

- 3. In the event the number of bodies being stored in the Hospital morgue should exceed its capacity, the County will assist in finding alternative resources to expand the storage capacity.
- 4. Nothing in this MOU shall alter the Parties' respective responsibilities under N.C. Gen. Stat. Chapter 130A, Article 16 (postmortem investigation and Disposition, N.C. Gen. Stat. §130A-421) or under 10A NCAC 44.0101 through 10A NCAC 44.0501.

This MOU shall become effective upon signature by authorized officials from Sentara Albemarle Medical Center and the County of Perquimans and will remain in effect until terminated by one or both of the partners or modified by mutual consent.

This Memorandum of Understanding (MOU) is made and entered into as of this 6th day of September, 2016.

Contact Information

Partner name: Sentara Albemarle Medical Center
 Position: Coleen Santa Ana, President
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Elizabeth City, NC 27909
 Telephone: 252-335-0531
 E-Mail: jhammond@albemarlehealth.org

 Partner Signature

 Date

Partner name: Perquimans County
 Position: Chair
 Address: P.O. Box 45
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 Telephone: 252-426-8484
 E-Mail: frankheath@perquimanscountync.gov

 Partner signature

September 6, 2016
 Date

PUBLIC COMMENTS

There were no public comments.

ADJOURNMENT

There being no further comments or business to discuss, the Regular Meeting was adjourned at 7:40 p.m. on motion made by Matthew Peeler, seconded by Edward R. Muzzulin.

 Janice McKenzie Cole, Chair

 Clerk to the Board

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CONTINUED QUASI-JUDICIAL HEARING
September 19, 2016
5:30 p.m.

The Perquimans County Board of Commissioners met to continue a Quasi-Judicial Hearing on Monday, September 19, 2016, at 5:30 p.m. in the Courtroom of the old Perquimans County Courthouse.

- MEMBERS PRESENT: Janice McKenzie Cole, Chair Kyle Jones, Vice Chairman
 Fondella Leigh Edward R. Muzzulin
 Wallace Nelson Matthew Peeler
- MEMBERS ABSENT: None
- OTHERS PRESENT: Frank Heath, County Manager Mary P. Hunnicutt, Clerk to the Board
 Hackney High, County Attorney

Chair Cole opened up the meeting and restated the purpose of the Quasi-Judicial Hearing and proceeded with the meeting. The two attorneys presented the following motions to the Board:

- Motions/Responses of Attorneys:
 - **Motion in Limine to Exclude Testimony from Out of State Lay Witnesses:** Attorney Weber asked that the opponents in this proceeding have forecasted that they will offer lay testimony "from people all over the United States" regarding the alleged impact of wind energy projects in their home communities. He further stated that they did not know who or where these witnesses would be from. Because the proposed testimony from non-residents is not relevant to the Commission's decision on whether Applicant's Project meets the requirements of Section 903 of the Perquimans County Zoning Ordinance, Mr. Weber feels that this testimony would deprive Applicant of a fair proceeding and should be excluded from the proceedings.
 - **Response to Motion in Limine to Exclude Testimony from Out of State Lay Witnesses:** Attorney Essick stated that the Applicant had not completed their case and that he has provided the Board with a written response to the motion and asked if the Chair would like to hold that until the appropriate time. Chair Cole said that he could share a short portion of his written response and would reserve the decision on the motion at this time.
 - **Motion for Recusal of Matthew Peeler:** Attorney Campen presented a motion, including copies of Matthew Peeler's e-mails, to recuse Matthew Peeler from the proceedings due to the fact that he has made it clear that he opposes wind farms and feels that he would be biased against the applicant. Mr. Campen read portions of Mr. Peeler's e-mails into the record.
 - **Response to Motion for Recusal of Matthew Peeler:** Attorney Essick introduced Colin McGraft who will be assisting them. Mr. Essick stated that they had just received a copy of the motion about 20-30 minutes ago. Therefore, he has not had time to read the motion, do his research, and prepare a written response to it. He made a few comments and then asked the Chair to allow them to prepare their written response to be presented within 24-48 hours.
 - **Response to Request to Delay Action on this Recusal of Matthew Peeler:** Attorney Campen made additional comments regarding his motion and requested that the Chair make a ruling on his motion.

CLOSED SESSION

After both parties presented their motions and responses, Chair Cole stated that the decision on these motions needs to be made by the entire Board. Therefore, Ms. Cole made a motion to go into Closed Session to consult with the County attorneys about these issues to receive legal clarity. The motion was seconded by Edward R. Muzzulin and unanimously approved by the Board. The Board moved into the Jury Room to confer with their attorneys.

When the Board returned, Chair Cole stated that it was the Board's decision to allow the opposing attorney to prepare a written response to Applicant Attorney's motion to recuse Matthew Peeler from the proceedings. This response must be received by 5:00 p.m. on Wednesday, September 21, 2016.

CONTINUED QUASI-JUDICIAL HEARING

Chair Cole asked the witness, Charles J. Moody, III, Reality Services of Eastern Carolina, Inc., to take the witness chair. Mr. Essick cross-examined Mr. Moody. After Mr. Essick completed his cross-examination of Mr. Moody, Ms. Ross recrossed. At the end of the recrossed examination, the Chair called for a short break.

When they returned from the break, Mr. Weber called Dave Phillips, Director, Environmental Permitting, Apex Clean Energy, Inc., to the witness chair and proceeded with his examination.

ADJOURNMENT

After Mr. Phillips' testimony, Chair Cole continued the Quasi-Judicial Hearing until Tuesday, September 20, 2016, at 5:30 p.m. at the same location.

Janice McKenzie Cole, Chair

Clerk to the Board

CONTINUED QUASI-JUDICIAL HEARING
September 20, 2016
5:30 p.m.

The Perquimans County Board of Commissioners met to continue a Quasi-Judicial Hearing on Monday, September 20, 2016, at 5:30 p.m. in the Courtroom of the old Perquimans County Courthouse.

MEMBERS PRESENT: Janice McKenzie Cole, Chair Kyle Jones, Vice Chairman
Fondella Leigh Edward R. Muzzulin
Wallace Nelson Matthew Peeler

MEMBERS ABSENT: None

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

CONTINUED QUASI-JUDICIAL HEARING

After Chair Cole called the continued quasi-judicial hearing to order, she restated the purpose of the Continued Quasi-Judicial Hearing and proceeded with the meeting.

She further stated that the purpose of the quasi-judicial hearing is to consider competent material and substantial evidence on the application of the Ordinance to the CUP submitted by Timbermill Wind, LLC. The following witnesses gave testimony and were cross-examined:

- Dave Phillips, Director, Environmental Permitting, Apex Clean Energy, Inc.
- Dr. Christopher Ollson, Owner & Senior Environmental Health Scientist
- Alissa Cale, Land Asset Manager for Weyerhaeuser

Ms. Ross explained that this was their last witness and Mr. Campen requested that they be allowed ten minutes to confer with his colleagues to make sure all evidence has been presented. Mr. Campen said that they had no further evidence to present. Chair Cole said that we would adjourn at this time and reconvene tomorrow at 5:30 p.m. At that time, the Board will consider the motions presented at last night's meeting prior to Mr. Essick's first witness. She asked that all written responses be presented to them by 5:00 p.m. tomorrow.

ADJOURNMENT

The Quasi-Judicial Hearing was continued to September 21, 2016 at 5:30 p.m.

Janice McKenzie Cole, Chair

Clerk to the Board

CONTINUED QUASI-JUDICIAL HEARING
September 21, 2016
5:30 p.m.

The Perquimans County Board of Commissioners met to continue a Quasi-Judicial Hearing on Monday, September 21, 2016, at 5:30 p.m. in the Courtroom of the old Perquimans County Courthouse.

MEMBERS PRESENT: Janice McKenzie Cole, Chair Kyle Jones, Vice Chairman
Fondella Leigh Edward R. Muzzulin
Wallace Nelson Matthew Peeler

MEMBERS ABSENT: None

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

After Chair Cole called the continued quasi-judicial hearing to order, she restated the purpose of the Continued Quasi-Judicial Hearing and proceeded with handling the motions/responses of attorneys that were presented at their September 20, 2016 meeting.

- Motions/Responses of Attorneys:
 - **Motion to Dismiss the Application:** Attorney Johnson presented the Motion to Dismiss the Application due to it not being complete because the application did not include an Environmental Assessment as required by Perquimans County's Zoning Ordinance.
 - **Response to Motion to Dismiss the Application:** Mr. Campen responded to Mr. Johnson's motion.
 - **Chair Cole's Response to Motion to Dismiss the Application:** Chair Cole stated that she would take it under advisement until she has had an opportunity to consider the lengthy memo.
 - **Motion to Deny Application for Failure to Meet Burden:** Attorney Essick presented the Motion to Deny Application for Failure to Meet Burden due to the fact that the applicant has not provide sufficient evidence that this facility complies with the following sections of 903 of Perquimans County's Zoning Ordinance: (c) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and (d) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Perquimans County Land Use Plan.
 - **Response to Motion to Deny Application for Failure to Meet Burden:** Ms. Ross responded to Mr. Essick's Motion to Deny Application for Failure to Meet Burden.
 - **Response to Ms. Ross' Response:** Mr. Essick responded briefly to Ms. Ross' response.

CLOSED SESSION

After both parties presented their motions and responses, Chair Cole made a motion to go into Closed Session to consult with the County attorneys about these issues to receive legal clarity. The motion was seconded by Edward R. Muzzulin and unanimously approved by the Board. The Board moved into the Jury Room to confer with their attorneys.

When the Board returned, Chair Cole explained that, under advice of counsel, the two (2) motions, Motion to Dismiss the Application and Motion to Deny Application for Failure to Meet Burden will be taken up by the whole Board. In light of that, Ms. Cole explained that the Board would move on the Motion for Recusal of Matthew Peeler first. Attorney Campen presented his motion at the September 19, 2016 meeting. Ms. Cole cautioned the public to keep the proceedings orderly and requested Sheriff Eric Tilley to proceed to remove anyone that will disrupt the proceedings. Chair Cole then asked Mr. Essick to present his response to this motion. Attorney Campen responded to Mr. Essick's response. Chair Cole asked Commissioner Peeler if he would like to make a comment. Mr. Peeler did make a short statement. At this point, Chair Cole opened up for discussion from the Board. Comments were made by Chair Cole, Commissioners Leigh, Muzzulin, Nelson, and Jones made their statements. During his comments, Commissioner Nelson asked Mr. Peeler if he could explain how he could be objective after reading some of his comments in these e-mails. Mr. Peeler said that, during his term on this Board, he has voted on four (4) solar farms. Of the four (4) solar farms, he voted for one (1) and against (3) because the one solar farm followed the procedures laid out in the County's Ordinance. After reading the statement read during the first night of hearings in August, she asked the Board to decide whether or not Commissioner Peeler should be recused from these proceedings. After consulting with the County's attorney, she said that Mr. Peeler did provide the information prior to the hearings through the public records request. With that being said, Chair Cole called for a vote on the motion to recuse Commissioner Peeler. The Motion to Recuse Commissioner Peeler was approved by a vote of three (3) to two (2) with Commissioners Nelson and Jones voting against the motion. Commissioner Peeler was recused from the proceedings and he left the table prior to any further action being taken.

Chair Cole then addressed the Motion to Dismiss the Application as Incomplete. Ms. Cole stated that the Board has had an opportunity to read the motion and opened the floor for discussion. Commissioners Jones, Nelson, Muzzulin, and Leigh made some comments. Chair Cole asked if there were any more comments from the Board. There being none, she called for a vote. The Motion to Dismiss the Application as Incomplete was denied with all Commissioners voting against the motion.

Chair Cole then addressed the Motion to Deny Application for Failure to Meet Burden. Ms. Cole again stated that the Board has had an opportunity to read the motion and opened the floor for discussion. Commissioners Jones and Nelson made some comments. Chair Cole asked if there were any more comments from the Board. There being none, she called for a vote. The Motion to Deny Application for Failure to Meet Burden was denied with all Commissioners voting against the motion.

CONTINUED QUASI-JUDICIAL HEARING

Chair Cole asked Mr. Essick if they were ready to proceed with calling their first witness. Mr. Johnson asked if they could take a short break to set up the projector. Attorney Weber asked Chair Cole to take action on their Motion in Limine to Exclude Testimony from Out of State Lay Witnesses before Mr. Essick calls his first out-of-state witness. Mr. Johnson explains that he would like to complete his examination of three witnesses before the end of the night. Chair Cole asked how many witnesses they had. Mr. Essick said five (5) to six (6) individuals. Chair Cole said that she believed that the Motion in Limine was a motion that the Chair could act on. Therefore, Ms. Cole stated that she was going to deny their Motion in Limine to Exclude Testimony from Out of State Lay Witnesses and stated that, once the testimony begins, the applicant's attorney could object stating their grounds for the objection and she could consider it at that time. Chair Cole granted a short recess to allow Mr. Essick to set up his projector.

After the break, Chair Cole asked Mr. Johnson to call his first witness which was Robert W. Rand, Principal Consultant, Rand Acoustics.

ADJOURNMENT

The Continued Quasi-Judicial Hearing was continued to a date and time to be announced.

Janice McKenzie Cole, Chair

Clerk to the Board

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