

After Ms. Money’s examination, Chair Cole called for a break until 7:30 p.m. to allow Mr. Essick’s witnesses to arrive and to allow Ms. Ross to continue her preparation of her cross-examination of Mr. McCann. After the break, Mr. McCann was cross-examined by Ms. Ross.

Mr. Essick called the following witnesses:

- Tommy Stokely, 1781 E. Bear Swamp Road, Hertford, NC, Civil Drafting & Surveying
- Clyde Elliott, 154 Rogerson Road, Hertford, NC

After Mr. Campen cross-examined Mr. Elliott, Chair Cole asked Mr. Essick that, other than the cross examination of Mr. Rand, how many more witnesses did he have. Mr. Essick said that, in addition to Mr. Rand, he had three additional fact witnesses along with two witnesses that could not make it here until Saturday. Mr. Weber addressed the issue of the motion in limine to exclude testimony from out of state lay witnesses. Mr. Essick said that one of those out of state witnesses was a fact witness and one was the lay witness that Mr. Weber referred to. Chair Cole reiterated that the Motion in Limine would be taken up when the witnesses that the applicants objected to were called to testify.

ADJOURNMENT

After the discussion of the remaining witnesses, Chair Cole continued the Quasi-Judicial Hearing until Tuesday, October 18, 2016, at 4:00 p.m. at the same location.

Janice McKenzie Cole, Chair

Clerk to the Board

* * * * *

CONTINUED QUASI-JUDICIAL HEARING
October 18, 2016
4:00 p.m.

The Perquimans County Board of Commissioners met to continue a Quasi-Judicial Hearing on Monday, October 17, 2016, at 4:00 p.m. in the Upstairs Courtroom of the Perquimans County Courthouse Annex Building.

- | | | |
|------------------|-------------------------------|---------------------------------------|
| MEMBERS PRESENT: | Janice McKenzie Cole, Chair | Kyle Jones, Vice Chairman |
| | Fondella Leigh | Edward R. Muzzulin |
| | Wallace Nelson | Matthew Peeler (<i>recused</i>) |
| 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 Continued Quasi-Judicial Hearing and proceeded with the meeting. There were four (4) people present.

Mr. Essick wanted to clear up a few things from last night’s meeting. At night’s meeting, the Chair Cole asked for copies of the articles that were mentioned during the examination of Mr. McCann. He provided paper copies for Mr. Campen, the Board, the Court Reporter and five CD’s with all the information for the Board. Ms. Ross again expressed her objection to these articles being presented. Chair Cole stated again that her objection was overruled. Mr. Essick stated that these copies will be marked as Opponent’s Exhibit 14A. The next item that Mr. Essick wanted to clear up was that, after last night’s meeting when we were discussing the upcoming schedule of meetings, he had received a phone call from the out of state witnesses and they will not be able to attend. He further explained his scheduled witnesses and feels that in light of this information, he requested that they are given the opportunity to review the evidence and present their closing arguments on Saturday, October 22nd. Chair Cole said that she would consider his request. Mr. Campen concurred with Mr. Essick that the evidence part of this hearing will be completed tonight. Mr. Campen cross-examined Mr. Robert R. Rand and entered Applicant’s Exhibits #300, #301, #302, #303, #305, #306, and #307. Chair Cole admitted them.

Mr. Essick examined the following witness:

- Leary Winslow, 337 Cedar Stretch Road, Hertford, NC - Turf Farmer

Mr. Essick requested that Opponent’s Exhibits #18, #19, and #10 be entered into the record. Mr. Weber questioned Opponent’s Exhibit #20 with regard to several statements that had no collaboration for what people said. Mr. Essick then called the following witnesses:

- Tommy Harrell, 279 N. Bear Swamp Road, Hertford, NC - farmer
- Kristie Copeland, 1189 W. Bear Swamp Road, Hertford, NC
- Dennis Hunter, 1714 Center Hill Road, Hertford, NC 27944 – works at Harvey Point Base & Woodards
- Dabney Scaff – 284 Cedar Stretch Road, Hertford, NC 27944 – pharmacist

Mr. Johnson asked to enter Opponent’s Exhibit #12 into record. Mr. Campen objected to this request since it does not relate to any testimony given tonight. Mr. Johnson explained why he feels that it could be entered into evidence. If Opponent’s Exhibit #12 is allowed, Mr. Campen would like to enter into evidence a dismissal of action against Mr. Bastasch. Because it was not signed nor stamped as recorded, Chair Cole said that it would not be entered into the record. Mr. Johnson said that he would have a signed copy available on Saturday. Mr. Essick requested that Opponent’s Exhibit #27 be entered into the record. Chair Cole asked if he still wanted to include it after Tommy Stokely’s testimony that he was not a client in this proceeding. Mr. Essick stated that he would like to have Mr. Stokely’s name removed from this list. Mr. Essick requested that Opponent’s Exhibit #19, Affidavit of Douglas Hanna dated October 14, 2016, be entered into the record. Mr. Campen had no objection. Mr. Essick asked that he would like to have Opponent’s Exhibit #28, URL Codes for Two Shadow Flicker Videos Shown, into the record. Mr. Campen asked that the ruling be delayed until his staff could confirm the URL Codes. Chair Cole agreed. Mr. Essick said that there were several motions that were submitted along with their Exhibits and he wanted to make sure that those motions and Exhibits were part of the record. Mr. Campen had no objection. The last item Mr. Essick asked to confirm that the Exhibits Mr. Johnson presented Exhibits #11, #5, and #12 were entered into record. Mr. Weber said that the transcript would indicate that the exhibits were attempted to be entered into the record or excluded from the record. Chair Cole agreed. Mr. Campen

stated that during Mr. Rand's testimony, he had asked that a certain portion of Mr. Rand's report be redacted. Mr. Johnson requested that Mr. Campen provide him with the part that he wanted redacted. Mr. Campen said that the following sections are being requested to be redacted: Section 5 through Section 5.3 on pages 20 through 42 because it references health effects. Mr. Johnson responded to Mr. Campen's request. Mr. Campen made a rebuttal statement with regard to Mr. Rand's qualifications as a health expert and that the opposition could have obtained a qualified witness like they did with Dr. Ollson. Mr. Johnson stated that Dr. Ollson was not a medical doctor. Chair Cole asked if there was any other unfinished business. Mr. Weber said that, with regard to Opponent's Exhibit #28, they have no objection after confirming the URL citing. Mr. Essick wanted to make sure that, when he questioned Mr. Hunter and Ms. Scaff, he referenced Exhibits #25 and #26 and he asked that they be entered into the record. No objection from Mr. Campen. Mr. Essick said that he deferred to Mr. Campen while he conferred with his associate. Mr. Campen distributed copies of a list of Conditions on the Conditional Use Permit that he had problems with. Mr. Essick said that he had nothing further but had not seen this document prior to tonight and would waive discussion of that request until closing argument. Mr. Campen said that he had nothing further.

On motion made by Edward R. Muzzulin, seconded by Wallace E. Nelson, the Board went into Closed Session to receive direction from their attorney. Chair Cole reviewed several items that needed action on. The Board moved to the Law Library to hold their Closed Session.

On motion made by Wallace E. Nelson, seconded by Edward R. Muzzulin, the Board resumed the Continued Quasi-Judicial Hearing. After talking with the two attorneys, Mr. Hanna, County's Attorney, needed to go back into Closed Session. On motion made by Edward R. Muzzulin, seconded by Wallace E. Nelson, the Board went back into Closed Session again. On motion made by Edward R. Muzzulin, seconded by Fondella Leigh, the Board resumed the Continued Quasi-Judicial Hearing. Chair Cole explained that the attorneys will present their closing arguments on Saturday, October 22, 2016, at 9:00 a.m. Each attorney will be allotted 30 minutes. The Board will then go into Closed Session to discuss the procedures for their deliberations. The Board's deliberations will not take place on Saturday, October 22, 2016, but will take place on Monday, November 14, 2016, at 4:00 p.m. Mr. Campen asked if the Board would allow them to present closing arguments on November 14th prior to their deliberations instead of coming back on a separate day. Chair Cole stated that the Board considered all dates and determined this was the best schedule.

ADJOURNMENT

Chair Cole continued the Quasi-Judicial Hearing until Saturday, October 22, 2016, at 9:00 a.m. at the same location.

Janice McKenzie Cole, Chair

Clerk to the Board

CONTINUED QUASI-JUDICIAL HEARING
October 22, 2016
9:00 p.m.

The Perquimans County Board of Commissioners met to continue a Quasi-Judicial Hearing on Saturday, October 22, 2016, at 9:00 p.m. in the Upstairs Courtroom of the Perquimans County Courthouse Annex Building.

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

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 Continued Quasi-Judicial Hearing and proceeded with the meeting. She stated that the first item of business was to go into Closed Session to confer with the Board's attorney. On motion made by Edward R. Muzzulin, seconded by Fondella A. Leigh, the Board unanimously approved to go into Closed Session.

On motion made by Edward R. Muzzulin, seconded by Wallace E. Nelson, the Board resumed the Continued Quasi-Judicial Hearing. There were twenty-three (23) people present.

Chair Cole addressed the following motions which needed to be decided upon:

- Motion filed by Applicant's Attorney regarding "Standing". The motion was denied.
- Motion filed by Applicant's Attorney regarding certain parts of the Rand Report being stricken from the record. Chair Cole is going to allow it subject to the Board being able to obtain copies of the transcripts. Opponent's Attorney, Mr. Johnson, asked for clarification of this ruling. He stated that they were about to give closing arguments and was fully prepared to cite the Rand Report during his closing arguments. How does that affect his remarks? Chair Cole told him to proceed with his closing argument and we will consider that when we receive the transcripts.

CLOSING ARGUMENTS

Chair Cole asked for the attorneys to present their closing arguments. Beginning at 9:10 a.m., Mr. Campen presented his closing argument. Mr. Campen explained that they presented witnesses to address the issues required by the Conditional Use Permit Request. The only issue that was contradicted by the Opposition was health impacts but Mr. Rand was not a health expert. Mr. Campen continued by stating that the Applicant has complied by presenting a complete application, compliance with required setbacks, sound and shadow flicker requirements, installation and design requirements, and decommissioning requirements. The Applicant had also presented the required shadow flicker report, the sound report, and the ice/blade throw report and the only one that was opposed was the sound report by Mr. Rand which was unreliable. With regard to the effect it would have on property values, Mr. Campen said that their appraiser, Chuck Moody, proved that they had complied with the County's requirements in that it would not affect the property values of the property owners nor the

abutting property owners. The opponents presented Mike McCann who had not been a licensed appraiser in North Carolina but for four months. Mr. Campen continued by stating that they presented witnesses attesting that the Applicant complied with the fact that the location and character of the wind farm would be in harmony with the area in which it is to be located and in general conformity with the Perquimans County Land Use Plan. Furthermore, Mr. Campen stated that the project has complied with the development standards of the Wind Turbines. With that said, Mr. Campen completed his closing argument at 9:40 a.m.

At 9:40 a.m., Mr. Johnson proceeded with the first part of the Opponent's Closing Argument which would cover the noise impacts. Mr. Johnson stated that they had presented Mr. Robert Rand to report on his findings for the noise impacts to the property owners within the project area and to those abutting the project area. He reviewed Mr. Rand's presentation. At 9:51 a.m., Mr. Essick discussed the impacts that this would have on the property values and on the harmony with the area. He stated that he had presented information from Mike McCann, Paul Gregory, and several property owners abutting the project area and each one stated that this project would significantly affect the values of these properties. With regard to Mike McCann's testimony, Mr. McCann used actual sales data to determine the effect on property values. In addition, these individuals were asked if this project would be in conformity and harmony of Perquimans County and each one said that it would not. Mr. Essick concluded his Closing Argument at 10:05 a.m.

REBUTTAL COMMENTS

Mr. Campen made a couple of rebuttal statements regarding the Hardcastle case and about Mr. Rand not being a medical expert.

Chair Cole thanked the attorneys for their professionalism during this hearing and asked if there were any other comments or items that they needed to discuss. Mr. Campen asked about his providing a copy of the Hardcastle Complaint showing date stamped. He provided a copy to Chair Cole and Ms. Cole said that it would be admitted into the record. He asked that this dismissal of the Hardcastle case against Mr. Bastasch be placed in the record as Applicant's Exhibit #308. Ms. Cole said it would be accepted. Mr. Johnson presented a copy of the second amended summary as Opponent's #12. It was accepted into the record.

CLOSED SESSION

With everything completed, Chair Cole asked for a motion to go into Closed Session to consult with their attorneys. On motion made by Edward R. Muzzulin, seconded by Wallace E. Nelson, the Board went into Closed Session to consult with their attorneys. Commissioner Peeler asked that he be allowed to meet in the Closed Session. Chair Cole stated that, since they were going to be getting instructions from their attorney on the Conditional Use Permit, he had been recused for any proceedings on this matter and would not be eligible to be present.

On motion made by Edward R. Muzzulin, seconded by Fondella A. Leigh, the Board resumed the Continued Quasi-Judicial Meeting.

ADJOURNMENT

Chair Cole concluded the Quasi-Judicial Hearing and informed the public that the following Special Called Meetings will be held:

- November 14, 2016 at 4:00 p.m. in the upstairs Courtroom of the Courthouse Annex Building
- November 21, 2016 at 7:00 p.m. in the upstairs Courtroom of the Courthouse Annex Building

The Quasi-Judicial Hearing was adjourned at 11:15 a.m. and the Board will meet to deliberate on November 14th and hope to make their decision on November 21st.

Janice McKenzie Cole, Chair

Clerk to the Board

* * * * *