company after the offset, then the County will pay such balance to the Company within 60 days after it sends the written notice to the Company. If there remains a refund balance due from the Company after the offset, then the County will submit a written demand for such amount to the Company setting out in reasonable detail the County’s calculations in arriving at the refund amount. The Company will pay the amount due within 60 days after receiving the written demand.

e) This Agreement will continue in full force following the Company’s payment of any refund payment(s). The Company’s failure to make the Minimum Initial Investment on or before December 31, 2015, will not give rise to any refund obligation or otherwise reduce the Grants due with respect to 2016 and subsequent years. The failure to meet the Jobs Minimum during the Job Retention Period will not give rise to any refund obligation or otherwise reduce the Grants due with respect to any year after the Job Retention Period.

f) An example of the operation of this **Section 4** is on **Exhibit B**.

#### 5. Reporting and Audit Rights.

a) Designated County officials charged with carrying out this Agreement and having a need to know will have the right, from time to time on reasonable notice at reasonable times and at a reasonable location the Company designates, to examine the Company’s records relating to that portion of the Facility located in the County as may be necessary to verify the Company’s compliance with this Agreement. The Company will have the right on reasonable notice and at reasonable times to audit the County’s Tax records relating to its compliance with this Agreement and calculations made in determining the amount of any Grant to which the Company is entitled or which the County pays.

b) The Company will notify the County in writing once it has made the Minimum Initial Investment.

c) The Company will notify the County in writing if it makes an Additional Investment in the County that is eligible for an additional Grant pursuant to **Section 3(b)** above, including reasonable documentation to assist the County in identifying such Additional Investment for purposes of Grant payments.

d) The Company will give the County written notice of any amounts it pays under **Section 3(a)(i)(B)**.

e) The parties will cooperate reasonably in determining property subject to Tax and the amounts of Grants.

f) Any information the Company provides to County under this **Section 5** will be governed by **Section 15**.

#### 6. Other Incentives and Assistance.

a) The County will provide expedited review and inspections required for the construction and occupancy of the Facility, and will expedite the approval process for site and building plans and applications for site work and building permits.

b) Each party will give the other party reasonable assistance in its present and future applications for incentives, grants and programs that may be or may become available at the Federal, State or local level with respect to the Facility.

#### 7. Term and Termination.

a) The term of this Agreement will commence on the Effective Date and, unless sooner terminated pursuant to this **Section 7**, will continue in force during the Term.

b) The Company may terminate this Agreement at any time in its discretion. Such termination will not constitute an event of default and will be without penalty and without any obligation on the Company to refund any Grant Payments it has received except as set forth in **Section 7(c)**.

c) If the Company terminates this Agreement on or before December 31, 2015 and the Company has not made the Minimum Initial Investment, then it will be required to refund to the County a pro rata percentage (calculated under **Section 4(b)**) of all Grant payments the County has actually made to the Company through the date of termination, and that payment will be the County’s sole and exclusive remedy.

#### 8. No Pledge of Faith and Credit; Purpose.

a) No provision of this Agreement will be construed or interpreted as creating a pledge of the faith and credit of the County within the meaning of any constitutional debt limitation. The parties acknowledge that the scope, term and duration of this Agreement are in all events reasonable. No provision of this Agreement will be construed or interpreted as delegating governmental powers or as a donation or a lending of the credit of the County within the meaning of the North Carolina Constitution. No provision of this Agreement will be construed to pledge or to create a lien on any class or source of the County’s moneys, nor will any provision of the Agreement restrict to any extent prohibited by law any action or right of action on the part of any future County Board of Commissioners. To the extent of any conflict between this **Section 8(a)** and any other provision of this Agreement, this **Section 8(a)** will take priority.

b) The Company and the County acknowledge that all monies the County appropriates and expends for economic development incentives, as provided in this Agreement, are for a bona fide public purpose and are expended in good faith reliance on the Act. If this Agreement or the Grants are challenged, the County will defend this Agreement and the Grants from those challenges. The Company will provide reasonable assistance the County requests in connection with any such defense.

c) If the Grants, or any portion of the Grants, are deemed by a court of competent jurisdiction to be *ultra vires* or not authorized by the laws or Constitution of the State of North Carolina, then the County will use reasonable efforts to provide equivalent incentives to the Company as allowed by law.

9. Assignment; Estoppel.

a) The Company shall have the right to assign this Agreement, and any rights, privileges, or claims under this Agreement, without the consent of the County. If the assignee agrees in writing to assume the Company's obligations under this Agreement, then the Company will be relieved of its obligations under this Agreement. The Company will give the County written notice of any such assignment and assumption.

b) The Company may, without the consent of the County, pledge, mortgage, grant a security interest in, and collaterally assign this Agreement, and any rights, privileges or claims under this Agreement, to any Person, including a collateral agent acting on behalf of lenders providing financing for the Facility (collectively, "**Financing Parties**"). The County will cooperate with the Company, its Affiliates, any assignee of this Agreement, and any Financing Parties from time to time, including by entering into a consent to assignment or other agreements in connection with any collateral assignment on such terms as may be customary under the circumstances and shall be reasonably required by such Financing Parties.

10. Disclaimers.

a) The Company acknowledges that the County has not designed the Facility, that the County has not supplied any plans or specifications with respect to the Facility, and that the County (i) is not a manufacturer of, or dealer in, any of the component parts of the Facility or similar facilities, (ii) has not made any recommendation, given any advice or taken any other action with respect to (A) the choice of any contractor, supplier, vendor or designer of, or any other contractor with respect to, the Facility or any component part of the Facility or any property or rights relating to the Facility, or (B) any action taken or to be taken with respect to the Facility or any component part of the Facility or any property or rights relating to the Facility at any stage of the construction of the Facility, and (iii) has not made any warranty or other representation, express or implied, that the Facility or any component part of the Facility or any property or rights relating to the Facility (A) will not result in or cause injury or damage to persons or property, (B) has been or will be properly designed, or will accomplish the results which the Company intends, or (C) is safe in any manner or respect.

b) THE COUNTY MAKES NO EXPRESS OR IMPLIED WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER WITH RESPECT TO THE FACILITY OR ANY COMPONENT PART OF THE FACILITY, INCLUDING WITH RESPECT TO THE MERCHANTABILITY OR THE FITNESS OR SUITABILITY OF THE FACILITY FOR ANY PURPOSE. THE COMPANY IS TO BEAR ALL RISKS RELATING TO THE CONSTRUCTION AND OPERATION OF THE FACILITY. THE COMPANY WAIVES THE BENEFITS OF ALL IMPLIED WARRANTIES AND REPRESENTATIONS OF THE COUNTY AS THEY MAY RELATE TO THE FOREGOING.

11. Representations and Warranties.

a) The Company represents and warrants to the County that as of the Effective Date: (i) it is a limited liability company duly organized and existing under the laws of the State of Oregon and is validly existing and authorized to do business in the State of North Carolina; (ii) it has the power and authority to own its properties and assets and to carry on its business as now being conducted and has the power and authority to execute and perform this Agreement; (iii) this Agreement (A) is the legal, valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, (B) does not violate any order of any court or other agency of government binding on the Company, the charter documents of the Company or any provision of any indenture, agreement or other instrument to which the Company is a party, and (C) does not conflict with, result in a breach of, or constitute an event of default under any material indenture, agreement or other instrument to which the Company is a party; and (iv) the Company has not received written notice of any action or proceeding that challenges the validity of this Agreement or the Company's right and power to enter into and perform this Agreement.

b) The County represents and warrants to the Company that: (i) the County is a political subdivision and body politic of the State of North Carolina with power and authority to enter into and perform this Agreement; (ii) the County has taken all action necessary to authorize the execution, delivery and performance of this Agreement; (iii) this Agreement is a legal, valid, and binding obligation of the County, enforceable against the County in accordance with its terms; and (iv) the County has not received written notice of any action or proceeding that challenges the validity of this Agreement or the County's right and power to enter into and perform this Agreement.

12. Defaults and Remedies.

a) If the Company fails to pay any amount due to the County pursuant to **Section 4(b)**, **Section 4(c)** or **Section 7(c)**, and such amount continues to be unpaid for a period of 30 or more days after the County gives the Company written notice of default, then the County's sole and exclusive remedies will be (i) to recover from the Company the amounts due under those three sections, and (ii) either terminate this Agreement or suspend making any further Grant payments until the Company pays the amounts due under those three sections, to the County.

b) If any warranty or representation of a party in **Section 11** shall have been false or inaccurate in any material respect when made and is not remedied within 30 days following the defaulting party receiving written notice from the non-defaulting party (or in the case where it is capable of being remedied, but is incapable of being remedied within a period of 30 days, such further period as is reasonable in the circumstances), then the non-defaulting party will have such rights and remedies as may be available in law.

c) If the County defaults in the performance of its obligations under this Agreement, and such default continues for a period of 30 or more days after the Company gives the County written notice of such default, then the Company will have such rights and remedies as are available in law.

13. Controlling Law. This Agreement will be governed by, and construed in accordance with, the laws of the State of North Carolina, excluding its conflict of law principles. Any action or proceeding relating to this Agreement or its enforcement will be adjudicated in the North Carolina state courts in Wake County, North Carolina or the United States District Court for the Eastern District of North Carolina. The Company and the County consent and submit to the jurisdiction and venue of those courts.

14. Severability. Each provision in this Agreement is severable. If any provision of this Agreement will be determined to be invalid or unenforceable by a court of competent jurisdiction, then: (a) such determination will not invalidate or render unenforceable any other provision of this Agreement; (b) such provision will be construed as closely as possible to the parties' original intent in order to render such provision valid or enforceable, as applicable; and (c) the remaining terms of this Agreement, together with such reconstructed provision, will constitute the parties' entire agreement.

15. Confidentiality. The County will keep confidential and will not disclose or publish any of the Company's trade secrets described in Section 132-1.2(1) of the North Carolina General Statutes. If the County receives a request, subpoena or court order to disclose any information or records the Company or its representatives have provided or provide in the future relating to this Agreement, the Facility or the project described in this Agreement, the County will give the Company prompt written notice of the request, subpoena or court order and will discuss any proposed disclosure of such information or records with the Company (and, to the extent possible, give the Company the opportunity to contest any disclosure of information or records the Company believes should not be disclosed) before making any such disclosure.

16. Notices. Any notice permitted or required under this Agreement from one party to the other must be in writing and will be effective (a) on the date it was actually delivered to the addressee if delivered personally, or sent by a nationally recognized courier (such as FedEx or United Parcel Service) or sent by facsimile, or (b) three days after having been deposited in the United States mail, if sent by certified mail, return receipt request, in each case to the respective addresses of the Company and the County listed below, or those other addresses of which either party gives the other party written notice:

**If to the Company, to**  
 Craig Poff  
 Atlantic Wind, LLC  
 201 King of Prussia Road, Suite 500  
 Radnor PA 19087

**With a copy to**  
 Stephen R. Hunting  
 Parker Poe Adams & Bernstein LLP  
 Three Wells Fargo Center  
 401 South Tryon Street, Suite 3000  
 Charlotte, NC 28202

If to the County, to  
Bobby Darden  
Perquimans County Manager  
PO Box 45  
Hertford, NC 27944

With a copy to  
Hackney High, Jr.  
Perquimans County Attorney  
PO Box 92  
102 E. Queen Street  
Edenton, NC 27932

17. **Binding Effect and Certification.** Subject to the specific provisions of this Agreement, this Agreement will be binding upon, inure to the benefit of, and be enforceable by the parties and their respective successors and assigns, notwithstanding changes in corporate or other governance. This Agreement will be conditioned upon it being stamp-certified as having been pre-audited in order to comply with the budgetary accounting requirements (if any) that apply, under the Local Government Budget and Fiscal Control Act or otherwise. Such certification is set forth at the end of this Agreement, and the Finance Officer for the County must sign it.

18. **Liability of Officers and Agents.** No official, officer, agent or employee of the County or the Company will be subject to any personal liability or accountability by reason of the execution or performance of this Agreement or any other documents related to the transactions contemplated by this Agreement. Such officials, officers, agents, or employees will be deemed to execute such documents in their official capacities only, and not in their individual capacities. This **Section 18** will not relieve any such official, officer, agent or employee from the performance of any official duty provided by law.

19. **Publicity.** Except as required by law, the County will make no public announcement of the parties' entering into this Agreement or the terms and conditions of this Agreement without the prior written consent of the Company.

20. **Miscellaneous.** This Agreement may be executed in counterparts, each of which will be deemed an original and all of which, when taken together, will constitute one and the same instrument. All **Exhibits** attached to this Agreement are incorporated into this Agreement by reference. The term "including" in this Agreement will not be construed to be limiting. **Sections 4, 7(c), 10 and 15** will survive the termination of this Agreement for any reason. This Agreement may not be amended except by a written amendment both parties sign. This Agreement is the entire agreement of the parties regarding the subject matter and supersedes all prior and contemporaneous understandings.

The parties execute this Economic Development Agreement as of the Effective Date.

ATTEST:

Perquimans County

\_\_\_\_\_  
Mary P. Hunnicutt, Clerk  
The Board of County Commissioners

By: \_\_\_\_\_  
Benjamin C. Hobbs  
Chairman, Board of County Commissioners

Date \_\_\_\_\_

Atlantic Wind, LLC,  
an Oregon limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date \_\_\_\_\_

This Economic Development Agreement has been pre-audited to the extent, and in the manner, required by the **Local Government Budget and Fiscal Control Act.**

\_\_\_\_\_  
Sharon S. Ward  
Perquimans County Finance Officer, on behalf of the County

\_\_\_\_\_  
W. Hackney High, Jr.  
Perquimans County Attorney

The Perquimans County Board of Commissioners approved this Agreement at its meeting held the 25<sup>th</sup> day of April, 2011.

\_\_\_\_\_  
Chairman, Board of Commissioners

**Exhibit A**

Perquimans County  
Personal Property Grant Schedule

YEAR	GRANT PERCENTAGE
Year 1	70.88%
Year 2	69.59%
Year 3	68.90%
Year 4	69.92%
Year 5	68.90%
Year 6	66.58%
Year 7	64.52%
Year 8	61.68%
Year 9	57.74%
Year 10	52.10%
Year 11	44.24%
Year 12	34.55%
Year 13	22.80%
Year 14	5.91%
Year 15	0.00%

**Exhibit B**

Perquimans County  
Examples

**Example 1 (Additional Investment):**

- During the 12-month period of October 1, 2017 to September 30, 2018, the Company makes an Additional Investment totaling \$2,000,000.
- The Company makes \$500,000 of the Additional Investment from October 1, 2017 to December 31, 2017. The Company lists that \$500,000 Additional Investment on its 2018 property tax listing. It then pays the \$1,974.00 in taxes associated with the \$500,000 Additional Investment (\$500,000 depreciated to 94% at a \$0.0042 tax rate = \$1,974.00).
- By March 1, 2019, the County pays the Company the 2018 Grant of \$1,273.62 on the \$1,974.00 in taxes. (64.52% x \$1,974.00 = \$1,273.62). The 64.52% Grant rate applies, because the first tax payment on the investment is for Year 7 (2018) of the **Exhibit A** Grant schedule.
- The Company then makes the remaining \$1,500,000 of Additional Investment between January 1, 2018 and September 30, 2018. The Company gives the County written notice pursuant to **Section 5(c)** that it has made an investment which qualifies as an Additional Investment.
- The Company lists that \$1,500,000 Additional Investment on its 2019 property tax listing. It then pays a total of \$7,875.00 in taxes associated with the total \$2,000,000 in Additional Investment. \$5,922.00 of that amount is tax associated with the \$1,500,000



Additional Investment (\$1,500,000 depreciated to 94% at a \$0.0042 tax rate = \$5,922.00). \$1,953.00 of that amount is tax associated with the \$500,000 portion of the Additional Investment (\$500,000 depreciated to 93% at a \$0.0042 tax rate = \$1,953.00).

- The County pays the Company the 2019 Grant by March 1, 2020 as follows:
  - The County pays the Company a Grant of \$5,581.80 on the \$7,875.00 in taxes. (70.88% x \$7,875.00 = \$5,581.80). The 70.88% Grant rate applies because the investment qualifies as an Additional Investment which resets the **Exhibit A** Grant schedule to Year 1 for the Additional Investment.
  - The County also pays the Company a catch-up Grant payment for the \$500,000 investment the Company made in 2017 (which did not qualify as an Additional Investment at that time, but now does). The catch up payment is \$125.55. This is calculated as the difference between \$1,399.17 (\$1,974.00 x 70.88%) and the \$1,273.62 Grant that the County paid the Company in March of 2019 (at the lower rate of 64.52% under the first **Exhibit A** Grant schedule).
- The Additional Investment will generate a 15-year Grant based on the **Exhibit A** Grant schedule. Year 1 of the Grant schedule will be 2019 and Year 15 of the Grant schedule will be 2033.

Example 2 (Additional Investment):

Example 2 is the same as Example 1, except that the \$2 million in Additional Investment occurs between October 1, 2035 and September 30, 2036.

- During the 12-month period of October 1, 2035 to September 30, 2036, the Company makes an Additional Investment totaling \$2,000,000.
- The Company makes \$500,000 of the Additional Investment from October 1, 2035 to December 31, 2035. The Company lists that \$500,000 Additional Investment on its 2036 property tax listing. It then pays the \$1,974.00 in taxes associated with the \$500,000 Additional Investment (\$500,000 depreciated to 94% at a \$0.0042 tax rate = \$1,974.00).
- Assuming the Company has not made any investment beyond the Minimum Initial Investment, the County will not pay the Company any Grant for 2036, as the 15-year Grant period for the Minimum Initial Investment has ended.
- The Company then makes the remaining \$1,500,000 of Additional Investment between January 1, 2036 and September 30, 2036. The Company gives the County written notice pursuant to **Section 5(c)** that it has made an investment which qualifies as an Additional Investment.
- The Company lists that \$1,500,000 Additional Investment on its 2037 property tax listing. It then pays a total of \$7,875.00 in taxes associated with the total \$2,000,000 in Additional Investment. \$5,922.00 of that amount is tax associated with the \$1,500,000 Additional Investment (\$1,500,000 depreciated to 94% at a \$0.0042 tax rate = \$5,922.00). \$1,953.00 of that amount is tax associated with the \$500,000 portion of the Additional Investment (\$500,000 depreciated to 93% at a \$0.0042 tax rate = \$1,953.00).
- The County pays the Company the 2037 Grant by March 1, 2038 as follows:
  - The County pays the Company a Grant of \$5,581.80 on the \$7,875.00 in taxes. (70.88% x \$7,875.00 = \$5,581.80). The 70.88% Grant rate applies because the investment qualifies as an Additional Investment which resets the **Exhibit A** Grant schedule to Year 1 for the Additional Investment.
  - The County also pays the Company a catch-up Grant payment for the \$500,000 investment the Company made in 2035 (which did not qualify as an Additional Investment at that time, but now does). The catch up payment is \$1,399.17 (\$1,974.00 x 70.88%). This is the amount of the Grant the County would have paid the Company for the 2036 taxes if the investment had qualified as an Additional Investment at that time.
- The Additional Investment will generate a 5-year Grant based on the **Exhibit A** Grant schedule. Year 1 of the Grant schedule will be 2037, and Year 5 of the Grant schedule will be 2041.

Grant Example Assumptions:

1. The Company meets or exceeds the Minimum Initial Investment on or before December 31, 2011.
2. The entire Minimum Initial Investment occurs in 2011 and is first listed for property tax purposes on January 1, 2012.
3. The Company gives the County the Grant Notice by December 31, 2011 and requests that the **Exhibit A** Grant schedule become effective on January 1, 2012. The first Grant payment occurs with respect to 2012 taxes.
4. The Grant payments shown above assume that (a) all investment is in personal property, (b) all investment is depreciated using the North Carolina Department of Revenue Schedule T (18-year schedule), and (c) the 2010 property tax rates apply.

Example 3 (Refund):

- If the Company makes aggregate Qualifying Expenditures of only \$200 million on or before December 31, 2015, then it will be obligated to pay a refund to the County calculated as follows:
- The Company will refund to the County an amount equal to (i) 75% multiplied by (ii) a pro rata percentage multiplied by (iii) the sum of all Grant payments the County actually made to the Company through December 31, 2015, plus any Grant payments the County is scheduled to pay, but has not yet paid, the Company with respect to the tax years through 2015.
  - The pro rata percentage is 16.67% (\$40 million ÷ \$240 million = 16.67%).
  - For purposes of this example, assume that the Company received Grant payments as follows: Year 1 (for 2012) - \$559,668; Year 2 (for 2013) - \$543,637; and Year 3 (for 2014) - \$561,397. The County owes, but has not yet paid, the Year 4 Grant (for 2015) of \$552,088. The total of the Grant payments associated with all four years is \$2,216,791.
- The refund the Company owes to the County is \$281,993 (\$2,216,791 x 16.67% x 75% = \$277,154). Because the County has not paid the \$552,088 (Year 4) Grant to the Company, the County will reduce the Year 4 Grant by the refund amount of \$277,154. The County will pay the Company the net amount of \$274,934 as the Year 4 Grant.

Refund Example Assumptions:

1. All investment occurs in 2011 and is first listed for property tax purposes on January 1, 2012.
2. The Company gives the County the Grant Notice by December 31, 2011 and requests that the **Exhibit A** Grant schedule become effective on January 1, 2012.
3. The first Grant payment occurs with respect to 2012 taxes.
4. The Grant payments shown above assume that (a) all investment is in personal property, (b) all investment is depreciated using the North Carolina Department of Revenue Schedule T (18-year schedule), and (c) the 2010 property tax rates apply.
5. The Jobs Minimum is met during the Job Retention Period.

On motion made by Tammy Miller-White, seconded by Sue Weimar, the Board unanimously approved the above Economic Incentive Agreement with Atlantic Wind, LLC.

**ESTABLISH BUILDING INSPECTION FEES FOR WIND TURBINES**

County Manager Darden stated that it is recommended that the fee to inspect the wind turbines be \$250 per turbine. On motion made by Janice McKenzie Cole, seconded by Tammy Miller-White, the Board approved setting the inspection fee for wind turbines at \$250 per turbine.

**ADJOURNMENT**

There being no further business to discuss, the Special Called Meeting was adjourned by the Chairman at 7:30 p.m. and the Board recessed to reconvene in the Commissioners' Room for a Budget Work Session.

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Benjamin C. Hobbs, Chairman

Clerk to the Board

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