

Regular Meeting  
Monday, September 21, 2015  
Chowan County Public Safety Center  
305 West Freemason St.  
Edenton, NC  
6:00pm

Present: Chairman Jeff Smith, Commissioners Keith Nixon, Greg Bonner, Alex Kehayes, Emmett Winborne, John Mitchener and Ellis Lawrence.

Staff present: County Manager Kevin Howard, Finance Officer Willie Carawan, County Attorney Lauren Arizaga-Womble and Clerk Susanne Stallings.

**Regular Meeting**

Chairman Smith called the regular meeting to order and led all in attendance in the pledge of allegiance. Commissioner Kehayes then offered the invocation.

**Approval of Agenda**

Chairman Smith noted an amendment to the Budget Amendment and noted there is no item for the closed session.

Commissioner Nixon moved to approve the agenda as amended. Chairman Smith asked for all in favor, the motion passed unanimously (7-0).

**Public Comment**

Chairman Smith then opened the floor to public comment in accordance with NCGS 154A-52.1. He noted that public comment should be limited to general public comment not for the public hearing matter.

Virginia Wood, 250 Greenfield Rd. Edenton NC stated she did not want the Commissioners to make mistakes. She provided the Board with two biblical quotes, one from Jesus stating you cannot serve two masters and the other "do not satisfy your ego at the expense of your soul".

Les Kersey 3065 Connors Drive Edenton NC stated he felt the Board should videotape the meetings or pod cast them. He suggested the County purchase an audio recorder. He stated other counties record their meetings and stated the Board should stop cooking their books.

**Consent Agenda**

Chairman Smith then presented the consent agenda.

- a. Budget Amendments

**BA1516-005**

Account Code	Description	Old	+ or (-)	New
11-4240-441-00	Contract Services	39,000.00	(4,000.00)	35,000.00
11-9800-980-33	Transfer to County Capital	-	4,000.00	4,000.00
33-3990-990-00	Fund Balance Appropriation	(478,553.04)	(5,987.00)	(484,540.04)
33-3980-980-11	Transfer from General Fund	-	(4,000.00)	(4,000.00)
33-8110-580-02	Northern Rec - Ins.	-	9,987.00	9,987.00
<b>Balanced:</b>		<b>(439,553.04)</b>	<b>-</b>	<b>(439,553.04)</b>
<b>Justification:</b>				
<i>Moving monies from General Fund to County Capital to track the NCCC Water Leak expenditures all in one line</i>				

**BA1516-006**

Account Code	Description	Old	+ or (-)	New
33-3990-990-00	Fund Balance Appropriation	(484,540.04)	(24,021.00)	(508,561.04)
33-4192-016-01	Courthouse - ROD HVAC	-	24,021.00	24,021.00
<b>Balanced:</b>		<b>(484,540.04)</b>	<b>-</b>	<b>(484,540.04)</b>
<b>Justification:</b>				
<i>Moving the necessary funds need to cover the previously approved Courthouse HVAC repairs</i>				

MBA 1516-005,006 and 007

Commissioner Bonner moved to approve the budget amendments as presented. Chairman Smith asked for all in favor, the motion passed unanimously (7-0).

**b. Minutes**

Chairman Smith provided the minutes of September 8, 2015.

Commissioner Kehayes moved to approve the minutes as presented. Chairman Smith asked for all in favor, the motion passed unanimously (7-0).

**c. Tax Collections and Release Report**

Sharpe, L.	\$253.08	Senior Exemption
Food Lion	\$255.03	Penalty not added, rebilled correctly
Ober, L.	\$173.95	Land Use Qualifies

Baker, J.	\$158.74	Overvalued Boat
Fenner, J.	\$368.88	Paid by Armor Settlement Services LLC

Commissioner Kehayes moved to approve the report and releases as presented. Chairman Smith asked for all in favor, the motion passed unanimously (7-0).

### **Public Hearing TA-15-02- Wind Energy Facilities**

Chairman Smith turned the gavel over to Vice Chairman Kehayes. Chairman Smith left the meeting table and joined the audience for the remainder of the public hearing. (Chairman Smith rejoins the meeting following the vote on the text amendment).

Vice Chairman Kehayes stated that 29 people have signed up for public comment. He requested that the speakers be brief and respectful. He asked that the audience not cheer and boo. He asked that all in attendance remain civil.

Commissioner Winborne moved that the Board open the floor for the public hearing. Vice Chairman Kehayes asked for all in favor, the motion passed unanimously (6-0).

County Attorney, Ms. Arizaga-Womble noted that Chairman Smith has previously been recused from voting on the matter therefore his non-vote does not count as a yes vote.

Vice Chairman Kehayes reminded the audience that public comment should remain on the topic of the text amendment.

Robert Kirby, 236 Whites Landing Rd. provided the Board with written comments. A copy of the comments are in the meeting file labeled September 21, 2015. He stated that he felt the developer should have all state and federal permits approved before requesting approval from the County Planning Board. He stated his concern with the set-back requirements. He stated his concern with the decibel requirements. He stated the heights of the turbines should be considered with regards to aviation and impacts on air ambulance. He stated the County should consider any impact on agriculture. He stated the County should also consider a fee schedule of \$5,000 per megawatt. He stated the county would suffer economically with a wind energy facility.

Win Dale 102 Emperor Landing Rd. stated he was representing the Chamber of Commerce. He stated the Chamber supports a wind energy facility project He stated the Chamber supports the current ordinance and requested that the Commissioners not amend the current ordinance. He stated a public hearing would address all the concerns that are being brought to the Board.

Brenda Ward 532 Center Hill Rd. Tyner stated she is all about wind energy. She stated however she felt the Board of Commissioners needs to consider the health of its residents and their property values. She stated the original name of the company was Greenleaf, she asked why was this changed. She stated that the Board needed to consider the promises made by Apex and consider what is best for Chowan County.

Gene Jordan 414 Sign Pine Rd. Tyner stated his support of the current ordinance. He urged the Board to move forward with support of the project to increase the tax base of economic development that would benefit the youth.

Tommy Castelloe 2420 Virginia Road stated that he was told that no hunting would be allowed on the wind energy facility property. He stated he met with Apex and the lessor and was assured that this was not true that it would advance hunting as the roads and shooting lanes on the property would be enhanced. He stated that he supports the 2013 ordinance.

Bill Elliott 1625 Rocky Hock Landing Rd. stated that he was present to represent the Weyerhaeuser team. He stated he feels comfortable with the proposed project. He stated he has spoken with a land owner who visited a wind energy facility and felt comfortable with the project. He stated his support of the 2013 ordinance.

Amy Ziolkowski 118 Lloyd Overton Lane Edenton NC stated that Apex provided a seminar for hunters and used the leases to gain support of the project. She asked how the Board would feel if this was done to them.

Harriett DeHart 112 Horniblow Pt. Rd. Edenton stated that the NC Model Wind Energy ordinance is 7 years old and has not been updated. She stated the ordinance is noted that each community should modify the ordinance to fit that community. She stated the model ordinance does not address height. She stated the proposed setbacks are unacceptable and the height should be addressed.

Liz Alons 1848 Paradise Road Edenton stated that at a previous meeting Commissioner Nixon asked if the Board could make changes to the ordinance. She stated the changes were made by the Planner instead. She stated a Board could change its minutes but that was not what was said. She asked the Board what they would do if their neighbors did something to harm them. She asked if the Board has faith in their neighbors. She stated her neighbors would sell to the highest bidder. She asked the Board to stand up and protect the citizens and stop listening to Apex. She stated the new changes are devastating. She requested that the Board go back to the original subcommittee recommendations. She stated the noise from the turbines would not stop and she is facing 20-30 years with no peace and quiet. She asked if she should beg for compassion. She stated she has faith that the Commissioners will do the right thing.

Tom Creedle 137 Osprey Drive thanked the Board for the opportunity to speak. He asked the Board to be concerned and cautious regarding the turbines. He stated the Board should be cautious of a developer long on promise and short on specifics. He stated his concern for the affected property owners. He asked who was in charge, who pays and who will get the credit/blame. He stated Apex is in charge, the taxpayer pays for the tax credits/rebates/refunds offered and he stated the Board of Commissioners would be blamed for any problems.

Gloria Brickhouse 418 Sandy Ridge Rd. Edenton stated she was against wind energy. She stated it does not benefit the people of the County. She stated if the Commissioners approve the project it should be put in the historic town.

Elliott Engstrom 100 S. Harrington St. (111 Crab Orchard Dr.) representing CIVITAS stated he is representing people who are concerned about their property values, structures beside their property. He stated CIVITAS is not anti-wind. He stated he did not think Apex was bad but is a business that exists to make a profit. He stated that he would not count on NC DENR to protect Chowan County. He noted a previous suit against DENR where the judge told his client that they did not have the right to tell DENR how to do their job. He stated he has enjoyed the time spent in Chowan.

Lueta Sellers 119 Bella Vista Dr. stated she recently spent time in Scotland. She stated that turbines are everywhere in Scotland. She stated that she asked the guides about complaints about the turbines. She stated he told her that the main complaint is from those who cannot afford to get a turbine in their own yard. She stated there were large farms in communities similar to Chowan and she was not able to find anyone who complained. She stated the Australian study did not find any health effects. She stated she supported the 2013 wind ordinance. She stated that Chowan County can contribute to the rest of the world with this project and be a good neighbor.

Frank Sellers 119 Bella Vista Dr. stated that you can find anything if you look for it. He stated that he felt fine with the 2013 ordinance. He stated this matter has been beat to death.

Alissa Cale 537 Summerby Rd. Roper NC stated she works for Weyerhaeuser. She stated that the land can continue to be farmed, hunted and used for timber. She stated that the Board should not take any action and leave the ordinance as it is. She stated that in good faith Apex is spending money based on the 2013 ordinance requirements and if the ordinance is amended it will tell future businesses that Chowan County will change the rules.

Phil Smith, 602 Greenhall Rd. stated that his home is located within the proposed project. He stated that because of this he visited a wind farm. He stated he spoke with land owners and was able to find those who had concerns before the project was built. He stated the sound from the turbine was like a quiet fan and that was at 150 feet tall and he was within 400 yards. He stated he supports the 2013 ordinance and does not have any concerns with a turbine being located in his yard.

Kerlis Povitis 716 Monticello Ave Charlotte NC stated his is the Vice President of Apex. He stated that he supports the 2013 ordinance He stated that his attorney has submitted comments to the Board regarding the proposed Planning Board changes to the ordinance. (A copy of the letter is in the meeting file labeled September 21, 2015). He stated the 2013 ordinance is within the state and federal guidelines for wind energy facilities. He stated the mentioned fears regarding wind energy facilities are unfounded and the proposed setbacks are appropriate. He stated the current ordinance requires multiple studies. He stated Apex is committed to educating the community. He stated Apex will honor the local hunting tradition. He requested that the Board uphold the 2013 ordinance.

Brian Ferraicio 128 Rockfish St. Edenton NC stated that wind turbines have a negative impact on the environment. He stated they are attributed to bird deaths and chemical leaks. He discussed Duke Energy was fined for violating the migratory bird treaty. He stated the turbines cause radar interference. He stated there is landscape impact and the noise causes adverse impacts. He stated

the noise leads to sleep deprivation. He stated the permits do not matter and that Chowan can do better. He questioned if there would be an increase in the tax base. He stated his concern with the fact Chowan was selected as a potential site. He stated there are no turbines that tall in the United States. He stated the weight of the turbines on the earth defies all logic. He quoted Warren Buffett stating that if there were no tax credits for the turbines building them would not make sense. He urged the Board to do the right thing. He stated Apex being able to recommend changes is unethical and asked what recommended changes did Apex object to.

Ronnie Smith 103 Robin Lane Edenton stated he is pro-Chowan County and not anti-wind.

Gaspar Misseri 740 Virginia Road Edenton read information he pulled from the internet. He stated that wind energy will build the tax base. He stated that wind energy facilities receive less subsidies. He stated the projects create jobs. He stated that the turbines would diversity the County's energy portfolio. He stated wind has less impact on the environment requiring less fuel and conserves water. He stated electricity uses more water when being produced.

Vice Chairman Kehayes requested that Mr. Misseri's comments be directed towards the text amendment.

Mr. Misseri stated that he supports the 2013 ordinance and encouraged the Board to be an example to the community.

Lin Bond 667 Virginia Rd. stated that there are health, economic and environmental issues. He stated that the current ordinance does not address these concerns. He recommended that the Board get rid of the current ordinance and start over and look at the impact on the residents not the deer.

Bob Quinn 208 West Church Street stated the Board has little control over life events. He stated the Board can however prepare and lessen the chances of disasters. He stated he felt the Board could do this by voting for a stronger ordinance of the subcommittee's recommendations. He stated the Board should pass an ordinance that addresses the concerns mentioned to be more stringent and safer.

Lynn Partin 209 Montpelier stated her concern with the protection of the County citizens. She stated the setbacks are too small and do not address night noise. She discussed the world health organization found adverse health effects with sounds over 55Db. She requested the Board consider the health of the children and the elderly. She urged the Board to be concerned with the health safety and welfare of the residents.

Earl Alexander 680 Virginia Rd. Edenton stated his concern for anyone that lives around windmills. He stated he lived by them in Palm Springs and stated that the County will soon learn about the problems. He stated the farms are not pretty.

Henry Campen 301 Fayetteville St. Raleigh NC stated he was the attorney counsel to Apex. He stated that staff drafted the 2013 ordinance, not Apex. He stated the DENR is an agency with over 1,000 employees and has resources to examine what Counties cannot. He stated that this is a

long process. He stated he felt the 2013 ordinance is fair and balanced. He stated that some of the Planning Board's recommendations are problematic. He stated that requiring all state permits first is problematic. He stated the Conditional Use Permit typically requires that all these permits be obtained as a condition. He stated that the DENR statutes for the permitting process is 8 pages long and a lengthy process. He stated that staff does not have this expertise and he feels the 2013 ordinance setbacks are reasonable.

Vice Chairman Kehayes called for an 8 minute recess. After 8 minutes he called the meeting back to order.

Frank Miglorie 1222 Soundshore Dr. Edenton stated he was representing the Edenton Chowan Partnership (ECP). He stated that ECP has worked closely with Apex. He stated that the federal state and county permitting process protects the residents of the County. He stated that the County has to rely on permitting bodies.

Patti Kersey 3065 Connors Drive Edenton stated she has owned property in Chowan County for 20 years. She stated she was on the Planning Board when Apex provided a text amendment request in 2013. She referred to the 2013 Planning Board minutes where it was stated that Apex gave the Planner a long list of changes. She discussed the directive to the Planning Board to bring an amendment to the Board of Commissioners of a proper wind energy ordinance. She stated that wind energy is highly technical and will be here at least 20 years. She stated it is a good thing that citizens are interested in the process. She stated that the process is technical, complex and a legal matter. She stated what the Board adds or deletes comes down to protections. She stated people are promised access to their crops and reduced electric rates and little harm to wildlife. She stated the question is simple, does the County want a weak or a strong ordinance. She stated the proposed ordinance still allows for tax revenue to be brought in. She asked if the Board would deny the project and stated that the health safety and welfare of its residents is not up for sale. She asked the board to consider some protections.

Debby Parker 801 Arrowhead Trail Edenton stated she has no financial interest in the project and does not live in the proposed site. She stated she did not want Chowan County to be the test case for Apex. She stated that the ordinance should be as strong as possible.

John Guard 211 Wake Ave Edenton stated he was present at the chair of the Edenton Chowan Board of Education. He stated that the Board of Education has at their meetings discussed wind energy. He provided the Board with a copy of a resolution of support for wind energy from the Board of Education. (A copy of the resolution is in the meeting file labeled September 21, 2015). He stated the Board of Education members all have children who are graduates of John A. Holmes High School and few of them have returned to Chowan County. He stated there are no jobs in Chowan County to return to. He stated the County cannot survive on property tax alone. He stated he did not want to sell the County to the highest bidder but something is needed to help Chowan County. He stated that there is a decline in revenues in the County and monies are needed to provide a strong educational infrastructure. He stated tourism and retirees are important but he urged the Board to look at other opportunities for growth.

Will Rogers signed up to speak, but when called he did not come forward.

Being no further public comment, Commissioner Mitchener moved to close the public hearing. Vice Chairman Kehayes asked for all in favor, the motion passed unanimously (6-0).

Vice Chairman Kehayes called on the Planner to speak.

Ms. Elizabeth Bryant reviewed the materials in the Board of Commissioner packets. She also noted all of the current Planning Board members were present. Ms. Bryant noted that the packets included:

- 2013 Text Adopted
- Sub Committee report from April 2013
- Recommendation from Sub committee
- March 31, 2015 minutes
- April 2, 2015 minutes
- Text Amendment prepared by staff August 2015
- Staff report to Planning Board with several versions of recommended text amendments (Blue is staff recommendation)
- Red is Jim Robison recommendation
- Staff revision recommendation in green
- County Planning Board recommendation revisions in green and pink (8/24/15 and 8/26/15 meetings)
- Minutes of August 24, 2015
- Public Hearing Notice
- Staff report with details of the process and revision of the ordinance.

Vice Chairman Kehayes stated that in comparing the Planning Board recommendation the three items with major differences are the decibels, setbacks, property value guarantee and decommissioning salvage value. He stated this was a world of difference from the subcommittee recommendation.

Ms. Bryant stated that this hearing is de-novo and all information and all options are to be made available to the Board of Commissioners for consideration.

Vice Chairman Kehayes asked if Ms. Bryant felt 35-55 decibels is rational.

Ms. Bryant stated that 35 Db is not in balance with the Land Use Plan. She stated the Planning Board decided to recommend having the sound measured from the property line. She stated she felt the Planning Board gave their best effort.

Commissioner Nixon asked Ms. Bryant to discuss how health and safety are addressed in the Conditional Use Permit (CUP) process during those public hearings.

Ms. Bryant stated these regulations are general. She stated that the applicant reviews the basic requirements for a Wind Energy Facility. She stated the application first goes through staff and technical review committee review, then a public meeting at the Planning Board where

information may be requested during the review and the Planning Board will make a recommendation to the Commissioners to approve, deny or add conditions. She stated the Commissioners will review the materials provided to the Planning Board and may request additional information then the Board of Commissioners will make the final decision to approve, deny or approve with conditions. She stated that location, height and other specifics of a project are unknown until the Conditional Use Permit application is filed.

Commissioner Nixon stated he has not inquired about income because that is done during the CUP process. He stated this application for a text amendment cannot be site specific. He stated that the Board noted that it was happy with the ordinance as it was and the Planning Board was advised to not look at the ordinance. He stated the Planning Board chose to make a recommendation and the Commissioners set a time limit on the recommendation from the Planning Board. He stated the petition from 600 people was later provided, but noted the Board of Commissioners represents over 14,000 County residents. He stated that one a one-half years ago this Board did a lot of work and asked a lot of questions then when the ordinance was amended. He asked if someone applies for a CUP the Board of Commissioners has to listen to the evidence. He stated he feels the current ordinance is a starting point. He stated that he is in favor of the 2013 ordinance. He asked if Ms. Bryant kept the Planning Board subcommittee recommendations in mind.

Ms. Bryant stated the green is her draft only. She stated she felt her draft was an attempt to fairly address the subcommittee concerns and protect the County.

Commissioner Nixon asked Ms. Bryant if she feels the current ordinance protects the health, safety and welfare of the County.

Ms. Bryant stated that she thinks the CUP process allows the Commissioners to decide if an application advances the health, safety and welfare and allows the opportunity to add conditions to advance health, safety and welfare.

Commissioner Winborne stated that he feels the current debate is not about Apex's project. He stated this is about the wind ordinance. He stated there were comments about moving to the 21<sup>st</sup> century with recording meetings. He stated that wind energy is a 21<sup>st</sup> century movement. He stated he is pro-Chowan County. He stated that criticism comes with the job of being a Commissioner. He stated that he felt the 2013 ordinance was a good decision. He stated he feels that one or two things should be addressed in the 2013 ordinance. He stated he has a concern with the amount of the escrow account and the market changing all the time with regards to salvage value. He stated that changes weekly. He stated he appreciated the effort of the Planning Board and staff. He stated he has not been provided with evidence the wind energy facilities make people sick. He stated he supports the 2013 ordinance.

Vice Chairman Kehayes stated that when the Board discussed a ban on smoking at County facilities, he knew that smoking was harmful to others. He stated however when someone is smoking on a boat in the middle of the river, that smoke danger is confined to the boat. He stated he believes that wind turbines cause a health risk. He stated that low frequency sound (sound we do not hear) he gave examples of loud bass music from vehicles where it is sound we

feel. He stated he is concerned that White Oak Elementary and DF Walker Elementary Schools are within 1 mile of the proposed low frequency sound. He stated he thinks there are potential negative health effects. He stated Germany has 1.5 mile setbacks. He stated a study from Denmark states that the larger the turbine, the more low frequency sound is produced. He stated these turbines are proposed to be the largest in the world. He stated a 2 megawatt turbine was put up in Boone and immediately there were complaints up to 1.8 miles away. He cited studies from Australia about low frequency sound. He stated he feels this is a real thing. He stated the World Health Organization states that sound at night should be less than 30Db to protect a child's health. He stated he also has concerns with effects on property values. He stated people will not be able to sleep with windows open because of the sound from the turbines.

Commissioner Bonner stated that Board is trying to make a decision based on what they hear and what they know. He stated he has not been provided with evidence of the things that have been stated. He stated he has only had witnesses who stated they visited a wind energy facility for themselves. He stated that it is difficult to make a decision against this type of project without eye witness testimony. He stated that 55DB from a property line vs. 55Db from a residence does provide some protections. He stated he agrees with Commissioners Winborne and Nixon and that his questions can be answered during the CUP process. He stated he did not feel that the County needs to amend the ordinance.

Commissioner Mitchener provided information from the National Institute for deafness and provided the national standards for deafness (how loud is too loud for prolonged exposure). A copy of the handout is in the meeting file labeled September 21, 2015. He reviewed the examples in the handout and stated that considering the source, he does not see 55Db as a problem. He asked if the Board chooses to maintain the 2013 ordinance, and Apex applies for a CUP, and there is a surprise brought before the Board, is the Board locked in.

Ms. Womble stated that conditions in a CUP have to be related to the ordinance. She stated setbacks. She noted the ordinance section that states all codes. She stated conditions are based on health safety and welfare.

Commissioner Mitchener asked if the Board has to address these concerns tonight.

Ms. Bryant stated that the Board is addressing general language in the ordinance tonight. She stated the CUP process is another set of review. She gave the example that the Board may attach a condition that it review all state federal permits before approval.

Commissioner Lawrence discussed his concern with the changes in codes.

Ms. Womble noted the application falls under the codes that are current during the application. She noted that the Board cannot make retroactive code conditions.

Commissioner Mitchener asked if the Board could make conditions for the decibels of sound during certain hours.

Ms. Womble stated the Board could put that in the ordinance.

Commissioner Nixon asked if the Board feels there is a health, safety or welfare concern with setbacks could they limit the distance from the property line.

Ms. Bryant stated the application would have to meet the ordinance minimum setback requirement. She stated that there could be greater setbacks from occupied buildings during the conditional use permit.

Commissioner Lawrence asked about the setback requirements.

Ms. Bryant stated that information is in a table in the ordinance.

Commissioner Nixon stated the Board will be able to review testimony on both sides and require sworn testimony. He noted that mill in the Town of Edenton ran all hours and nobody complained about the noise. He stated he wanted evidence to make a decision, not an opinion.

Vice Chairman Kehayes stated that nobody is accusing the wind turbines of causing hearing loss. He stated the risk is not establishing suitable setback requirements.

Commissioner Bonner stated that the setbacks are from the property line not a home and until the application is filed there is no way to know. He stated he lived near Chowan Veneer for 27 years and the noise was never the complaint, it was the smoke. He stated that he does not see where this ordinance poses adverse health effects for the residents.

Commissioner Winborne moved to adopt the wind ordinance dated October 25, 2013.

Ms. Womble stated that if the motion is to adopt the December 2013 ordinance that is already in place.

Commissioner Winborne asked to rescind his motion.

Commissioner Nixon stated that he felt the Board needed to vote to adopt or deny any of the recommended changes from the Planning Board.

Ms. Womble stated she felt the Board needed to vote on the public hearing matter, which is the recommendation from the Planning Board.

Commissioner Winborne moved to reject the proposed changes from the Planning Board and stay with the 2013 ordinance.

Commissioner Nixon stated that he felt the concerns raised by Commissioner Winborne were valid regarding decommissioning (salvage values) because that amount fluctuates daily. He stated he would recommend the language regarding salvage value should be struck and he stated he would like to add language about an escrow account.

Commissioner Winborne stated he would like to rescind his last motion. He stated he would like to make a motion to include language for an escrow account.

Ms. Womble discussed with the commissioner the procedure for amending the ordinance.

Commissioner Kehayes asked if the Board could change the existing ordinance.

Ms. Womble stated that the Board has been provided with all the recommended texts and can adopt all of, part of, a combination of, or none of the recommendations.

Commissioner Nixon asked if the escrow would be reviewed during the CUP process.

Ms. Bryant stated that the language provided by Mr. Robison addresses the escrow account. She noted which language to strike.

Commissioner Winborne stated he would like his motion to include that.

The Board discussed if they wanted to amend the ordinance now.

Commissioner Mitchener asked about language in conditions.

Ms. Bryant stated that all conditions have to relate to the ordinance language and address health safety and welfare.

Vice Chairman Kehayes asked if the Board looks at the CUP application as a whole.

Ms. Bryant stated that you look at the application as modified and then you stipulate the conditions if you feel it does not advance health, safety or welfare.

The Board discussed the procedure for approval of a CUP (Staff review, TRC Review, Planning Board Public Meeting and Public Hearing for final approval at Commissioners meeting).

Commissioner Winborne noted the language regarding the cash bond may need to be more specific.

Commissioner Nixon discussed the escrow account to be used by the County. He stated that he would like to strike the statement about salvage material.

Ms. Womble noted this would require an amendment of the motion on the floor.

Commissioner Winborne asked to rescind his previous motion to include the discussed changes.

Ms. Bryant noted the sections that would be amended

The Board discussed changing the escrow amounts from \$100,000 to \$50,000.

Ms. Stallings noted this would add and amend the following subsections:

**(b) (1) (i)**

**The applicant shall establish an escrow account in the name of Chowan County in the amount of \$50,000 to be used by the County for all County expenses related to the project.**

**(b) (7)(d)**

**(d) Prior to the issuance of a building permit, the owner of a Medium or Large Wind Energy Facility shall provide a cash bond in favor of the County in an amount equal to the estimated removal cost of the Wind Energy Facility. The bond shall remain in full force and effect until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the Conditional Use Permit.**

Mr. Howard stated he has concerns with a letter of credit as staff will have to keep up with that annually. He stated he felt a bond may be better.

Commissioner Winborne asked to rescind all of his previous motions. He asked Ms. Stallings to read all the changes into the record.

Ms. Stallings Noted the following bold sections as amended:

**8.109 Wind Energy Facilities** (Small, Medium, Large) A. Zoning Districts Small: A-1 Medium: A-1 Large: A-1 B. Preamble Wind Energy Facilities may be permitted in districts as designated in the Table of Permitted Uses, found at Article 5, Table 5-1, subject to the following requirements: 1. A Permit Application for a Wind Energy Facility shall contain the following: (a) A narrative describing the proposed Wind Energy Facility, including an overview of the project; (b) The proposed total rated capacity of the Wind Energy Facility; (c) The proposed number, representative types and height or range of heights of Wind Turbines to be constructed, including their rated capacity, dimensions and respective manufacturers, and a description of ancillary facilities; (d) Identification and location of the property or properties on which the proposed Wind Energy Facility will be located; (e) A site plan showing the planned location of all Wind Turbines, property lines, setback lines, access roads, substation(s), electrical cabling from the Wind Energy Facility to the substation(s), ancillary equipment, building(s), transmission and distribution lines. The site plan must also include the location of all Occupied Buildings, Residences, and other features sufficient to demonstrate compliance with the setbacks required by this Article; (f) Any Environmental Assessment required by state or Federal law; (g) Decommissioning plans that describe the anticipated life of the Wind Energy Facility, the estimated decommissioning costs in current dollars, the salvage value of the equipment, and the anticipated manner in which the Wind Energy Facility will be decommissioned and the site restored; Article 8, Development Standards for Individual Uses 8-88 October 2, 2006 (h) Documentation of agreement between Participating Landowner(s) and the Applicant, Facility Owner, or Operator; and Signature of the Applicant. **(i) The applicant shall establish an escrow**

**account in the name of Chowan County in the amount of \$50,000 to be used by the County for all County expenses related to the project.** 2. Throughout the permit process, the Applicant shall promptly notify Chowan County of any proposed changes to the information contained in the permit application that would materially alter the impact of the project. 3. Changes to the approved application that do not materially alter the initial site plan may be administratively approved by the Zoning Administrator. Major modifications to the approved Conditional Use Permit will require a new Application and approval by the Planning Board and Board of County Commissioners in the same manner as the original Conditional Use Permit. Major Modification is defined as an expansion of the project boundary or an increase in the number of turbines. A decrease in the number of turbines or the relocation of any turbine on the site plan within the project boundary is not a Major Modification so long as the turbine locations conform to development standards of the ordinance. 4. Wind Turbine Height and Setback Multipliers and Minimum Lot Sizes: The Setbacks shall be calculated by multiplying the required setback number by the Wind Turbine Height and measured from the center of the Wind Turbine base to the property line or the nearest point on a public road right-of-way or the nearest point on the foundation of a Residence or an Occupied Building. For a Wind Energy Facility, Large, the minimum lot size is the minimum combined acreage of lots that are under lease or agreement with the Applicant or Wind Energy Facility Owner pertaining to the Wind Energy Facility. Lot Size, Setback and Height Requirements Facility Type Minimum Lot Size Minimum Setback Requirements Maximum Height Occupied Buildings Residences Property Line (Non Participating Property) Public Roads Small Facility 43,000 Sq. Ft. 1.5 1.5 1.1 1.5 120 feet Medium Facility 250 Acres 2.0 2.0 1.5 1.5 250 feet Article 8, Development Standards for Individual Uses 8-89 October 2, 2006 Large Facility 500 Acres 2.5 2.5 1.5 1.5 600 feet Setback requirements may be waived by a property owner so long as such waiver is in writing and signed by the property owner and recorded in the Chowan County Register of Deeds Office. 5. Sound and Shadow Flicker This Section shall only apply to Large Wind Energy Facilities. Sound and Shadow Flicker issues for Small and Medium Wind Energy Facilities are addressed by setbacks. (a) Audible sound from a Large Wind Energy Facility shall not exceed fifty five (55) dBA, as measured at any Occupied Building or Residence on the property of a Non-Participating Landowner. (b) Shadow Flicker on any Occupied Building or Residence on a nonparticipating landowner's property caused by a Large Wind Energy Facility must not exceed thirty (30) hours per year. (c) Sound and/or Shadow Flicker provisions may be waived by a property owner so long as such waiver is in writing, signed by the property owner and recorded in the Chowan County Register of Deeds Office. 6. Installation and Design (a) The installation and design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute, and take into consideration local conditions. (b) All structural, electrical and mechanical components of the Wind Energy Facility shall conform to relevant and applicable local, state and national codes. (c) The visual appearance of a Wind Turbine shall at a minimum: i. Be a non-obtrusive color such as white, off-white or gray; ii. Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety; and iii. Not display advertising (including flags, streamers or decorative items), except for identification of the Wind Turbine manufacturer, Facility Owner and Operator. 7. Decommissioning (a) The Wind Energy Facility Owner shall have twelve (12) months to Article 8, Development Standards for Individual Uses 8-90 October 2, 2006 complete decommissioning of the Wind Energy Facility if no electricity is generated for a continuous period of twelve (12) months. For purposes of this Section, this twelve (12) month

period shall not include delay resulting from Force Majeure. (b) Decommissioning shall include removal of Wind Turbines, buildings, cabling, electrical components, roads, and any other associated facilities down to thirty-six (36) inches below grade. (c) Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored. **(d) Prior to the issuance of a building permit, the owner of a Medium or Large Wind Energy Facility shall provide a cash bond in favor of the County in an amount equal to the estimated removal cost of the Wind Energy Facility. The bond shall remain in full force and effect until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the Conditional Use Permit.**

Commissioner Winborne moved to approve the text as read into the record. Vice Chairman Kehayes asked for all in favor, the motion passed (5-1 Kehayes).

Chairman Smith rejoined the meeting. Vice Chairman Kehayes passed the gavel back to Chairman Smith.

#### **Appointment**

Chairman Smith noted the Clerk of Court has requested the reappointment of Denise Bunch to the jury commission.

Commissioner Mitchener moved to reappoint Ms. Bunch.

Chairman Smith asked for all in favor, the motion passed unanimously (7-0).

#### **External Board and Committee Report**

Chairman Smith called for any external Board and Committee reports, there were none.

#### **Manager Report**

Mr. Howard noted the project is nearing completion. He stated a building and kayak access still need to be constructed.

Mr. Howard noted that EM is applying for two grants that require no additional matching funds.

Ms. Stallings noted that the manager has the authority to approve all grants that do not require additional funds.

Chairman Smith thanked Mr. Howard for notifying the Board of the applications. There was no objection to the application approval by the Manager.

#### **Timely and Important Matters**

Commissioner Winborne noted the Planning and Enterprise Committee will meet on Tuesday, September 22, 2015 at 9:00am.

Commissioner Nixon stated that he would like for the manager to look into the history of the County's ownership of the land behind the old fish hatchery property. And determine if the land can be turned over to the Property Owners Association.

Being no further business, Commissioner Nixon moved that the meeting be adjourned. Chairman Smith asked for all in favor, the motion passed unanimously (7-0).