

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

REGULAR MEETING
 November 7, 2016
 6:40 p.m.

The Perquimans County Board of Commissioners met in a regular meeting on Monday, November 7, 2016, at 6:40 p.m. in the Commissioners Room located on the first floor of the Perquimans County Courthouse Annex.

- | | | |
|------------------|-------------------------------|------------------------------------|
| 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 Hunnicutt, Clerk to the Board |
| | Hackney High, County Attorney | |

After the Chair called the meeting to order, Commissioner Peeler gave the invocation and the Chair led the Pledge of Allegiance.

PUBLIC HEARINGS

Chair Cole opened the Public Hearings stating that the purpose of the Public Hearing was to receive citizens' comments on several Planning items. There were thirteen (13) people present. Chair Cole proceeded by opening up the first Public Hearing:

Conditional Use Permit Nos. CUP-16-02 and CUP-16-04 – Heath McLaughlin: Chair Cole stated that the purpose of the first Public Hearing was to receive public comments on the consideration of Conditional Use Permit No. CUP-16-02, requested by Keith McLaughlin (for Alpha Value Solar, LLC) for a Large Scale, ground-mounted Solar Power Energy System Facility in the 700-block of Ocean Highway South (US Hwy. 17), to include Tax Parcel Nos. 3-0049-00010A and 3-0049-

00016. Chair Cole recognized Donna Godfrey, County Planner, who was sworn in and requested that the Board hear testimony about both CUP-16-02 and CUP-16-04. Commissioner Peeler said that he was afraid that it would become a confusing issue since this involves two different groups of people and two different ideas. Chair Cole said that she did not see a problem with combining the two CUP's. With that being said, CUP-16-04 was also requested by Heath McLaughlin (for Sun Farm V, LLC) for a Large Scale, ground-mounted Solar Power Energy System Facility in the 700-block of Ocean Highway South (US Hwy. 17), to include Tax Parcel Nos. 3-0049-00012 and 3-0049-00013. Ms. Godfrey proceeded to give a short description of the project and explained that the Planning Board approved these two CUP's at their meeting on October 11, 2016. Ms. Godfrey distributed one sheet with a proposed change to the Conditional Use Permits. Ms. Cole then asked Mr. McLaughlin to step forward and be sworn in. Mr. McLaughlin presented two maps to demonstrate the projects and how they will be built. He explained that the two solar farms would be 5 mega-watt solar farms. One will be on 55-acre parcel owned by The Riddick Family and one will off U.S. Highway 17 and the driveway has been approved by NCDOT for both parcels. Other items discussed was the land use (timber, agriculture, & solar farm), fencing around project (a typical security fence), screening (typical screening and timber), distance from roadway would be minimum of 700 feet on the Riddick Farm and over 500 feet on the White Farm, a small cemetery (would remain outside the project), and the Hertford ETJ that runs on White Farm but there is no impact on it. He explained how the solar farm would operate. Chair Cole asked if any Board member has any questions. The following questions were asked:

- **Matthew Peeler:** Mr. Peeler asked Mr. McLaughlin to show him on his map the actual property lines and how much the property is under the farm. Mr. McLaughlin asked for clarification. Mr. McLaughlin explained the parcel boundaries. Mr. Peeler is asking where the property is cut to make the two parcels. Mr. McLaughlin demonstrated that on his map. Mr. Peeler continued to ask why they needed the second parcel if no part of the solar farm is on that parcel. Mr. McLaughlin explained that this has to do with the permitting process. When you go to obtain a permit, you have to notify the regulatory commission where you are going to place a solar farm. In this case, it was going to be on both parcels because it was prior to knowing the layout of the property in finite form. There were other items that affected their decision like soil issues, construct a road, Hertford ETJ issues, and the possible need to move the location of the solar farm. Mr. McLaughlin did not want to commit to not using both parcels during permitting process.

Before moving forward, Chair Cole wanted to clarify some things to those that are in attendance. Through experience of learning, we have somewhat had to modify the way in which we handle these CUP and quasi-judicial hearings. So, whereas, in the past, we may have allowed anyone in the public to comment; in fact, it should have been restricted to the property owners involved in the project, or individuals within 150 feet of the subject property. Chair Cole asked if there was anyone who qualifies based on that information who wanted to speak this evening. Ms. Kay Matthews explained that she owns property at 708 Ocean Highway South. This project would surround her home on three sides. Chair Cole clarified that she was Kay Whitley. Ms. Matthews said that her name had changed but it still remains Kay Whitley on the Tax Records. Commissioner Peeler asked County Manager Heath to show him on the screen where Ms. Matthews' property was. Mr. Heath did so. Mr. McLaughlin stated that, if she has concerns, he would like the opportunity to address these concerns. Chair Cole asked if there were any further questions for Mr. McLaughlin from the Board. The following questions were asked:

- **Matthew Peeler:** Mr. Peeler asked Mr. McLaughlin that on the bottom map he showed a retention pond. Mr. Peeler asked if it had to be there. Mr. McLaughlin does have flexibility in their location of the retention pond. It would not be a problem if we needed to move it if it impacts an abutting property owner.
- **Wallace E Nelson:** Mr. Nelson stated that he is still trying to get clear in his mind about the Riddick Parcel. Earlier, when Mr. McLaughlin was showing the property, there was a wedge piece that was not on the map on the screen. Mr. McLaughlin went to screen and demonstrated where the property was located. Mr. Nelson asked if there were two parcels. Mr. McLaughlin said that it was. Mr. Nelson then asked about the road access to the solar farm. Mr. McLaughlin showed him on the screen. Mr. Nelson also asked about the plantings for the buffer. Mr. Nelson asked about having a berm instead of the vegetated buffer. Mr. McLaughlin said that he would be open to that but was concerned about erosion. He then explained about a holly type tree as well as a wood lattice to obscure the view. Mr. Nelson explained that he has been disappointed with several of the solar farm buffers that have already been approved and built. Mr. McLaughlin said that he also agreed that the buffer on these projects need improvement.
- **Sue Stokely,** a Perquimans County resident not within the 150 feet of the subject property, wanted to ask a question. Chair Cole stated that, at this time, she was not eligible to speak.
- **Wallace E. Nelson:** Mr. Nelson asked about the sheets that Ms. Godfrey distributed that were proposed changes by the applicant. He wanted to know if they had a copy of what the original condition was. Donna Godfrey said that this condition was a very, very redundant statement in there and there were several other redundant statements. Chair Cole said that the original conditional use permit was in with the Agenda Packet. Mr. McLaughlin said that it did not have to be omitted but he wanted it as a matter of clarification.
- **Wallace E. Nelson:** Mr. Nelson asked that, on the White parcel, where is this on US Highway 17? Mr. McLaughlin showed him on the screen. Chair Cole asked if this was the property behind 708 Ocean Highway South. Ms. Matthews said that it was. Mr. McLaughlin also showed them where the solar farm and the road access was going to be which would be a good distance from Ms. Matthews home.
- **Matthew Peeler:** Mr. Peeler asked what the distance was from Ms. Matthews' property line and the first panel of his solar farm. Mr. McLaughlin said it was roughly 200 feet.

Chair Cole asked Ms. Matthews to come forward and be sworn in. Ms. Matthews owns a home at 708 Ocean Highway South and at 733 Ocean Highway South. She then presented the following letter along with articles referenced in her letter:
November 7, 2016

To: Perquimans County Board of Commissioners
Janice Cole, Chair
Kyle Jones, Vice Chairman
Fondella Leigh
Edward Muzzulin
Wallace Nelson
Matt Peeler

Re: Conditional Use Permit No. CUP-16-04 from Heath McLaughlin for Sun Farm, V, LLC for a Large Scale, Ground-mounted Solar Power Energy System Facility

First, I believe we can coexist with green energy— solar farms, windmills, etc., if they are strategically placed so they do not infringe on local residential properties or detract from the integrity and beauty of the county's landscape. We need Green Energy to protect our environment and natural resources. At the same time I sincerely hope this Board will also protect the agricultural, aesthetic, and cultural integrity of our county and its residents.

As the property and residential owner of 708 Ocean Hwy S, adjacent to the proposed solar farm, and 733 Ocean Hwy 5, on the opposing side facing the proposed solar farm, I have real concerns not only for myself but also for the future of this county and its residents. The following reasons followed by supporting articles, hopefully, will clarify my concerns:

- (1) **Original intent of RA Zone**
Placement of the proposed large-scale solar farm in this RA Zone doesn't follow the original intent of the zoning ordinance: According to Article VI Section 604, "The Rural Agriculture District is designed to reflect the pattern of development in rural Perquimans County. The intent of this district is to preserve and protect current uses and way of life *and* also to protect property rights." Also Section 903 states: "...that the use in its proposed location will be harmonious with the area and with the spirit of this Ordinance and clearly in keeping with the public welfare." And again, in Section 604, that the Board will assure that the issuance of the Conditional Use Permit will "prevent incompatible processes normally associated with commercial or industrial uses from adversely impacting adjacent or nearby residential uses or districts."
A large-scale solar farm in the proposed installation area, an area originally intended for Agriculture use only and occupied by county residents, doesn't comply with the intent or spirit of this ordinance.

Solar Farm site placement concerns are referenced by the following articles:

According to the research of Carole Blackmore, a resident of Orange County, even "Current **solar recommendations** in this country and abroad are that new installations be incorporated into residential or commercial roofing, Industrial or Commercial Zones, or previously

disturbed locations, and not in Rural Agricultural Zones." The Massachusetts Dept. of Energy also "strongly discourages designating locations that require significant tree cutting, because of the importance of water management, cooling, and climate benefits trees have." (**Indy Weekly**, May 29, 2014)

Carnegie Science's Rebecca R. Hernandez, (now at UC-Berkeley and Lawrence Berkeley National Lab) addresses the construction of solar sites in California and assesses the site impact of solar energy facilities there where a majority of the sites are located in "natural California shrub- and scrublands . . ." She states that the farther these facilities are from existing transmission infrastructure, the more adverse the economic, energetic, and environmental consequences and the "new transmission corridors degrade the natural environment" so it is very important to plan carefully for the siting of these facilities. She concludes it is better "to locate installations in areas already affected by humans, such as landfills, over parking lots, and nearest to where the energy is being consumed." ("Solar Energy's Land-Use Impact/ Carnegie Science, Washington, DC, October 19, 2015) ("**Solar: A Look at How the Sun Affects the Land,**" **Forbes Magazine, October 23, 2015**)

(2) **Effect on resale value and rental potential of adjoining property.**

There are varied opinions as to the effect on property value. Sometimes it depends on the appraiser as evidenced in a hearing in Orange County in which one appraisal said there would be no effect on homes near the property; this appraisal was done by an appraiser hired by the solar energy company. A second appraiser hired by residents found that ". . . home and property values contiguous to Sunlight Partners Proposal [for a solar farm installations] would decline 10 to 35%." (**Indy Weekly**)

If purchasing a property, I would not want land or a home surrounded by solar panel.

(3) **Effect on the future of farming**

Dr. Ron Heiniger, a crop specialist at the Vernon James Research Center, discusses how Solar Farming is changing the future of farming here in NC and points out facts that should be considered before signing a contract to lease land for solar farming:

Fact 1: Solar farming will change the future productivity of the land.

Fact 2: Because of this lost productivity and the resulting changes in the farming communities caused by the loss of land, it is highly unlikely this land will ever be farmed again.

Fact 3: You, (the Land Owner), would be stuck with the cost of decommissioning these solar farms.

Fact 4: Solar farming is not good use of our land.

(See referenced article: "Solar Farming: Changing the Future of Farming")

(4) **Effect on local and state economy**

To elaborate on Dr. Heiniger's concern about decommissioning cost, he concludes that although most solar operators *have* a decommissioning plan or post a bond to cover the costs of decommissioning; however, solar companies elect to lease the land rather than buy it. Why? These panels are considered toxic waste due to the use of metals like cadmium and rare earth elements. The panels, which have an expected life span of 20 years, cannot be placed in landfills and are not accepted for recycling. So who pays for the disposal and restoration of the site—the landowner, the county, the taxpayers?

He continues: "it is costing NC taxpayers \$124 million dollars in lost tax revenues [and that] this loss is expected to grow to \$2 billion by 2020 to enable these farms to remain viable.

Dr. Herbert Eckerlin, NC State Senior Extension Specialist in the Dept. of Mechanical and Aerospace Engineering and a "strong proponent of solar and renewable energy," addresses these same economic concerns in "Unintended Negative Consequences of NC Solar Farms," (August 6, 2015) He states that Solar power faces tremendous challenges (1) to provide continuous reliable power to our industrial society. Solar power is available to us about five hours a day and, at present, cannot deliver power continuously at different times of the day under all kinds of weather conditions. Thus it is highly overrated. He also concludes that "Due to solar power, the cost of electricity is going to increase for industry and residential" customers, hindering job creation. (2) the effect of tax credits on the state's economy: "In 2014, for example, the tax credit incentive program enabled solar farm investors to reduce their overall tax obligation to the state by a total of "\$124 million. This is a significant benefit for solar farm investors and a significant loss to state government. This loss in revenue, "affects a host of issues (salary increases for our teachers and state employees, economic development, highway construction)," He points out that "That figure will increase because so many more solar farms are being built. . . . We can't continue down this path if we want our state and our people to prosper." He states: "New legislation also is needed to shift the costs of solar projects from taxpayers to solar developers And an educational program should be launched to inform legislators, industrial leaders, the media, and the general public on the potential and limitations of clean energy technology and the effect of tax credits on the state's economy."

(5) **Effect on tourism, population growth, aesthetics of landscape, homeowners**

Locating solar farms on Ocean Hwy S, a main corridor to our town and county, is not in keeping with our town and county's goals of attracting tourists and potential residents. We pride ourselves on the beauty of the landscape, a landscape of agricultural and natural resources that draws people here. Our county has an agricultural heritage, not an industrial one. Retirees come here to live to escape industrialized landscapes, not to reside in them. The proposed solar farms will have a negative visual impact on local and non-local people traveling on this major corridor to our county and town. One has only to see existing solar facilities, such as the one already located less than a mile from the proposed site for the 700 block of Ocean Hwy, to see that aesthetically, it is not pleasing and "compatible" with the area. Lack of maintenance and upkeep results in weeds growing in the fences in the area surrounding the facility, in addition to the visual impact from the highway, the proposed solar farm for the 700 block also is adjacent to or in close proximity to people's homes where they will be affected by the visual impact of seeing solar panels every day. (See attachment by Kim Whitley addressing landscape maintenance).

(6) **Potential effects**

Taken from: "Anything Can Go Wrong on a Solar Farm" by Maureen McHale in **Online Trade Magazine**:

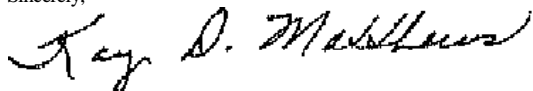
- (a) Ground erosion
- (b) Transformer Leakage
- (c) inverter damage: may affect safety of those in proximity
- (d) Broken conduit: possibility of "causing a fire and personal hazards"

(7) **The unknowns**

- (a) What is the benefit to county citizens--income tax revenue, lower utility bills?
- (b) What happens if the companies go bankrupt?
- (c) How will access points affect highway traffic and current residences?
- (d) What are the long term effects and future implications of having these solar farms? Are there any known toxic, phytotoxic or other persistent noxious material residues associated with solar farming. The truth is there are no long term studies because solar farms have not been around long enough to study the effects.

It goes without saying that some of the landowners who are petitioning for this Conditional Use Permit, do not live here. They have no real vested interest in protecting our county, especially its agricultural, aesthetic, and cultural integrity. As a resident for 66 years I hope you will protect our residents, our homes, and our county's heritage.

Sincerely,



Kay D. Matthews

Chair Cole asked Mr. Laughlin if he had any questions for Ms. Matthews. He asked Ms. Matthews why she had not come to any of the previous meetings because he would have loved to discuss these issues with her prior to tonight's meeting because much of the information she had was outdated. Ms. Matthews began to explain why she had not attended the meetings but Chair Cole said it did not matter why she did not appear previously. Ms. Matthews was here tonight to express her concerns. Chair Cole asked if the Board had any questions of Ms. Matthews. There being none, Chair Cole asked Mr. McLaughlin if he had any rebuttal to Ms. Matthews concerns. He addressed the following items:

- These solar farms are designed to have minimum impact on surrounding property owners and he will quickly address the several issues she has presented.
- **Rural Way of Life:** He does not think that a 4 to 5 foot structure would have a sighting impact on the area. Given the distance back from the road and from her property and the buffering, he does not feel it have an impact on her property.

- **Commercial & Industrial Use:** With regard to spilling of oil and contaminants, he feels that all the solar panels will be spilling is sunshine. People were concerned at one point in history about the oil and gas spills from tractors and other farm equipment. Over time, people have adjusted to that. He does not feel that her property would be impacted with this anymore than it already is.
- **Property Value:** He understands her concern but feels that this particular property has a really solid tree stand behind it and we need to make sure that it stays thick. With that being said, as the developer, he will be working with the property owner to make sure that he satisfies her concerns.
- **Placement of Project:** Mr. McLaughlin said that he feels that this is a good place to build the solar farms because there were only six property owners abutting these solar farms so that it would be a minimum impact to the community.
- **Tree Cutting:** Mr. McLaughlin stated that he has no plans to do tree cutting at this time.
- **Infrastructure:** Mr. McLaughlin said that the infrastructure is already there so it would be no impact there.
- **The Home Being Surrounded on Three Sides of Property:** Mr. McLaughlin said that every effort would be made to mitigate with property owner to develop a compromise.
- **Impact on Agriculture:** Mr. McLaughlin did agree that it would impact agriculture but that the farmer would still be able to farm and income is income whether it be from farming or from leasing the land.
- **Dr. Heiniger and Dr. Eckerlin:** Mr. McLaughlin said that he has met both of these individuals and, for the past few years, they have gone to these meetings with the sole purpose of bringing information that is not relevant or up to date. Much of their testimony has been disputed.
- **Toxic Chemicals:** Mr. McLaughlin said that both Dr. Heiniger and Dr. Eckerlin do not understand that there is no toxic chemicals in these solar farms.
- **Ground Contamination:** Mr. McLaughlin understands that there is ground contamination with the current tractors, heavy equipment, and farm equipment. There is no ground contamination with solar farms.
- **Tourism & Landscaping:** He feels that this is a minor issue. It will not be visible from the highway but for a few seconds.
- **Property Rights:** He feels that everyone has the right to use their property as they wish.

Chair Cole asked the Board if they had any other questions. Commissioner Nelson asked Mr. McLaughlin what other projects he had worked on in the area. Mr. McLaughlin said that within the area he has worked on eight (8) sites and, of those, he has worked on three (3) in Perquimans County. Mr. Nelson asked Mr. Laughlin which three (3) they were and he said that he had worked on the Two Mile Desert site across from the Dominion Substation, the Belvidere Road site, and the Snug Harbor site. Mr. Peeler asked if he was associated with these three (3) and Mr. McLaughlin said that he was not associated with worked on the early stage planning on them. There being no further comments or questions, Chair Cole closed the first two Public Hearings at 7:35 p.m. and began the third Public Hearing.

Conditional Use Permit Nos. CUP-16-03 – Tildon Whitehurst, Jr.: Chair Cole stated that the purpose of the third Public Hearing was to receive public comments on the consideration of Conditional Use Permit No. CUP-16-03, requested by Tildon Whitehurst, Jr. to conduct a Sand Mining Operation to excavate a 10.80 acre pond on a 41.746 acre tract known as Tax Parcel #5-0035-0023. There were twenty (20) people present. Chair Cole asked Rhonda Money to come forward and be sworn in. Ms. Money provided an overview of the project and informed the Board that the Planning Board approved the request at their October 11, 2016 meeting. The only topic of concern at the Technical Review Committee and the Planning Board Meetings was the ditch that runs north and then makes a sharp turn northwest across the middle of the parcel. That issue is addressed in Condition No. 7 on page 2 of the draft Conditional Use Permit No. CUP-16-03 that states, “(7) When the ditch that flows north then turns northwest across the middle of the parcel is redirected, it shall be redirected into another ditch, either beside the Cooper property or the Meads property to flow northeast toward the swamp. It shall not impede drainage upstream from neighboring properties.” Chair Cole asked if Mr. Whitehurst would like to add anything. Mr. Whitehurst said that he did not unless the Board had any questions. Chair Cole asked the Board if they had any questions. The following questions were asked after Chair Cole swore in Mr. Whitehurst:

- **Matthew Peeler:** Mr. Peeler asked where is the sand being mine where we can say that sand mining is already being done in this area. County Manager Heath pulled up the subject property on the screen and Mr. Whitehurst pointed out that all the ponds in this area have been mined by him. Mr. Peeler further asked that, after he had mined the area, how did he get the sand off of the property. Mr. Whitehurst said that he has a 75-foot easement along the property line. His plan is to have another easement along the other side of the road. He has already had this worked out with the NCDOT. Mr. Peeler asked if the abutting property owner had ever complained about this mining. Mr. Whitehurst said that the only complaint he had earlier in his mining operation was the dust which he fixed and he will continue to do this for the new mining operation.

Mr. Whitehurst also discussed the ditch that the Technical Review Committee and Planning Board had discussed and said that it could be rerouted. The State has come and reviewed the area and confirmed that it is a drainage ditch and not a stream. There being no further questions or comments, Chair Cole closed the Third Public Hearing at 7:45 p.m.

AGENDA

On motion made by Edward R. Muzzulin, seconded by Fondella A. Leigh, the Board unanimously approved the Agenda as amended.

CONSENT AGENDA

The following items were considered to be routine and were unanimously approved on motion made by Edward R. Muzzulin, seconded by Matthew Peeler.

1. **Approval of Minutes:** October 3, 2016 Regular Meeting, October 17-18, 2016 Continued Quasi-Judicial Hearing Minutes, and October 22, 2016 Continued Quasi-Judicial Hearing

2. **Tax Release/Refund Approvals:**

PERQUIMANS COUNTY TAX RELEASES:

Revell, Elbert Est. -----	\$147.63
c/o Virginia Revell. 2009 Doublewide was valued at \$80,900 in error during revaluation. The value should have been \$55,000. Account No. 527201.	
Mediacom Communications Corporation -----	\$786.30
Mediacom’s listing information had their property listed in incorrect locations. New accounts were created to list the properties in the correction locations. Account No. 356016.	
Bong, Charles & Barbara -----	\$624.72
Assessment correction. House had been assessed at more square footage than it actually had. Account No. 259725.	

PERQUIMANS COUNTY TAX REFUNDS:

Cox, Dennis & Lisa -----	\$197.12
Wells Fargo made a payment on the wrong parcel. The parcel they should have paid on is located in Gates County. Account No. 116914.	
Privott, Joe -----	\$122.13
Credit balance on account; to be credited towards delinquent taxes. Account No. 258	

3. **Personnel Matters:**

Employee Name	Employee Job Title	Action Required	Grade/Step	New Salary	Effective Date
Debbie Lyman	EMT-I Part-Time/Fill-In	Resignation			10/1/2016
Heather Bray	EMT-I Part-Time/Fill-In	Resignation			10/25/2016
Jacqueline Downing	Fill-In Telecommunicator	Resignation			10/20/2016
Wilma Jordan	Fill-In Telecommunicator	Resignation			11/14/2016

4. **Step/Merit Increases:**

Employee Name	Employee Job Title	Grade /Step	New Salary	Effective Date
Cartwright, Keely	Full-Time Telecommunicator	60/2	26,048	11/1/16
Powell, Laurretta	IMC II	63/1	28,999	11/1/16
Thornton, Janice	IMC II	63/1	28,999	11/1/16
Jackson, Brenda	Part-Time Recreation Housekeeper	54/6	\$10.60/hr.	11/1/16

5. **Board Appointments:** The following Board appointment/reappointments were approved by the Board:

NAME	BOARD	ACTION	TERM	EFFECTIVE DATE
Reed, Deborah	Board of Adjustment (Alternate)	Reappointment	3 yrs.	11/1/2016
Smith, Lewis	Planning Board	Reappointment	3 yrs.	11/1/2016
Darden, Kisha	Home & Community Block Grant Committee	Reappointment	3 yrs.	11/1/2016
Peeler, Matthew	RPO Transportation Advisory Committee – Alternate	Reappointment	2 yrs.	11/1/2016

6. **Budget Amendments:**

**BUDGET AMENDMENT NO. 5
GENERAL FUNDS**

CODE NUMBER	DESCRIPTION OF CODE	AMOUNT	
		INCREASE	DECREASE
10-348-018	Mentoring Focus – Local	1,000	
10-672-570	Mentoring Focus Funds	1,000	
EXPLANATION: Increase local funds for FY 16/17 due to grant funds received from NC Community Foundation.			

7. **Resolutions:** The following Resolutions were unanimously approved by the Board:

- **Resolution Authorizing Sale of Certain Surplus County Property:** During the Budget process, several departments asked to dispose of vehicles according to the Vehicle Replacement Policy. The Board adopted the following Resolution:

**RESOLUTION AUTHORIZING SALE
OF CERTAIN SURPLUS COUNTY PROPERTY**

WHEREAS, the Perquimans County Board of Commissioners desires to dispose of certain surplus property of the County:

NOW, THEREFORE, BE IT RESOLVED by the Perquimans County Board of Commissioners that:

1. The following described vehicles are hereby declared to be surplus to the needs of the County:

YEAR MODEL	VEHICLE # MAKE	YEAR MODEL	VEHICLE # MAKE
2008	8676	2010	1070
Ford	Explorer	Ford	Fusion
1998	6413	2010	3927
Ford	Van-R	Ford	F150

2. The County Manager is hereby authorized and directed to proceed on behalf of the Perquimans County Board of Commissioners to sale these surplus items on GovDeals.
3. The County reserves the right to reject any or all bids and decide not to sell the property at any time during this process.
4. The County Manager, in accordance with State law, shall cause a summary of this resolution to be published once in a newspaper having general circulation in the County and place it on the County's website. After not less than ten (10) days from the date of publication, the County Manager is authorized to sell the above-described property to the highest bidder.

Adopted this the 7th day of November, 2016.

Janice McKenzie Cole, Chair

ATTEST:

Mary P. Hunnicutt, Clerk to the Board

- **Resolution Supporting the Upgrading of US Highway 17 in NE North Carolina to Interstate Standards:** The Counties along NE North Carolina are being asked to adopt a Resolution supporting the upgrade of US Highway 17 to Interstate Standards. The Board adopted the following Resolution

**RESOLUTION BY THE PERQUIMANS COUNTY BOARD OF COMMISSIONERS SUPPORTING THE
UPGRADING OF U.S. HIGHWAY 17 IN NORTHEAST NORTH CAROLINA TO INTERSTATE STANDARDS**

WHEREAS, US Highway 17, the Ocean Highway, was once the primary north-south transportation route in the coastal plain of eastern North Carolina; and,

WHEREAS, US Highway 17 continues to be the primary corridor of trade for northeastern North Carolina; and,

WHEREAS, there is a substantial amount of poverty, unemployment, underemployment, and economic distress in northeastern North Carolina due to the lack of economic opportunity that adequate highways can help to provide; and,

WHEREAS, US Highway 17 as part of the proposed I-87 Interstate Route will enable northeastern North Carolina to recruit and retain industrial jobs whose companies require access to interstate-quality highways to link products and services to eastern US markets; and,

WHEREAS, the Ports of Virginia are cooperating in the joint Virginia-North Carolina effort to expand Foreign Trade Zone #20 from southeastern Virginia into northeastern North Carolina including Currituck, Camden, Pasquotank, Perquimans, Chowan, Bertie, Gates, and Hertford Counties; and,

WHEREAS, waterborne foreign imports accessing the United States through Ports of Virginia and Ports of North Carolina via the emerging Piedmont Atlantic Megaregion will be transported along U.S. Highway 17 as identified within the North Carolina Maritime Strategy; and,

WHEREAS, the completion of the I-87 Interstate Route from the Ports of Virginia to Raleigh will require funding and work over many years; and,

WHEREAS, the upgrading of US Highway 17 to interstate standards can coincide with the expansion of Foreign Trade Zone #20 into the area, creating a synergy to ignite economic development in northeastern North Carolina.

NOW, THEREFORE, BE IT RESOLVED THAT THE PERQUIMANS COUNTY BOARD OF COMMISSIONERS DOES HEREBY REQUEST THE UPGRADING OF US HIGHWAY 17 IN NORTHEASTERN NORTH CAROLINA TO INTERSTATE STANDARDS BE FUNDED IMMEDIATELY AND THE PLANNING AND COMPLETION OF THIS PORTION OF INTERSTATE I-87 BE UNDERTAKEN AS QUICKLY AS POSSIBLE.

This the 7th day of November, 2016.

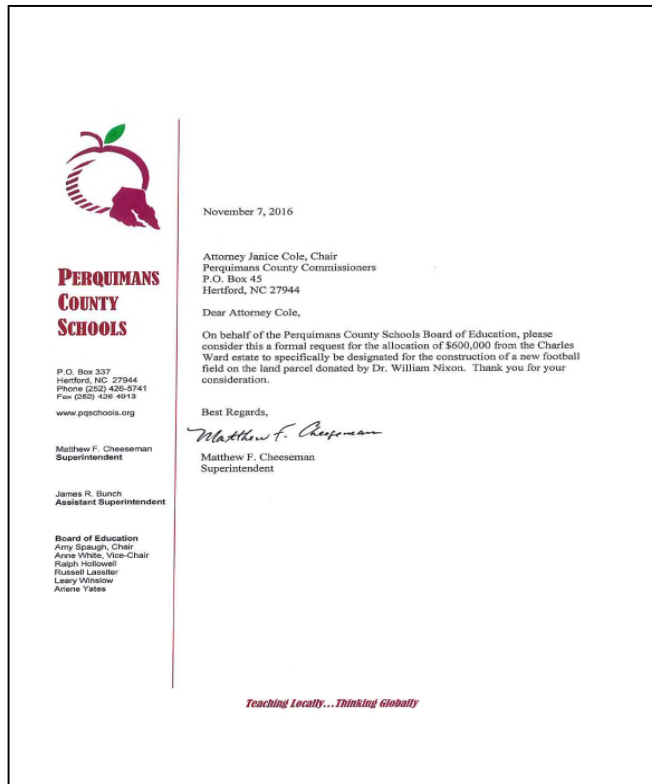
Clerk to the Board

Chair

MR. MATTHEW CHEESEMAN, SCHOOL SUPERINTENDENT

After giving a report on the progress of the Perquimans County Schools, he informed the Board of their progress on the Athletic Complex. Chair Cole congratulated Mr. Cheeseman on this improvement.

He then presented the following letter requesting that the \$600,000 from the Charles Ward Estate be designated for the Athletic Complex:



Mr. Cheeseman presented information on the costs for a football field for the first phase of the Athletic Complex and said that this \$600,000 would help greatly toward seeing this field built. Chair Cole asked if there were any questions from the Board. Commissioner Peeler asked if the three items that Mr. Cheeseman mentioned would be covered with the \$600,000. Mr. Cheeseman said that the following quotes have been presented to them:

Vendor	Items Built	Projected Costs
Musco Lighting	Lighting for the Football Field	\$285,000
American Press Box Company	Press Box/Bleachers built on site in 7 days	\$241,000
Sod		Donated

Mr. Cheeseman has been working closely with the Nixon family and has also talked with the architect that prepared the Library Project and they have agreed to meet with them on November 21st to start drawing up plans for a new outline as required by Dr. Nixon. Commissioner Nelson asked if Mr. Cheeseman is still negotiating with Dr. Nixon. Mr. Cheeseman said that he has been working with Ed Nixon. Mr. Nelson asked that, after you get the drawings completed, would they begin working on getting the cost figures for the project. Mr. Cheeseman said that he already knew the numbers. County Manager Heath asked about the site work, parking, etc. Mr. Cheeseman said that those items would come from their lottery funds. He further stated that he would have more information after working with the architect. In addition, he asked if he could provide a monthly report to the Board on this project. Commissioner Peeler stated that the previous design project costs were around \$6 million. For your vision, what do you think those costs will be. Mr. Cheeseman said that it would probably be around \$3 million. Matthew Peeler made a motion to dedicate, earmark this \$600,000 for the Athletic Field. Edward R. Muzzulin seconded the motion. After the discussion on Budget Requests at the time it was made, Chair Cole feels that this is not a new issue. Commissioner Peeler agreed that it is not a new issue. Commissioner Nelson has concerns about, if it does not take place, is there some plan to fall back on. Commissioner Jones asked if the Board has ever done anything like this before. County Manager Heath said that not to this extent but that is possible for local government to do this. It will be part of the record that these funds will be designated for this project and they would remain there until they are needed for this purpose. Chair Cole would oppose this because she thinks that it is premature at this time. She further stated that she feels that this money needs to be used toward the Athletic Complex. She further feels that this Board has shown its intentions by moving forward with the Library Project and obtaining the financing for that project without using this \$600,000. She does not see that it is necessary to vote on this at this time when we do not have anything in front of us to substantiate it. Commissioner Jones agreed with Chair Cole. Commissioner Peeler said that the Board did that with the Library Project and, if we want to have a football field across from the High School by 2017, we need to move now. Chair Cole disagreed in that we did have architectural drawings and everything prior to the Board moving forward with borrowing the money to fund the Library Project. She then called for a vote. The motion did not pass. The vote was three (3) to three (3) with Commissioners voting as follows: Yeas – Edward R. Muzzulin, Wallace E. Nelson, and Matthew Peeler; Nays – Fondella A. Leigh, Kyle Jones, and Janice McKenzie Cole. She thanked Mr. Cheeseman for coming to the Board and hoped that they would continue to work on the project. Mr. Cheeseman said that he would have to bring it up again to the Board of Education and let them decide how to proceed. Chair Cole wanted to clarify it with Mr. Cheeseman that the Board was not denying them the \$600,000 but they do not think it is feasible at this time to designate it for the Athletic Complex. Mr. Cheeseman said that he did understand.

BILL JENNINGS, TAX ADMINISTRATOR

Mr. Jennings explained that, last month, he reported that the individual that appealed his property assessment to the Board of Equalization & Review had taken his case to the Property Tax Commissioner. His case was due to be heard last Thursday but the gentleman pulled his complaint and did not want to proceed with the hearing. The Tax Office has just started working on six foreclosures. The abstracts came in today and their part-time Tax Lister will be coming in to list their personal property. Their office is coming into the busiest time of the year with the collection of ad valorem taxes.

JONATHAN NIXON, EMERGENCY SERVICES DIRECTOR

Mr. Nixon presented three (3) items for Board review and action:

1. Mr. Nixon presented the bids for a new EMS Billing contract that they requested on July 18th and received on August 12th. They held a staff meeting on October 6th to meet with the two lowest bidders. He presented the Board with the following Board Summary of the Bids:

Perquimans County RFP – Ambulance Medical Billing & Collection Services

Bid Proposals Due: Friday, August 12, 2016 at 4:00 PM EST

All bid proposals must meet the following minimums:	Firm Names			
	AMB	Colleton Software	EMS MC	Quick Med Claims
1. Be in writing, substantially complete, and signed by an authorized agent of Firm	✓	✓	✓	✓
2. Be physically sealed in an envelope conspicuously labeled as "BID PROPOSAL" bearing the name and address of the submitting Firm	✓	✓	✓	✓
3. Be addressed and actually delivered to the first address listed on the RFP cover page before the stated deadline via USPS mail, parcel delivery service, or other physical delivery.	✓	✓	✓	✓
4. Include one (1) original and three (3) complete copies of the entire bid proposal package.	✓	✓	✓	✓
5. Provide an electronic copy of the complete package in one single PDF document, delivered via CD or 1156 Flash Drive with the bid proposal package.	✓	✓	✓	✓
6. E-verify Affidavit	✓	✓	✓	✓
7. Bid Certification Form	✓	✓	✓	✓
8. Percentage Fee	3.95%	5.90%	6.75%	6.70%
2016 Projected Revenue	\$419,689	\$529,614	(2015 Actual \$389,490)	

It is the Committee’s recommendation that the Board authorizes the Chair and County staff sign the contract with Colleton Software after County Attorney High’s review and recommendation. Commissioner Nelson asked what the projected collection rate was. Mr. Nixon said that in 2015 EMS MC billed \$889,498 and collected \$389,490. County Manager Heath provided a breakdown of the current payments – Medicare (80%), Medicaid (70%), insurance (50-60%), and self-pay (0%). Commissioner Peeler is looking at the projected revenue figures. He feels that EMS MC is not doing what they are supposed to do. County Manager Heath and Mr. Nixon said that this is why we are at this point tonight. On motion made by Wallace E. Nelson, seconded by Matthew Peeler, the Board unanimously authorized the Chair and County staff to sign a 3-year contract with Colleton Software effective January 1, 2017 after County Attorney High’s review.

2. The next item Mr. Nixon presented was the Public Assistance Authorization. County Manager Heath presented the form and explained that this will be used to assist with the funding assistance for FEMA from the damages sustained from Hurricane Matthew. Mr. Heath explained that his name will be placed under Primary Agent and Jonathan Nixon will be placed under Secondary Agent. This form just allows us to sign on behalf of our citizens to obtain the assistance that they need due to damages from Hurricane Matthew. Edward R. Muzzulin made a motion to authorize the County Staff to sign the Resolution for Designation of Applicant’s Agent. The motion was seconded by Wallace E. Nelson. Commissioner Peeler asked what County agencies will be impacted during this period of operation. County Manager Heath said that the County Manager’s Office, Jonathan’s Office, and Social Services will be the agencies with the County Manager’s Office being affected mainly by this Resolution. The Board unanimously authorized County Staff to sign the following Resolution:

RESOLUTION DESIGNATION OF APPLICANT’S AGENT North Carolina Division of Emergency Management	
Organization Name (hereafter named Organization)	Disaster Number:
Applicant’s State Cognizant Agency for Single Audit purposes (If Cognizant Agency is not assigned, please indicate):	
Applicant’s Fiscal Year (FY) Start	Month: Day:
Applicant’s Federal Employer’s Identification Number	
Applicant’s Federal Information Processing Standards (FIPS) Number	
PRIMARY AGENT	SECONDARY AGENT
Agent’s Name	Agent’s Name
Organization	Organization
Official Position	Official Position
Mailing Address	Mailing Address
City, State, Zip	City, State, Zip
Daytime Telephone	Daytime Telephone
Facsimile Number	Facsimile Number
Pager or Cellular Number	Pager or Cellular Number
BE IT RESOLVED BY the governing body of the Organization (a public entity duly organized under the laws of the State of North Carolina) that the above-named Primary and Secondary Agents are hereby authorized to execute and file applications for federal and/or state assistance on behalf of the Organization for the purpose of obtaining certain state and federal financial assistance under the Robert T. Stafford Disaster Relief & Emergency Assistance Act, (Public Law 93-288 as amended) or as otherwise available. BE IT FURTHER RESOLVED that the above-named agents are authorized to represent and act for the Organization in all dealings with the State of North Carolina and the Federal Emergency Management Agency for all matters pertaining to such disaster assistance required by the grant agreements and the assurances printed on the reverse side hereof. BE IT FINALLY RESOLVED THAT the above-named agents are authorized to act severally. PASSED AND APPROVED this _____ day of _____, 20 ____.	
GOVERNING BODY	CERTIFYING OFFICIAL
Name and Title	Name

Name and Title	Official Position
Name and Title	Daytime Telephone
CERTIFICATION	
I, _____, (Name) duly appointed and _____ (Title) of the Governing Body, do hereby certify that the above is a true and correct copy of a resolution passed and approved by the Governing Body of _____ (Organization) on the _____ day of _____, 20 ____.	
Date: _____	Signature: _____
Rev. 06/02	

3. The last item Mr. Nixon had was for information only. If anyone needs assistance, please let Jonathan's Office know by providing the individual's name and address. The following Emergency Services Press Release will be placed on the website and he hopes that all will spread the word:

EMERGENCY SERVICES PRESS RELEASE – FOR IMMEDIATE RELEASE

Monday, November 7, 2016 – 5:00 P.M.

Perquimans County was designated a FEMA IA (Individual Assistance) County on Thursday, November 3, 2016. As a result two programs will be available for citizens this week:

1. **Disaster Food & Nutrition Program.** The D-SNAP program will be on Wed & Thurs (Nov. 9 & 10) and Mon - Wed (Nov. 14 - 16) from 8:00 A.M. until 7:00 P.M. each day at the Perquimans Social Services Building (103 Charles Street in Hertford, NC). The extended hours are to accommodate citizens that need to apply for disaster benefits due to damage or food loss because of Hurricane Matthew.
2. **FEMA Individual Assistance.** A FEMA team will be in Perquimans County Wed – Fri (Nov. 9-11) visiting areas of Perquimans County where known flooding occurred. If you would like for a FEMA representative to visit you please contact the Perquimans Emergency Services Office at 252-426-5646 Mon-Fri from 8am-6pm. We will need a name, address and phone number to give to FEMA staff.

Commissioner Peeler asked about the requirement that a certain number of homes had to be without power for a period of time to be eligible for this program. Mr. Nixon said that he thought about this too and asked them about this requirement and was told that we had been approved for Individual Assistance and this requirement would not apply.

PHILLIP MCMULLAN & SANDY STEVENSON, NEWBOLD-WHITE HOUSE

Mr. McMullan who is the current President of the Perquimans County Restoration Association introduced Sandy Stevenson who is going to become the next President. They came forward tonight to take the opportunity to thank the Perquimans County Board of Commissioners for their contribution to the Newbold-White House this Fiscal Year 2016-17. It will go toward the upkeep of the property and is very much appreciated. In addition, Mr. McMullan read the following letter:

Presentation to the Perquimans County Board of Commissions, November 7, 2016

I would like to put in a good word for Leo Higgins, who made it possible for Perquimans County to have its highly successful Senior Center in the old Business Development Center.

The Business Development Center was the last remaining active project of a 501c non-profit called Perquimans 20/20 Vision. This non-profit was organized 21 years ago by Mayor Bill Cox and a bright group of Perquimans residents who came to ECSU and participated in a Rural Leaders Program. Perhaps the brightest of the group was a young lady by the name of Fondella Leigh. Another who attended the program, Willie Anne Bines, was the first chairman of the organization. Perquimans 20/20 began with a major county planning session where objectives were laid out for the county. Under the direction of Leo Higgins, with Mayor Fred Yates as Board Chairman, 20/20 then set out to meet these objectives. Ten years later we held a second planning session where we celebrated the many objectives that had been met.

In carrying out the objectives, 20/20 quietly served as the umbrella organization for a number of projects and new non-profit organizations. In addition to the Business Development Center and health, education, and juvenile justice grant programs, 20/20 incubated the Main Street Program, the Perquimans Arts Council, and the Albemarle Chorale. Those of us who were involved in the beginning moved on to other activities, but Leo stayed with 20/20. With the State and County showing declining interest in a small business program, Leo decided that the Center's building could serve the county for a more needed activity. Because retirement had become our county's most important economic engine, Leo concluded that improved recreation opportunities for our seniors would greatly support this economic engine.

Leo Higgins directed the Small Business Incubator Program in the Business Development Center for 13 years. Before the county purchased the building for the Senior Center, Leo's operation was solvent and had paid off 13/20 of the debt on the building. Having reduced the debt that far and knowing the bankruptcy court wanted to sell off its properties, Leo and his board recommended that the County offer \$25,000 for the building to the bankruptcy court and the court accepted.

When the Perquimans Weekly announced the purchase of the BDC building, there was no mention of Leo's role. Although he is not one to seek recognition, I respectfully request that we in Perquimans are overdue in recognizing what Leo has contributed to this County as leader of Perquimans 20/20 Vision. Thank you for listening.

Philip McMullan

Mr. McMullan concluded his remarks by thanking the Board for listening and presented his letter to Mary Hunnicutt, Clerk to the Board.

COMMISSIONER'S CONCERNS/COMMITTEE REPORTS

Chair Cole asked if there were any Commissioner's Concerns or Committee Reports. The following report/concern was discussed:

- **Commissioner Nelson:** Mr. Nelson would like for us the request that the Planning Board revisit the Solar Farm section of the Zoning Ordinance. Commissioner Peeler agreed with Mr. Nelson. Chair Cole asked for a motion. On motion made by Wallace E. Nelson, seconded by Matthew Peeler, the Board requested the Planning Board review the Solar Farm section of the Zoning Ordinance and make recommendations to the Board of Commissioners. The motion was unanimously approved.

UPDATES FROM COUNTY MANAGER

County Manager Heath presented the following updates:

- **WWII Coastwise Merchant Mariners:** Mr. Heath explained that, in their Agenda Packet, there was a letter from Mr. Don Horton who thanked the Board for their efforts in requesting that some WWII Merchant Marine women and school children be recognized as veterans for their services. His request has now become law. Mr. Horton wanted to make sure that the Board knew how much he appreciated their efforts.
- **Boat Ramp Project:** After much research, Mr. Heath has determined that the National Oceanic & Atmospheric Administration is the hold up on obtaining our permit for the Boat Ramp Project. With the help of Peter Williams of the Perquimans Weekly, Mr. Heath has received a contact name at the Public Affairs Office at NOAA that should agree to assist us in obtaining that last permit before we can proceed.
- **Public & Individual Assistance for Hurricane Matthew:** Mr. Heath said that, with the County receiving both the Public and Individual Assistance for Hurricane Matthew, many doors will be opened for funding, loans, and grants up to \$32,000 that would assist individuals that received damage during Hurricane Matthew. He appreciated Jonathan Nixon for working so hard on obtaining that designation.

- **Early Responders:** Mr. Heath wanted to thank Jonathan Nixon, the EMS Staff, the 911 Dispatchers, Jarvis Winslow, the Sheriff's Department, and other agencies for their early response to Hurricane Matthew.
- **Library:** Mr. Heath reported that the exterior foundation is nearly complete. They are hoping to start block work on that and to start the metal framing of the building soon. Tildon Whitehurst, a local business, did a great job on the job site preparation.
- **Golden Leaf Grant:** Last month, Mr. Heath mentioned that Golden Leaf had invited Perquimans County to apply for their Major Site Development Initiative. Mr. Heath said that he has applied for \$6.6 million for Phase I of the Marine Industrial Park Basin. The decision for awarding the grant will be made during the first part of December. If we do not get the entire \$6.6 million, we can apply to Industrial Development Fund or EDA to get the remaining funds. He explained the process.

PLANNING BOARD ITEMS

Chair Cole stated that it was time to take action on the following Planning Board items:

Conditional Use Permit No. CUP-16-02 & CUP-16-04 by Heath McLaughlin: A Public Hearing was held earlier in the meeting to receive citizens' comments to (a) receive public comments on the consideration of Conditional Use Permit No. CUP-16-02, requested by Keith McLaughlin (for Alpha Value Solar, LLC) for a Large Scale, ground-mounted Solar Power Energy System Facility in the 700-block of Ocean Highway South (US Hwy. 17), to include Tax Parcel Nos. 3-0049-00010A and 3-0049-00016; and (b) receive public comments on the consideration of Conditional Use Permit No. CUP-16-04, requested by Heath McLaughlin (for Sun Farm V, LLC) for a Large Scale, ground-mounted Solar Power Energy System Facility in the 700-block of Ocean Highway South (US Hwy. 17), to include Tax Parcel Nos. 3-0049-00012 and 3-0049-00013. Chair Cole stated that the Board had received new information tonight and that they had not had time to review it properly and asked how the Board wanted to proceed. Commissioner Peeler said that he would like to have time to review the information and to receive a transcript of tonight's meeting prior to making his decision. Mr. Peeler recommends that the applicant reapply and allow the new Board to make a decision in December. Commissioner Jones stated that he feels that we could resolve this issue at their next meeting on December 5, 2016 which would give the Board ample time to review the materials. Therefore, Kyle Jones made a motion to table the matter until their December 5, 2016 meeting and handle it prior to the new members being sworn in. The Board unanimously approved his motion. Then, Chair Cole reminded Commissioner Jones that we were going to have a Special Called Meeting on November 21st. Mr. Jones requested that he pull his motion so that he could restate the motion to table it until the Special Called Meeting on November 21st. Therefore, Commissioner Jones made a motion to table the action on these two CUP's until the Special Called Meeting on November 21st. The motion was seconded by Edward R. Muzzulin. With regard to the transcripts, Chair Cole asked Mary Hunnicutt, Clerk to the Board, if she would be able to provide the Minutes of tonight's meeting and get it to the Commissioners as soon as she can. She said she would try. The motion was unanimously approved.

Conditional Use Permit No. CUP-16-03 by Tildon Whitehurst, Jr.: A Public Hearing was held earlier in the meeting to receive citizens' comments to consider Conditional Use Permit No. CUP-16-03 requested by Tildon Whitehurst, Jr. Kyle Jones made a motion to find proposed Conditional Use Permit No. CUP-16-03 to be consistent and in harmony with the existing development pattern in and around 292 Weight Station Road in Hertford, NC; and to approve Conditional Use Permit No. CUP-16-03, to establish a Sand mine on the same parcel as 292 Weight Station Road (known as a portion of Tax Parcel No. 5-0035-0023), based upon compliance with the County minimum standards pertaining to buffers and screening and conditioned upon the list of conditions contained in the Conditional Use Permit, adopting the following Section 903 Findings to support the motion:

- (a) That the use will not materially endanger the public health or safety, if located according to the plan submitted and approved;
- (b) That the use meets all required conditions and specifications;
- (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.

The Board unanimously approved the following Conditional Use Permit No. CUP-16-03:

Do NOT record this page
 -Beginning of Conditional Use Permit document to be recorded-
 Conditional Use Permit (Case No. CUP-16-03)
 By Tildon and Patrick Whitehurst
 for
Proposed Sand Mine
 at 292 Weight Station Road, Hertford, NC
Do NOT record this page

CONDITIONAL USE PERMIT NO. CUP-16-03

Page 1 of 4

On the date(s) listed below, the Board of Commissioners for Perquimans County met and held a public hearing to consider the following application:

Owner/Applicant: Tildon and Pattie Whitehurst, 233 Woodville Road, Hertford NC 27944
 Property Location: Tax Map 5 Block 0035 Lot 0023 (14.52 acre portion)
 Street Address: 292 Weight Station Road, Hertford, NC 27944 .
 Zoning District: RA, Rural Agriculture District.
 Meeting & Hearing Dates: Planning Board on 10-11-16 & Board of Commissioners on 11-7-16.

Proposed Use of Property: In the applicant's attached letter to the Board of Commissioners they state, "We recently acquired an additional 41.746 acres from Minnie Bell Elliot off of Weight Station Road. As some of you are aware, we have been mining sand at this location from (sic) approximately 25 years. This new addition will have a permitted boundary of 14.52 acres located on the eastern end of the property.

Per the mining rules and regulations, we are proposing a 25' unexcavated (undisturbed) buffer on the North, East and South side of the permit boundary. The remainder of our land adjoins on the West side of the permit boundary however we are stopping it at the existing 125' electrical transmission line.

We are proposing a 35' wide haul road running parallel to the northern property line, again maintaining the 25' unexcavated (undisturbed) buffer between the two. The road will primarily be built out of sand from the excavation. There will be a construction entrance at the beginning off of Weight Station Road per NCDENR requirements. This will help eliminate tracking onto the pavement."

CONDITIONAL USE PERMIT NO. CUP-16-03

Page 2 of 4

Having heard all the evidence and argument presented at the hearing(s), the Perquimans County Board of Commissioners finds that the application is complete, that the application complies with all applicable requirements of the Perquimans County Zoning Ordinance for the development proposed, and therefore approves the "Elliott Sand Mine, Hertford, NC" also known as Case No. CUP-16-03, subject to all applicable provisions of the Zoning Ordinance pertaining to sand mines and subject to the following conditions:

- (1) The Applicants shall conduct operations in accordance with the plans and application materials submitted to and approved by the Board of County Commissioners (BCC), a copy of which is contained in the County Planning & Zoning Office and recorded with the Perquimans County Register of Deeds Office with this CUP document.
- (2) Vegetative buffering shall be established in compliance with the North Carolina Department of Environmental Quality (NCDEQ) permit.
- (3) Hours shall be limited for the quiet enjoyment of nearby residents from dawn to dusk.
- (4) The Applicants, heirs and assigns shall ensure that the mining operation has met all applicable Federal, State and local regulations and permitting requirements.
- (5) No permits authorizing land disturbing activities shall be issued prior to compliance with all applicable regulations.

- (6) Sand mine area will only be accessible through a gated or cabled private access road controlled by operator and landowner. "No Trespassing" signs will be posted. Six foot long metal stakes, covered by orange-painted PVC pipe driven approximately 2 feet into the ground, or similar markings, will be around the mine permit boundary.
- (7) When the ditch that flows north then turns northwest across the middle of the parcel is redirected, it shall be redirected into another ditch, either beside the Cooper property or the Meads property to flow northeast toward the swamp. It shall not impede drainage upstream from neighboring properties.
- (8) Permit applications are being submitted to Perquimans County Planning and Zoning Department, NCDEQ Energy, Mineral & Land Resources Division, and NCDEQ Division of Water Quality (for dewatering and storm water control). Excavation will not begin until all approved permits have been received by the operator. Yearly reporting and monitoring will be performed as required by all agencies.
- (9) Any Major Modification proposed to the approved plans shall require reapplication and approval by the Board of County Commissioners. "Major Modification" is defined as any departure from the conditions contained herein as well as "Any significant change in land use, and change in the project boundary and/or change that results in an increase in the density or intensity of the project, as shown and described in the approved Conditional Use Permit and Site Plans." However, it is understood that the conceptual layout of the mining operation as shown on the Site Plan may require minor adjustments.
- (10) The Applicants, heirs and assigns shall conduct operations strictly in accordance with plans and narrative submitted to and approved by the Board of Commissioners.

If any of the conditions affixed hereto, or any part thereof shall be held invalid or void, then this permit shall be void and of no effect.

CONDITIONAL USE PERMIT NO. CUP-16-03
Page 3 of 4

IN WITNESS WHEREOF, Perquimans County has caused this permit to be issued in its name, and the undersigned, being all the property owners of the property above described, do hereby accept this Conditional Use Permit, together with all its conditions, as binding on them and their successors in interest.

Janice Cole, Chair, Board of County Commissioners Date

Attest: _____ (Seal)
Mary P. Hunnicutt, Clerk to the Board Date

I (We), _____, Owner(s) and Applicant(s) of the above identified property, do hereby acknowledge receipt of this Conditional Use Permit. The undersigned does/do further acknowledge that no work may be done pursuant to this permit except in accordance with all of its conditions and requirements and that this restriction shall be binding on them and their successors in interest.

Tildon Whitehurst, Jr., Owner/Operator Date

Pattie Whitehurst, Owner/Operator Date

The State of North Carolina
Perquimans County

I, _____, a Notary Public in and for the said State and County, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the forgoing instrument.

WITNESS my hand and notarial seal, this the _____ day of _____, 20____.

Notary Public
My Commission expires: _____ (Not valid until fully executed and recorded)

The State of North Carolina
Perquimans County

I, _____, a Notary Public in and for the said State and County, do hereby certify that _____ personally appeared before me this day and acknowledged the due execution of the forgoing instrument.

WITNESS my hand and notarial seal, this the _____ day of _____, 20____.

Notary Public
My Commission expires: _____ (Not valid until fully executed and recorded)

CONDITIONAL USE PERMIT NO. CUP-16-03
Page 4 of 4

Insert Here Site Plan(s) no larger than 8.5" X 14"
which bear(s) the following statement:

"THIS MAP IS NOT A CERTIFIED SURVEY
AND HAS NOT BEEN REVIEWED BY A
LOCAL GOVERNMENT AGENCY FOR
COMPLIANCE WITH ANY APPLICABLE
LAND DEVELOPMENT REGULATIONS."

**The maps are attached as
Attachment A.**

Do NOT record this page
-End of Conditional Use Permit document to be recorded-
Conditional Use Permit (Case No. CUP-16-03)
By Tildon and Patrick Whitehurst
for
Proposed Sand Mine
at 292 Weight Station Road, Hertford, NC

PLANNING BOARD APPOINTMENT

Chair Cole explained that Donald Manley's term expires on November 30, 2016 and he has notified us that he does not wish to serve another term. Therefore, we need to appoint a replacement. On motion made by Kyle Jones, seconded by Fondella A. Leigh, the Board unanimously appointed Antoine Moore for a three-year term on the Planning Board effective December 1, 2016.

ALBEMARLE-TIDELAND RETIREE RESOLUTION & AGREEMENT

County Manager Heath explained that, in June, 2011, the Board adopted a Memorandum of Understanding to provide health insurance benefits for qualified retirees of Albemarle Mental Health and Tideland Mental Health. After having some discussions with the State Treasurer's Office, Martin and Dare Counties recommend that, if the counties set up a trust (similar to OPEB trusts), they could place the funds in the trust and the trust can place the funds with the State Treasurer's Office. They are asking that the Commissioners review the Resolution and Agreement and take action on them. County Attorney High has already reviewed the Resolution and Agreement, and Camden, Tyrell, Martin, and Dare Counties have already approved the revised Agreement. County Manager Heath recommends this. Commissioner Peeler asked what would happen if the funds run out and how many are

COUNTIES OF CAMDEN, CHOWAN, CURRITUCK, DARE, HYDE, MARTIN, PASQUOTANK, PERQUIMANS, TYRRELL and WASHINGTON OTHER POST-EMPLOYMENT BENEFITS TRUST AGREEMENT

This **Trust Agreement** is entered into as of the ___ day of _____, 2016 (the “**Effective Date**”), by and between the counties of Camden, Chowan, Currituck, Dare, Hyde, Martin, Pasquotank, Perquimans, Tyrrell, and Washington North Carolina (the “**Counties**”) and the sitting County Manager of each county (the “**Trustee**”);

RECITALS:

WHEREAS, the former Albemarle Mental Health and the former Tideland Mental Health maintained certain post-employment benefits other than pensions for the benefit of their eligible retired employees (the “**Former Employers**”);

WHEREAS, the Counties wish to establish a trust pursuant to Section 159-30.1(b) of the North Carolina General Statutes, to be known as the “counties of Camden, Chowan, Currituck, Dare, Hyde, Martin, Pasquotank, Perquimans, Tyrrell, and Washington Other-Post Employment Benefits Trust Agreement” (hereinafter the “**Trust**”), for the purpose of holding existing funds to provide post-employment benefits other than pension benefits of the former Albemarle Mental Health and Tideland Mental Health;

WHEREAS, this Trust is established by the Counties with the intention that the Trust qualify as an irrevocable tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Code and the regulations issued thereunder and as a tax-exempt trust under the provisions of the applicable laws of the State of North Carolina; and

WHEREAS, the Counties have appointed each of their County Managers as Trustees of the Trust, and the Trustees have accepted such appointment pursuant to the terms and conditions set forth in this Trust Agreement; and

NOW THEREFORE, for good and valuable consideration, the parties hereto agree as follows:

**ARTICLE I
DEFINITIONS**

- 1.1** “**Administrator**” shall mean Martin County, North Carolina per the terms and conditions of a Memorandum of Agreement dated July 1, 2007 and attached as Exhibit A.
- 1.2** “**Assets**” shall mean all contributions and transfers of assets received into the Trust on behalf of the Counties, together with the income and earnings from such contributions and transfers and any increments accruing to them, net of any investment losses, benefits, expenses or other costs.
- 1.3** “**Code**” shall mean the Internal Revenue Code of 1986, as amended from time to time.
- 1.4** “**Eligible Participants**” shall mean collectively eligible retired employees of the former Albemarle Mental Health and Tideland Mental Health and their dependents and beneficiaries.
- 1.5** “**Counties**” shall mean the Counties of Camden, Chowan, Currituck, Dare, Hyde, Martin, Pasquotank, Perquimans, Tyrrell, and Washington North Carolina.
- 1.6** “**Former Employers**” shall mean the former Albemarle Mental Health and the former Tideland Mental Health organizations.
- 1.7** “**OPEB**” shall mean “other post-employment benefits,” such as medical, dental, vision, life insurance, long-term care and other similar benefits, provided to Eligible Employees, other than pension benefits.
- 1.8** “**OPEB Obligation**” shall mean, to the extent required by law, the Counties obligation to provide post-employment health care and welfare benefits to Eligible Participants to the extent of existing assets and future earnings from those assets, as specified in the Plan.
- 1.9** “**Plan**” shall mean the Former Employers OPEB obligations and the Counties satisfaction thereof to the extent of existing assets and future earnings from those assets.
- 1.10** “**Qualified Investments**” shall mean all investments authorized under Section 159-30.1(b) of the North Carolina General Statutes, including the following:
- (1) Obligations of the United States or obligations fully guaranteed both as to principal and interest by the United States.
 - (2) Obligations of the Federal Financing Bank, the Federal Farm Credit Bank, the Bank for Cooperatives, the Federal Intermediate Credit Bank, the Federal Land Banks, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, Fannie Mae, the Government National Mortgage Association, the Federal Housing Administration, the Farmers Home Administration, the United States Postal Service.
 - (3) Obligations of the State of North Carolina.
 - (4) Bonds and notes of any North Carolina local government or public authority, to the extent permitted in Section 159.30(c)(4) of the North Carolina General Statutes.
 - (5) Savings certificates issued by any savings and loan association organized under the laws of the State of North Carolina or by any federal savings and loan association having its principal office in North Carolina; provided, that any principal amount of such certificate in excess of the amount insured by the federal government or any agency thereof, or by a mutual deposit guaranty association authorized by the Commissioner of Banks of the Department of Commerce of the State of North Carolina, be fully collateralized.
 - (6) Prime quality commercial paper bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates of particular obligation.
 - (7) Bills of exchange or time drafts drawn on and accepted by a commercial bank and eligible for use as collateral by member banks in borrowing from a federal reserve bank, provided that the accepting bank or its holding company is either (i) incorporated in the State of North Carolina or (ii) has outstanding publicly held obligations bearing the highest rating of at least one nationally recognized rating service and not bearing a rating below the highest by any nationally recognized rating service which rates the particular obligations.
 - (8) Participating shares in a mutual fund for local government investment; provided, that the investments of the fund are limited to Qualified Investments hereunder, and the fund is certified by the Local Government Commission. The Local Government Commission shall have the authority to issue rules and regulations concerning the establishment and qualifications of any mutual fund for local government investment.
 - (9) A commingled investment pool established and administered by the State Treasurer pursuant to Sections 147-69.2 and 147-69.3 of the North Carolina General Statutes.
 - (10) A commingled investment pool established by interlocal agreement by two or more units of local government pursuant to Sections 160A-460 through 160A-464 of the General Statutes of North Carolina, if the investments of the pool are limited to those qualifying for investment under Section 159.30(c)(4) of the North Carolina General Statutes.
 - (11) Evidences of ownership of, or fractional undivided interests in, future interest and principal payments on either direct obligations of the United States government or obligations the principal of and the interest on which are guaranteed by the United States, which obligations are held by a bank or trust company organized and existing under the laws of the United States or any state in the capacity of custodian.
 - (12) Repurchase agreements with respect to either direct obligations of the United States or obligations the principal of and the interest on which are guaranteed by the United States if entered into with a broker or dealer, as defined by the Securities Exchange Act of 1934, which is a dealer recognized as a primary dealer by a Federal Reserve Bank, or any commercial bank, trust company or national banking association, the deposits of which are insured by the Federal Deposit Insurance Corporation or any successor thereof if:
 - (a) Such obligations that are subject to such repurchase agreement are delivered (in physical or in book entry form) to the local government or public authority, or any financial institution serving either as trustee for the local government or public authority or as fiscal agent for the local government or public authority or are supported by a safekeeping receipt issued by a depository satisfactory to the local government or public authority, provided that such repurchase agreement must provide that the value of the underlying obligations shall be maintained at a current market value, calculated at least daily, of not less than one hundred percent (100%) of the repurchase price, and, provided further, that the financial institution serving either as trustee or as fiscal agent for the local government or public authority holding the obligations subject to the repurchase agreement hereunder or the depository issuing the safekeeping receipt shall not be the provider of the repurchase agreement;
 - (b) A valid and perfected first security interest in the obligations which are the subject of such repurchase agreement has been granted to the local government or public authority or its assignee or book entry procedures, conforming, to the extent practicable, with federal regulations and satisfactory to the local government or public authority have been established for the benefit of the local government or public authority or its assignee;
 - (c) Such securities are free and clear of any adverse third party claims; and
 - (d) Such repurchase agreement is in a form satisfactory to the local government or public authority.
 - (13) In connection with funds subject to the arbitrage and rebate provisions of the Code, participating shares in tax-exempt mutual funds, to the extent such participation, in whole or in part, is not subject to such rebate provisions, and taxable mutual funds, to the extent such fund provides services in connection with the calculation of arbitrage rebate requirements under federal income tax law; provided, the investments of any such fund are limited to those

bearing one of the two highest ratings of at least one nationally recognized rating service and not bearing a rating below one of the two highest ratings by any nationally recognized rating service which rates the particular fund.

- (14) Investments of the State Treasurer authorized pursuant to Section 147-69.2(b4) of the North Carolina General Statutes.

- 1.11 **“Trustee”** shall mean collectively the County Manager of each of the Counties.

ARTICLE II THE TRUST

2.1 Purpose

The purpose of the Trust is to hold assets from which to satisfy the commitment, if any, of the Former Employers to provide OPEB, as offered by the Former Employers to Eligible Participants in accordance with the Plan.

2.2 Trustee Accounting

The Trustee shall be responsible only for maintaining records and maintaining accounts for the Assets of the Trust. The Administrator, per a Memorandum of Agreement dated July 1, 2007, shall be responsible for Plan-level administration and accounting for OPEB benefit payments and related activity.

2.3 No Diversion of Assets

The Assets in the Trust shall be held in trust for the exclusive purpose of providing OPEB to Eligible Participants of the Former Employers and defraying the reasonable administrative and actuarial expenses of the Trust. The Assets in the Trust shall not be used for or diverted to any other purpose, except as expressly provided herein.

2.4 Type and Nature of Trust

Neither the full faith and credit nor the taxing power of the Counties is pledged to the distribution of benefits hereunder. Except for contributions and other amounts hereunder, no other amounts are pledged to the distribution of benefits hereunder. Distributions of benefits are neither general nor special obligations of the Counties, but are payable solely from the Assets of the Trust, as more fully described herein. No employee of the Former Employers may compel the exercise of the taxing power by the Counties.

Distributions of Assets under the Trust are not debts of the Counties within the meaning of any constitutional or statutory limitation or restriction. Such distributions are not legal or equitable pledges, charges, liens or encumbrances upon any of the Counties property, or upon any of their income, receipts, or revenues, except amounts in the accounts which are, under the terms of the Plan and Trust set aside for distributions. Neither the members of the governing body of the Counties nor their officers, employees, agents or volunteers are liable hereunder. In no event shall the liability of the Counties and the Trustee exceed the amounts contained in the Trust.

ARTICLE III ADMINISTRATIVE MATTERS

3.1 Certification to Trustee

The governing body of each of the Counties, or other duly authorized official, shall certify in writing to the Trustee the names and specimen signatures of the individuals authorized to act on behalf of the Counties, whose names and specimen signatures shall be kept accurate by the Counties acting through its governing body or a duly authorized official. The Trustee shall have no liability if it acts upon the direction of an individual who has been duly authorized hereunder, even if that individual is no longer authorized to act, unless the Employer has informed the Trustee of such change in writing.

3.2 Removal of Trustee

Each individual Trustee shall serve during his tenure in the applicable office of each of the Counties and shall immediately cease to serve, without the necessity for formal resignation, upon termination from such office for any reason. The successor to such office, including any interim successor, shall become a successor Trustee immediately upon the assumption of such office without the need for formal appointment. A successor Trustee shall not have any liability for any action or omission by the Trustee prior to the date of his assumption of such office.

3.3 Trustee Procedures

All official meeting of the Trustee, whether held in person or by electronic means, shall be open to the public and conducted in accordance with Article 33C of Chapter 143 of the North Carolina General Statutes. The Trustee shall keep a record of all official meetings, including those official meetings held in closed session under Section 143-318.11 of the North Carolina General Statutes, and shall forward all necessary communications to the Counties. Such official meeting records shall be public records within the meaning of Chapter 132 of the North Carolina General Statutes. The Trustee may adopt such by-laws and regulations as it deems desirable for the conduct of its affairs. All decisions by the Trustee shall be made by the vote of the majority of the Trustee members. The Trustee may authorize one or more of such members to act for the Trustee with respect to specified Trustee duties under this Trust Agreement. A dissenting Trustee member who, within a reasonable period of time after he has knowledge of any action or failure to act by the majority, delivers his written dissent to the other Trustee members and the Counties shall not be responsible for such action or failure to act.

3.4 Payments from the Trust

The Administrator shall from time to time, unless otherwise directed by the Trustee and only to the extent of Assets contained in the Trust, authorize payments out of the Assets of the Trust. Such payments may include, but are not limited to, benefit payments, insurance or stop-loss premiums, and the expenses of administering the Plan and Trust, as may be specified in the Trustee's direction.

ARTICLE IV THE TRUSTEE

4.1 Powers and Duties of the Trustee

Except as otherwise provided in Article V, and subject to the provisions of Article VI, the Trustee shall have full power and authority with respect to property held in the Trust to perform all acts, take all proceedings, and exercise all rights and privileges, whether specifically referred to or not in this document, as could be done, taken or exercised by the absolute owner, including, without limitation, the following:

- (a) To invest and reinvest the Assets or any part thereof in Qualified Investments pursuant to this Trust and applicable state law.
- (b) To place uninvested cash and cash awaiting distribution in any type of interest-bearing account including, without limitation, time certificates of deposit or interest-bearing accounts issued by a commercial bank or savings and loan association organized under the laws of the State of North Carolina or having its principal office in North Carolina;
- (c) To take all of the following actions: to vote proxies of any stocks, bonds or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to consent to or otherwise participate in corporate reorganizations or other changes affecting corporate securities and to delegate discretionary powers and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities or other property held in the Trust;
- (d) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (e) To exercise all the further rights, powers, options and privileges granted, provided for, or vested in trustees generally under applicable federal or state laws as amended from time to time, it being intended that, except as herein otherwise provided, the powers conferred upon the Trustee herein shall not be construed as being in limitation of any authority conferred by law, but shall be construed as consistent or in addition thereto.

4.2 Additional Trustee Powers

In addition to the other powers enumerated above, the Trustee in any and all events is authorized and empowered:

- (a) To invest funds pending required directions in a designated account as directed by the Counties or if there is no designated account, any type of interest-bearing account including without limitation, time certificates of deposit or interest-bearing accounts issued by a commercial bank or savings and loan association organized under the laws of the State of North Carolina or having its principal office in North Carolina Trustee or any affiliate thereof;

- (b) To cause all or any part of the Trust to be held in the name of the Trustee (which in such instance need not disclose its fiduciary capacity) or, as permitted by law, in the name of any nominee, and to acquire for the Trust any investment in bearer form, but the books and records of the Trust shall at all times show that all such investments are a part of the Trust and the Trustee shall hold evidences of title to all such investments;
- (c) To appoint a custodian with respect to the Trust Assets;
- (d) To employ such agents and counsel as may be reasonably necessary in managing and protecting the Assets and to pay them reasonable compensation from the Trust; to employ any broker-dealer, including a broker-dealer affiliated with the Trustee, and pay to such broker-dealer at the expense of the Trust, its standard commissions; to settle, compromise or abandon all claims and demands in favor of or against the Trust; and to charge any premium on bonds purchased at par value to the principal of the Trust without amortization from the Trust, regardless of any law relating thereto;
- (e) To abandon, compromise, contest, arbitrate or settle claims or demands; to prosecute, compromise and defend lawsuits, but without obligation to do so, all at the risk and expense of the Trust;
- (f) To exercise and perform any and all of the other powers and duties specified in this Trust Agreement or the Plan;
- (g) To permit such inspections of documents at the principal office of the Trustee as are required by law, subpoena or demand by a United States agency;
- (h) To comply with all requirements imposed by applicable provisions of law;
- (i) To seek written instructions from the Counties on any matter and await its written instructions without incurring any liability; provided, that if at any time the Counties should fail to give directions to the Trustee, the Trustee may act in the manner that in its discretion seems advisable under the circumstances for carrying out the purposes of the Trust;
- (j) To compensate such executive, consultant, actuarial, accounting, investment, appraisal, administrative, clerical, secretarial, medical, custodial, depository and legal firms, personnel and other employees or assistants as are engaged by the Employer in connection with the administration of the Plan and to pay from the Trust the necessary expenses of such firms, personnel and assistants, to the extent not paid by the Counties;
- (k) To act upon proper written directions of the Counties;
- (l) To pay from the Trust the expenses reasonably incurred in the administration thereof, as provided in the Plan;
- (m) To hold uninvested reasonable amounts of cash whenever it is deemed advisable to do so to facilitate disbursements or for other operational reasons;
- (n) To seek and obtain a judicial settlement of the Trustee's accounts and a judicial determination of any question in connection with the Trustee's duties and obligations under this Trust Agreement; and
- (o) To have and to exercise such other additional powers as may be advisable for the effective and economical administration of the Trust.

ARTICLE V INVESTMENTS

5.1 Trust Investments

The Trustee shall have the responsibility to select Qualified Investments for the Trust Assets and may appoint a registered investment advisor, as defined by regulations issued by the Securities and Exchange Commission, by executing a written consulting or management agreement with said registered investment advisor.

5.2 Trustee Fees

Any Trustee who is an employee of any of the Counties shall receive no fee for service as a Trustee hereunder.

5.3 Contributions to the Trust

The Counties may, but shall not be required, from time to time remit cash contributions and other payments under the Plan to the Trustee, which may include contributions by Eligible Participants. All contributions shall be paid to the Trustee for investment and reinvestment pursuant to the terms of this Trust Agreement. The Trustee shall not have any duty to determine or inquire whether any contributions to the Trust are in compliance with the Counties policies and/or the Plan, nor shall the Trustee have any duty or authority to compute any amount to be paid to the Trustee by the Counties, nor shall the Trustee be responsible for the collection or adequacy of the contributions to meet the Former Employer's OPEB Obligation. The contributions received by the Trustee from the Counties, including any contributions by Eligible Participants, shall be held and administered pursuant to the terms hereof without distinction between income and principal.

5.4 Records

- (a) The Trustee shall keep records of meetings and the Administrator shall maintain accurate records and detailed accounts of all investments, receipts, disbursements and other transactions hereunder. Such records shall be available at all reasonable times for inspection by the Counties.
- (b) The Assets of the Trust shall be valued at their fair market value on the date of valuation, as determined by the Trustee based upon such sources of information as it may deem reliable; provided, that the Counties shall instruct the Trustee as to valuation of assets for which the value is not readily determinable on an established market. The Trustee may rely conclusively on such valuations provided by the Counties and shall be indemnified and held harmless by the Counties with respect to such reliance. If the Counties fails to provide such value, the Trustee may take whatever action it deems reasonable, including employment of attorneys, appraisers or other professionals, the expense of which will be an expense of administration of the Trust. Transactions in the account involving such hard to value assets may be postponed until appropriate valuations have been received and Trustee shall have no liability therefore.

5.5 Statements and Reports

- (a) Periodically as requested by the Counties and within sixty (60) days after each June 30, the Trustee and the Administrator shall render to the Counties a written account showing in reasonable summary the investments, receipts, disbursements and other transactions engaged in by the Trustee during the preceding fiscal year or period with respect to the Trust. Such account shall set forth the assets and liabilities of the Trust valued as of the end of the accounting period.
- (b) The Counties may approve such statements either by written notice or by failure to express objections to such statement by written notice delivered to the Trustee within ninety (90) days from the date the statement is delivered to the Counties. Upon approval, the Trustee shall be released and discharged as to all matters and items set forth in such statement as if such account had been settled and allowed by a decree from a court of competent jurisdiction.
- (c) The Trustee and the Administrator shall hire a consultant to perform an actuarial valuation of the Albemarle-Tideland Retiree Liability for Healthcare benefits as of December 31, 2017 and every two years thereafter. The cost of the actuarial valuation is an eligible expense per section 3.4 of this document.

5.6 Exclusive Benefit

The Assets of the Trust shall be held in trust for the exclusive purpose of providing OPEB to the Eligible Participants pursuant to the Plan and defraying the reasonable expenses associated with providing such benefits and shall not be used for or diverted to any other purpose.

ARTICLE VI FIDUCIARY RESPONSIBILITIES

6.1 More Than One Fiduciary Capacity

Any one or more of the fiduciaries with respect to the Trust Agreement or the Trust may, to the extent required thereby or as directed by the Counties and the Administrator pursuant to this Trust Agreement, serve in more than one fiduciary capacity with respect to the Trust Agreement and the Trust.

6.2 Fiduciary Discharge of Duties

Except as otherwise provided by applicable law, each fiduciary shall discharge such fiduciary's duties with respect to the Trust Agreement and the Trust:

- (a) Solely in the interest of the Eligible Participants and for the exclusive purpose of providing OPEB to Eligible Participants and defraying reasonable administrative and actuarial expenses associated with providing such benefits; and
- (b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims.

6.3 Limitations on Fiduciary Responsibility

To the extent allowed by the law of the State of North Carolina:

- (a) No fiduciary shall be liable with respect to a breach of fiduciary duty by any other fiduciary if such breach was committed before such party became a fiduciary or after such party ceased to be a fiduciary.
- (b) No fiduciary shall be liable for a breach by another fiduciary except as provided by law.

(c) No fiduciary shall be liable for carrying out a proper direction from another fiduciary, including refraining from taking an action in the absence of a proper direction from the other fiduciary possessing the authority and responsibility to make such a direction, which direction the fiduciary in good faith believes to be authorized and appropriate.

6.4 Indemnification

The Trustee shall not be liable for, and the Counties shall indemnify, defend and hold the Trustee harmless from and against, any claims, demands, loss, costs, expense or liability in connection with this Trust Agreement, including reasonable attorneys' fees and costs incurred by the Trustee, arising as a result of Counties active or passive negligent act or omission or willful misconduct in the execution or performance of the Counties duties under this Trust Agreement.

In addition, the Trustee shall not be liable for, and Counties shall indemnify and hold the Trustee harmless from and against, any claims, demands, loss, costs, expense or liability arising out of or in connection with this Trust Agreement, including reasonable attorneys' fees and costs incurred by the Trustee, in the event that the Trust loses or fails to qualify for tax exempt status under Section 115 of the Code and the regulations issued thereunder or as a tax-exempt trust under the provisions of North Carolina law, unless such results directly or indirectly from the active or passive negligent act or omission of the Trustee or an employee or agent thereof.

This section shall survive the termination of this Trust Agreement.

**ARTICLE VII
AMENDMENT, TERMINATION AND MERGER**

7.1 No Obligation to Continue Trust

Continuance of the Trust is not assumed as a contractual obligation of the Counties.

7.2 Amendments

(a) The Counties and the Trustee reserve the right to amend this Trust Agreement at any time by a written instrument executed by the Counties and the Trustee. The Trust Agreement may be amended or terminated only as provided herein.

(b) No amendment shall:

- (1) Cause the Assets of the Trust to be used for or diverted to purposes other than for the exclusive benefit of Eligible Participants or for the purpose of defraying the reasonable expenses of administering the Trust; or
- (2) Have any retroactive effect so as to reduce the benefits of any Eligible Participants as of the date the amendment is adopted, except that such changes may be made as may be required to permit this Trust Agreement to meet the requirements of applicable law.

7.3 Termination of the Plan

Upon any termination of the Former Employer's obligation, if any, to provide OPEB pursuant to the Plan, the Assets of the Trust shall be distributed by the Trustee as directed by the Counties. From and after the date of such termination and until final distribution of the Assets, the Trustee shall continue to have all the powers provided herein as are necessary or expedient for the orderly liquidation and distribution of such assets, and the Trust shall continue until the Assets have been completely distributed in accordance with the Plan.

7.4 Right to Terminate

The Counties and the Trustee may terminate this Trust by a written instrument executed by the Counties and the Trustee. Upon termination of this Trust, the Trustee shall pay all obligations of the Trust and shall apply the remaining Assets to purchase or continue OPEB for Eligible Participants to the extent possible. Notwithstanding the foregoing provisions, the Trustee may, upon termination of the Trust and with the Counties consent, transfer any remaining Assets to the Counties or to any trust or trusts established for purposes substantially similar to those set forth herein. In no event will any remaining Assets be transferred to any entity that is not a state, political subdivision of a state, or entity the income of which is excluded from gross income under Section 115 of the Code.

7.5 Fund Recovery Based on Mistake of Fact

Except as provided above, the Assets of the Trust shall never inure to the benefit of the Counties. The Assets shall be held for the exclusive purposes of providing OPEB to Eligible Participants and defraying reasonable expenses of administering the Trust. However, in the case of a contribution which is made by the Counties because of a mistake of fact, that portion of the contribution relating to the mistake of fact (exclusive of any earnings or losses attributable thereto) may be returned to the Counties, provided such return occurs within two (2) years after discovery by the Counties of the mistake. If any repayment is payable to the Counties, then, as a condition precedent to such repayment, the Counties shall execute, acknowledge and deliver to the Trustee its written undertaking, in a form satisfactory to the Trustee, to indemnify, defend and hold the Trustee harmless from all claims, actions, demands or liabilities arising in connection with such repayment.

**ARTICLE VIII
MISCELLANEOUS PROVISIONS**

8.1 Nonalienation

Eligible Participants do not have an interest in the Trust. Accordingly, the Trust shall not in any way be liable to attachment, garnishment, assignment or other process, or be seized, taken, appropriated or applied by any legal or equitable process, to pay any debt or liability of an Eligible Participants or any other party. Trust Assets shall not be subject to the claims of the Counties or the claims of its creditors.

8.2 Saving Clause

In the event any provision of this Trust Agreement is held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining parts of the Trust Agreement, and this instrument shall be construed and enforced as if said provision had never been included.

8.3 Applicable Law

This Trust Agreement shall be construed, administered and governed under the Code and the laws of the State of North Carolina. To the extent any of the provisions of this Trust Agreement are inconsistent with the Code or applicable state law, the provisions of the Code or state law shall control. In the event, however, that any provision is susceptible to more than one interpretation, such interpretation shall be given thereto as is consistent with the Trust Agreement being a tax-exempt trust within the meaning of the Code.

8.4 Employment of Counsel

The Trustee may consult with legal counsel (who may be counsel for the Trustee or the Counties and charge the Trust) or other consultants. The Trustee shall be fully protected in relying on advice of such counsel.

8.5 Gender and Number

Words used in the masculine, feminine or neuter gender shall each be deemed to refer to the other whenever the context so requires; and words used in the singular or plural number shall each be deemed to refer to the other whenever the context so requires.

8.6 Headings

Headings used in this Trust Agreement are inserted for convenience of reference only and any conflict between such headings and the text shall be resolved in favor of the text.

8.7 Counterparts

This Trust Agreement may be executed in an original and any number of counterparts by the Counties and Trustee, each of which shall be deemed to be an original of the one and the same instrument.

AGREED TO AND ACCEPTED this ____day of _____, 2016.

TRUSTEES

_____ County Manager Camden County
 _____ County Manager Chowan County
 _____ County Manager Currituck County

- _____ County Manager Dare County
- _____ County Manager Hyde County
- _____ County Manager Martin County
- _____ County Manager Pasquotank County
- _____ County Manager Perquimans County
- _____ County Manager Tyrrell County
- _____ County Manager Washington County

COUNTIES

- _____ Chairman Camden County
- _____ Chairman Chowan County
- _____ Chairman Currituck County
- _____ Chairman Dare County
- _____ Chairman Hyde County
- _____ Chairman Martin County
- _____ Chairman Pasquotank County
- _____ Chairman Perquimans County
- _____ Chairman Tyrrell County
- _____ Chairman Washington County

EXHIBIT A

APPOINTMENT TO BOARD OF MINZIE’S CREEK SANITARY DISTRICT

County Manager Heath reported that a couple of years ago we appointed members to the Minzie’s Creek Sanitary District Board. We have been notified that they have vacancy and, according to N.C. General Statute 130A-54, the Board of Commissioners has been given the authority to appoint someone to fill this vacancy. It has been recommended by the Board of Minzie’s Creek Sanitary District to appoint Linwood Hines. On motion made by Edward R. Muzzulin, seconded by Wallace A. Nelson, the Board unanimously appointed Linwood Hines to fill the vacancy on the Board of Minzie’s Creek Sanitary District.

SALE OF SURPLUS VEHICLES

County Manager Heath reported that, with the help of the Finance Office and Helen Hunter, we have sold two (2) additional surplus vehicles on GovDeals. The highest bidders were as follows:

BUYER	VEHICLE	START BID	SOLD AMOUNT	GOVDEALS FEE	NET RESULTS
John Russell	2008 Chevrolet Trailblazer	\$500.00	\$832.00	-\$41.60	\$790.40
Sarah Browning	2006 Ford Crown Victoria	\$500.00	\$840.00	-\$42.00	\$798.00

On motion made by Edward R. Muzzulin, seconded by Matthew Peeler, the Board unanimously approved Mr. Heath to proceed with the sale of these surplus vehicles.

PUBLIC COMMENTS

The following public comment was made:

Tommy Harrell: Mr. Harrell had e-mailed the Board after the Jimmy “Catfish” Hunter ALS Softball Tournament about the condition of the Winfall Softball field. He said that it was an embarrassment to him to see the condition and to have a large crowd there to witness it. This past weekend, Mr. Harrell had a group come by to look at the softball field and it was immaculate, but due to the amount of rain we had had, they were unable to use it. Instead, they used the baseball field at the Rec Center. The people that were visiting here commended the County for the facility that we had at the Rec Center. He also reported how much money was made at the Tournament and thanked the Board for their assistance in this matter.

CLOSED SESSION: PERSONNEL MATTER

Pursuant to NCGS #143-318.11(6), Matthew Peeler made a motion to go into Closed Session to discuss a personnel matter. The motion was seconded by Fondella A. Leigh and unanimously approved by the Board.

The Closed Session was adjourned and the Regular Meeting reconvened on motion made by Matthew Peeler, seconded by Edward R. Muzzulin. There was no action needed after the Closed Session.

PERSONNEL MATTER

During the Closed Session, the Board discussed making a change in the Personnel Policy regarding insurance for retirees. It was the consensus of the Board that they will discuss a Policy change at the Special Called Meeting on November 21st.

ADJOURNMENT

There being no further comments or business to discuss, the Regular Meeting was adjourned at 8:45 p.m. on motion made by Edward R. Muzzulin, seconded by Matthew Peeler.

Janice McKenzie Cole, Chair

Clerk to the Board

* * * * *

ATTACHMENT A

INSERT MAP 1 OF 5

INSERT MAP 2 OF 5

INSERT MAP 3 OF 5

INSERT MAP 4 OF 5

INSERT MAP 5 OF 5