

Special Meeting
May 21, 2018
4:45 pm
Chowan County Public Safety Center
305 West Freemason St. Edenton, NC

MINUTES

The Chowan County Board of Commissioners held a special meeting at 4:45pm on Monday, May 21, 2018.

Present Don Faircloth, Ron Cummings, Patti Kersey and Greg Bonner.

Commissioners Ellis Lawrence, John Mitchener and Jeff Smith were absent.

Staff present County Attorney Lauren Womble, County Manager Kevin Howard, Board Clerk Susanne Stallings and Melissa Radke Tax Administrator.

Commissioner Faircloth moved to go into closed session in accordance with NCGS 143-318.11 (3) attorney client privilege. Vice Chairman Bonner asked for all in favor, the motion passed unanimously (4-0).

The minutes of the closed session are sealed.

Commissioner Faircloth moved to come out of closed session. Vice Chairman Bonner asked for all in favor, the motion passed unanimously (4-0).

Commissioner Cummings moved to adjourn the meeting, Vice Chairman Bonner asked for all in favor, the meeting was adjourned. (7-0).

Regular Meeting
Monday, May 21, 2018
Chowan County Public Safety Center
305 West Freemason Street
6:00pm

This meeting was recorded. A copy of the recording is in the meeting file labeled May 21, 2018.

Present Commissioners John Mitchener (came in later), Greg Bonner, Patti Kersey, Don Faircloth, Ellis Lawrence and Ron Cummings.

Chairman Jeff Smith was absent.

Staff present County Manager Kevin Howard, Finance Officer Cathy Smith, County Attorney Lauren Arizaga-Womble and Board Clerk Susanne Stallings.

Regular Meeting

Vice Chairman Greg Bonner called the regular meeting to order and led all in the pledge of allegiance. He then offered the invocation.

Approval of Agenda

Ms. Stallings noted a request to amend the agenda to add the consideration of a lease agreement between the County and the Edenton Steamers.

Commissioner Lawrence moved to approve the agenda as amended. Vice Chairman Bonner asked for all in favor, the motion passed unanimously (5-0).

Public Comment

Vice Chairman Bonner opened the floor to public comment.

Alex Kehayes 2333 Locust Grove Road urged the Board to take their time and not to make a quick decision regarding the Timbermill application.

Bob Kirby 236 Whites Landing Road urged the Board to carefully consider the specific parameters that the application exceeds the original.

Frank Sellers 119 Bella Vista Dr thanked the Board for their work, he noted the recommendation from the Planning Board was unanimous and stated his support of the project.

Win Dale 102 Emperor Landing Road spoke in favor of the Conditional Use Permit amendment.

Larry McLaughlin 118 Butternut Lane urged the Board to do their due diligence on the application. He also commented on the window color selection for the DF Walker campus. He stated he felt white windows would be more aesthetically pleasing.

Patrick Flynn 1924 Paradise Road provided the Board with written comments, a copy is in the meeting file labeled May 21, 2018. He stated the Timbermill testimony in the previous application was false regarding the transmission lines. He urged the Board to adjourn the hearing and deny the application.

Alan Lennon 2349 Centerhill Highway Hertford reminded the Board of the criteria regarding the project being in harmony with the neighborhood. He stated this project will not benefit the power needs locally.

John Morehead 112 East Queen Street discussed the appearance of the windows at the DF Walker campus. He stated the use of white windows would enhance the appearance of the building similar to that of the John A. Holmes High School campus.

Vice Chairman Bonner called for any further public comment there was none.

Consent Agenda

a. Budget Amendments

BA1718-044

Account Code	Description	Old	+ or (-)	New
Capital Projects Fund				
32-3810-033-00	Contribution from Capital Reserve	(7,635.00)	(75,000.00)	(82,635.00)
32-8100-584-00	ECPS - Central Offices Relocation	-	75,000.00	75,000.00
	Balanced:	(7,635.00)	-	(7,635.00)
Justification:				
	<i>To establish budget in Capital Projects Fund for relocation of Edenton-Chowan Schools central offices. Funding from Capital Reserve Fund approved by BOCC on 04/16/18.</i>			

BA1718-045

Account Code	Description	Old	+ or (-)	New
DSS				
12-5310-126-00	Salaries - Part-time	-	2,850.00	2,850.00
12-5310-121-00	Salaries - Regular	1,058,439.00	(2,850.00)	1,055,589.00
	Balanced:	1,058,439.00	-	1,058,439.00
Justification:				
	<i>To move budgeted salaries from Regular to Part-time to cover the Commissioner approved part-time IMCII position through 06/30/18.</i>			

BA1718-046

Account Code	Description	Old	+ or (-)	New
Recreation				
11-6130-550-00	Capital Outlay - Equipment	23,100.00	(1,469.46)	21,630.54
11-6130-351-00	Maintenance & Repairs - Water Access	5,000.00	1,469.46	6,469.46
	Balanced:	28,100.00	-	28,100.00
Justification:				
	<i>To move budgeted monies from Capital Outlay - Equipment to Repairs & Maintenance to cover repairs to light fixtures on the fishing pier</i>			

BA1718-047

Account Code	Description	Old	+ or (-)	New
Tax				
11-4140-521-00	Capital Outlay - Software	44,000.00	(1,815.90)	42,184.10
11-4140-325-00	Postage	14,079.50	1,815.90	15,895.40
	Balanced:	58,079.50	-	58,079.50
Justification:				
	<i>To move budgeted monies from Capital Outlay - Software to Postage to cover expenditures for mass bank attachments new to FY 2018.</i>			

BA1718-048

Account Code	Description	Old	+ or (-)	New
Capital Projects Fund				
32-3810-033-00	Contribution from Capital Reserve	(82,635.00)	(279,599.25)	(362,234.25)
32-8100-583-00	Radio Tower - Central Comm	3,935.00	279,599.25	283,534.25
	Balanced:	(78,700.00)	-	(78,700.00)
Justification:				
	<i>To establish budget in Capital Projects Fund for county portion of cost for the communications tower located behind DSS</i>			

BA1718-049

Account Code	Description	Old	+ or (-)	New
Register of Deeds:				
11-3418-415-00	*Preservation/Automation	(5,067.88)	(712.01)	(5,779.89)
11-4180-298-00	*Dept Supplies - Auto/Pres	13,525.37	237.34	13,762.71
11-4180-440-00	*Contr Svcs - Automation/Pres	8,538.31	237.33	8,775.64
11-4180-511-00	*C/O - Auto / Pres	17,970.19	237.34	18,207.53
Sheriff's Office:				
11-3431-232-00	*Sheriff Donations	(1,242.00)	(50.00)	(1,292.00)
11-4317-440-00	*Donation - Expense	1,772.61	50.00	1,822.61
11-3431-233-00	*State Special Funds	(3,976.78)	(18.88)	(3,995.66)
11-4317-441-00	*State Special Expense	18,291.58	18.88	18,310.46
11-3431-235-00	*Sheriff Executions	(6,465.77)	(400.00)	(6,865.77)
11-4316-440-00	*Sheriff Executions	7,809.89	400.00	8,209.89
11-3431-243-00	*KIDS & COPS	(9,152.40)	(80.00)	(9,232.40)
11-4317-443-00	*KIDS & COPS Expense	24,048.12	80.00	24,128.12
Animal Shelter:				
11-3438-894-00	*Donations - Chowan	(2,970.00)	(75.00)	(3,045.00)
11-3438-894-03	*Donations - Other	(2,345.00)	(25.00)	(2,370.00)
11-4381-600-00	*Donation - Expense	31,939.31	100.00	32,039.31
11-3438-895-01	*Adoption - Gates	(580.00)	(140.00)	(720.00)
11-3438-895-03	*Adoption - Other	(1,935.00)	(75.00)	(2,010.00)
11-4381-441-00	*Contr Svcs - Spay/Neuter	8,788.16	215.00	9,003.16
Cooperative Extension:				
11-3495-363-00	*SHIIP Grant	(1,879.21)	36.21	(1,843.00)
11-4950-600-00	*SHIIP Grant	2,659.06	(36.21)	2,622.85
11-3495-370-00	*AG Program Fees Discretionary	(5,169.88)	(75.69)	(5,245.57)
11-4953-440-00	*Ag Program Discretionary	11,037.63	75.69	11,113.32
11-3495-378-00	*4- H Fees Discretionary	(11,932.00)	(6,095.00)	(18,027.00)
11-4953-448-00	*4- H Fees Discretionary	16,092.11	6,095.00	22,187.11
11-3495-379-00	*Livestock Program	(13,215.00)	(12,162.00)	(25,377.00)
11-4953-449-00	*Livestock Program	81,262.59	12,162.00	93,424.59
11-3495-380-00	*ECA Discretionary	(370.15)	(71.00)	(441.15)
11-4953-450-00	*ECA Discretionary	787.36	71.00	858.36
Recreation:				
11-3612-487-00	*Recreation Donations	(6,762.00)	(100.00)	(6,862.00)
11-6130-299-01	*Donations - Dept Supplies	12,989.98	100.00	13,089.98
Senior Center:				
11-3616-533-00	*Reg Fees - Trips	(78,603.46)	(288.00)	(78,891.46)
11-4268-312-00	*TRIPS - Senior Citizens	90,550.90	288.00	90,838.90
11-3616-533-01	*Registration Fees Activities	(550.00)	(219.75)	(769.75)
11-4268-299-01	*Activities - Dept. Supplies	574.13	219.75	793.88
11-3616-535-03	*Healthways	(7,255.00)	(1,147.00)	(8,402.00)
11-4268-352-02	*Healthways	8,225.49	1,147.00	9,372.49
Emergency Medical Services:				
60-3839-891-00	*Donations - Rescue Squad	(31.15)	(50.00)	(81.15)
60-4370-499-00	*Donations - Rescue Squad	9,389.65	50.00	9,439.65
Balanced:				
		206,749.76	-	206,749.76
Discretionary Income received in April 2018:				
			21,748.12	
Total Discretionary Income received FYE 2018:				
			224,257.44	
Justification:				

BA1718-050

Account Code	Description	Old	+ or (-)	New
Tourism Development Authority				
51-3839-894-00	*Music & Water Festival	(5,955.00)	(415.00)	(6,370.00)
51-8150-826-00	*Music & Water Festival	9,298.06	415.00	9,713.06
51-3815-530-00	Co-Op Monies	(210.26)	(66.04)	(276.30)
51-8150-261-01	Co-Op Office Supplies	210.26	66.04	276.30
51-3832-530-00	Co-Op Advertising	(7,031.08)	(2,540.00)	(9,571.08)
51-8150-370-01	Co-Op Advertising	7,031.08	2,540.00	9,571.08
Balanced:		3,343.06	-	3,343.06
Justification:				
<i>To amend the budget to include Co-Op and Discretionary monies for TDA through April 2018</i>				

BA1718-051

Account Code	Description	Old	+ or (-)	New
Information Technology				
11-4210-520-00	C/O - DP Equipment	80,000.00	(9,800.00)	70,200.00
11-4210-311-00	Travel	5,000.00	(3,800.00)	1,200.00
11-4210-321-00	Telephone	35,000.00	13,600.00	48,600.00
Balanced:		120,000.00	-	120,000.00
Justification:				
<i>To transfer budgeted monies from C/O and Travel to Telephone to cover MCNC invoice</i>				

Ms. Smith presented the budget amendments.

Commissioner Cummings moved to approve the budget amendments as presented. Vice Chairman Bonner asked for all in favor, the motion passed unanimously (5-0).

b. Surplus

Ms. Stallings provided the Board with a recommendation to declare 118 Cisco phones and 4 side cars from the previous County phone system as surplus. Staff recommends the sale of the phones to Dare County. The County received an offer from Dare County to purchase the phones in one lot. Dare County has agreed to pay \$1,000 for all the phones.

Commissioner Faircloth moved to declare the phones as surplus and authorize the sale of the phones to Dare County in the amount of \$1,000. Vice Chairman Bonner asked for all in favor, the motion passed unanimously (5-0).

Fireworks Display Permission

Sheriff Goodwin noted that as required annually by statute, a request for permission is submitted for Dwayne Goodwin to provide the fireworks display on the John A. Holmes campus [NCGS § 14-410 & §14-413]. Attached is the fireworks operator's licenses and site plan. He provided a site plan, a calendar of events and liability insurance. He noted he also has an event at Rocky Hock Church on July 3, 2018 and provided that information.

Commissioner Faircloth moved to approve both requests contingent on the inspection and approval from the Fire Inspector. Vice Chairman Bonner asked for all in favor, the motion passed unanimously (5-0).

Quasi-Judicial Evidentiary Hearing CC-CUP 16-02 Amendment

This meeting was recorded. A copy of the audio recording is in the official meeting file and part of the permanent record. The meeting file is labeled May 21, 2018.

Vice Chairman Bonner called for a brief recess, following the recess, he called the meeting back to order.

This meeting was recorded. A copy of the audio recording is in the official meeting file and part of the permanent record. The meeting file is labeled May 21, 2018.

Quasi-Judicial Evidentiary Hearing CC-CUP 16-02

Board Members Present: Vice Chairman Bonner, Commissioner Faircloth, Commissioner Cummings, Commissioner Mitchener, Commissioner Kersey, Commissioner Lawrence

Board Members Excused: Chairman Smith – previously recused.

Vice Chairman Bonner stated the purpose of this evidentiary hearing is for an amendment to Conditional Use Permit CC-CUP-16-02. He asked the applicant to introduce themselves.

Henry Campen stated he, along with Katherine Ross, both of Parker Poe Adams and Bernstein were legal counsel representing Timbermill Wind LLC.

Vice Chairman Bonner asked Mr. Howard if appropriate notice was given for the meeting.

Mr. Howard stated proper notice was published, posted and mailed as per legal requirements.

Ms. Arizaga-Womble stated she wished to address Board conflicts. She noted Chairman Smith has been recused from any proceedings related to this project. She noted he was not present for the meeting and has not participated in any hearings. She noted the law requires that there be an

impartial decision maker. She asked the Board if there were any known conflicts and anyone who is unable to sit as an impartial decision maker, being none she stated the Board could move forward.

She asked if anyone in the public who claims to have special damages or standing to participate in the hearing.

Patrick Flynn 1924 Paradise Road stated he is a property owner in the original hearing. He stated he is an opponent to the original application but his property was not notified as part of this hearing.

Ms. Womble stated the original application is not before the Board this evening. She stated the current application is a modification of what went before the Board...

Mr. Flynn stated he didn't think so and that for the record he objects.

Ms. Arizaga-Womble asked if there were any other motions, there were none. Additionally, she noted for the record that Commissioner Mitchener was not present at the beginning of the regular meeting but arrived and was present for the hearing. She then called on the Clerk to swear all of the witnesses who are prepared to testify.

Ms. Stallings administered the oath to Timbermill witnesses and to the acting County Planner Kevin Howard.

Commissioner Lawrence moved to go into the Quasi-Judicial Hearing. Vice Chairman Bonner asked for all in favor, the motion passed unanimously (6-0).

Mr. Howard read the staff report into the record:

STAFF REPORT

To: Chowan County Board of Commissioners
Date: May 18, 2018
Case: Amendment to CC-CUP-16-02
Prepared By: Kevin Howard, County Manager/Interim Planner

GENERAL INFORMATION

Applicant: Timbermill Wind, LLC

C/o Apex Clean Energy Holdings, LLC

310 4th Street NE, Suite 200

Charlottesville, VA 22902

(434) 220-7595

Property Owners: Various (see Tab 4 of attached Timbermill Wind Application for Amendment to CUP)

Subject Property: Various (see Tab 4 of attached Timbermill Wind Application for Amendment to CUP)

Adjoining Property Owners :(See Tab 6 of attached Timbermill Wind Application for Amendment to CUP)

Requested Action: Amendment to Conditional Use Permit for Timbermill Wind Project
(CC-CUP-16-02)

Tax PINs: 780800955137, 7871700172746, 780600426326,
7806008611463, 780700536501, 780700715394, 780700807919,
780700850415, 780700676916, 780600747255, 780600830841,
781600116106, 781600305682, 780600920804, 780600927177,
781600427290, 781600412334, 781600024188

Location: Bear Swamp and Center Hill areas

Size: 8,300 acres

Existing Zoning: A-1, Agricultural

Existing Land Use: Agricultural, Forestry

Land Suitability Classification: Primarily Low Suitable and Least Suitable, some Medium Suitability

Environmental Conditions: Class 2 Moderate and Class 3 Serious Hazards & Limitations

Surrounding Land Use & Zoning:

North- Various – primarily Agricultural, including some single-family Residential; A-1, Agricultural (farmland, livestock operations, and rural single-family residential)

South- Various – primarily Agricultural and the outlying portions of the Town of Edenton ETJ; Agricultural; A-1, Agricultural (farmland) and RA, Residential Agricultural in Edenton ETJ

East- Perquimans County jurisdiction

West- Various – primarily Agricultural, including some single-family Residential; A-1, Agricultural (farmland, woodland, livestock operation and rural single-family residences)

Land Use Plan:

Major Goals & Objectives: *LAND USE COMPATIBILITY, NATURAL HAZARD AREA, AREAS of ENVIRONMENTAL CONCERN, WATER QUALITY, AREAS of LOCAL CONCERN POLICIES*

- **B4** -- Ensure that land use and development activities provide a balance between economic development needs and protection of natural resources and fragile environments.
- **B13** -- Coordinate all development activity with appropriate Regional Health Department and state regulatory personnel.
- **B14** – Cooperate with the U.S. Army Corps of Engineers in the regulation/enforcement of the 404 wetlands permit process.
- **B31** -- The...County shall maintain development standards (such as limitations on hours of operation, distance/separation requirements, buffering/screening requirements, etc.) for special and/or conditional uses in order to assist with mitigating potential negative impacts.
- **D1** – Conserve the natural resources and fragile environments that provide protection from such natural hazards as floods and storm surges.
- **D2** – Minimize the threat to life property and natural resources that may result from land use and development within or adjacent to identified natural hazard areas.
- **D3** – The ... County will continue to coordinate all development within the special flood hazard area with the Planning & Inspections Department, NC Division of Coastal Management, FEMA, and the US Corps of Engineers.
- **D7** – Chowan County will continue to support and enforce the N.C. State Building Code, particularly requirements of construction standards to meet wind-restrictive factors such as design wind velocity.
- **E1** – Chowan County will continue to support Best Management Practices (BMP) on agricultural properties ... in order to reduce sedimentation and pollution run-off into Nutrient Sensitive Waters.
- **E3** – It is the policy of ... Chowan County to coordinate the approval of local land development projects with applicable state agencies to ensure compliance with regulations to prevent or control non-point source discharges.
- **E5** – Chowan County shall maintain requirements that, to the extent practicable, all

development shall conform to the natural contours of the land and natural and pre-existing man-made drainage ways shall remain undisturbed. All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site....Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or roads. All developments shall be constructed and maintained so that adjacent properties are not unreasonably burdened with surface waters as a result of such developments.

- **F1** – Chowan County support(s) state and federal law regarding land use and development in AECs.
- **F9** – The ... County shall require industries to use the best available technology to avoid pollution of air or water during both construction and operation of new industrial facilities.
- **G2** – The ... County will also support local and regional interest groups in the promotion of tourism.
- **G5** – It is the policy of ... Chowan County to conserve the natural and cultural resources for recreational enjoyment.
- **G7** – Continue to work toward a diversified economy including industry, tourism, and improved technical educational opportunities.
- **G8** -- Chowan County shall maintain airport height overlay requirements that prevent the creation of conditions hazardous to aircraft operation, that prevent conflict with land development which may result in loss of life and property, and that encourage development which is compatible with airport use characteristics.
- **G13** – The ... County remain(s) committed to State and Federal programs in planning areas related to community and economic development, including erosion control, public access and highway improvements.

Future Land Use Classification: *RESIDENTIAL AGRICULTURAL*

- Residential Agricultural land is estimated to encompass approximately 142 square miles (91, 344 acres) or about 91.6 percent of the total County land area.
- The Residential Agricultural classification is intended to delineate lands where the predominate land use is scattered, low density (less than one dwelling unit per acre) residences dispersed among farmland and open spaces.
- The Residential Agricultural classification along with the underlying A-1 (Agricultural) zoning district allows commercial uses typically associated with rural areas. Some of the projected needs for commercial uses in Chowan County will be accommodated in the Residential Agricultural classification. Public and Institutional uses such as churches, county parks, schools, golf courses and utilities are also appropriate for the Residential Agricultural Classification.
- The Residential Agricultural Classification is compatible with the A-1 (Agriculture) District of the Chowan Zoning Ordinance...The district is specifically established for the following purposes:
 1. To encourage the continued use of land for agricultural, forestry, and open space purposes;
 2. To encourage small-scale commercial uses that primarily provide goods and

- services to residents of the surrounding rural areas;
3. To encourage only those industries which are agricultural-related; and
 4. To discourage any use which, because of its character, would create premature or extraordinary public infrastructure and service demands.

Zoning History: None on record.

Applicable Regulations: Chowan County Development Codes: Zoning Ordinance; Article III, Permits & Hearing Procedures, *Section 3.11* Recommendations on Special Use and Conditional Use Permits; Article VIII, Development Standards for Individual Uses, *Section 8.100* Utility Related Appurtenances/Substations, Article IV, *Section 5.1* Permitted Use Table

ANALYSIS

The applicant seeks a modification to Conditional Use Permit CC-CUP-16-02 to include a collection substation, an interconnection substation and an approximately 6-mile above-ground 230-kv transmission line (utility line) between the two substations. The requested amendment will increase the total acreage of the Timbermill Wind Project by 300 acres. The applicant has provided all required materials and has attempted to address this request in the attached application.

Substations are permitted in the A-1 zoning district by staff review. Utility lines are permitted in the A-1 zoning district as a use permitted by right. However, a condition in CC-CUP-16-02 requires, *“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.”*

The Planning Board is charged to review the request for Amendment to the Conditional Use Permit, and to forward its recommendations to the Board of Commissioners.

In granting an amendment to a conditional use permit, the Board of Commissioners may attach reasonable requirements to the permit, in addition to this specified below, that will ensure the proposed amendment in the proposed location:

- 1) Will not materially endanger the public health or safety;
- 2) Will not substantially injure the value of adjoining or abutting property;
- 3) Will be in harmony with the area in which it is located; and
- 4) Will be in conformity with the Land Use Plan or other plan officially adopted by the Board of Commissioners.

The Planning Board has forwarded to the Board of Commissioners and recommended approval with a vote of 6-0.

STAFF FINDINGS

The Land Use Plan identifies the existing land use classification of this property as Agricultural and Forestry, and the future land use classification as Residential Agricultural. Utility Related Appurtenances/Substations and Utility Lines are uses that are, according to the Chowan County Zoning Ordinance and the 2008 Edenton-Chowan County Land Use Plan, consistent with the A-1 (Agriculture) Zoning District and the Residential Agricultural future land use application.

All applicable regulations of the Chowan County Development Codes and staff concerns that are applicable to this project have been identified. The planning staff recommends the following conditions for consideration:

1. Final civil site design (including new road location and building specifications) shall be reviewed by County staff at a subsequent TRC meeting to ensure compliance with state and local building standards
 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. Transmission lines and substations owned by Timbermill shall be decommissioned with the rest of the project.
 4. The Applicant shall obtain all applicable NCDOT permits required for any additional accesses to state-maintained roads.
 5. All details/improvements shall be installed/constructed according to Chowan County Development Code requirements.
 6. Applicant shall require a North Carolina licensed engineer to design the transmission line in accordance with the National Electrical Safety Code and applicable portions of the N.C. Building Code (the "Codes"). The engineer will confirm in writing to the county that the transmission line as designed complies with the Codes.
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Mr. Howard moved to have the staff report entered into evidence.

Ms. Arizaga-Womble noted that the Chairman has the authority to accept the report into evidence.

Vice Chairman Bonner accepted the staff report into evidence (County Exhibit 100). He then asked if there were any questions from the Applicant being none he asked the if there were any questions from the Board, there were none. He then opened the floor for testimony from the applicant.

Mr. Campen stated that he is present to modify the initial Conditional Use Permit that was approved in 2016. He stated that the ordinance allows some staff changes, but some have been referred to the Board of Commissioners for review. He noted the changes include a collection substation, an interconnection substation, and a transmission line connecting the two substations. He noted that he has three witnesses to present, Don Giecek Senior Development Manager for the Project, Tracey Butler Director of Civil Engineering for Apex Clean Energy and William (Drew) Silverman and Senior Manager for Resource Development for Apex. He provided the

Board with booklets that will be exhibits discussed by the witnesses (Exhibits 1-7). He stated that the application submitted to the County and the two supplements filed with the County (Exhibit 8) and moved that the exhibits be accepted by the Board.

Vice Chairman Bonner accepted the exhibits into the record.

Don Giecek discussed Exhibit 1. He stated he manages the Timbermill wind project. He stated he testified in 2016 on CC-CUP-16-02 that was approved by the Board of Commissioners. He stated that he will be testifying on the overview of the application and the status of the project. He stated the application was submitted on March 14th two supplements supplemental were submitted on March 29th (the site plan) and CAMA and correspondence (submitted May 15th and May 18th). He stated the project had to be reengineered to accommodate the transmission facilities that were originally to be placed in Perquimans County. He stated the transmissions facilities include the transmission switching station, collector substation and transmission line that connects the two. He stated the collection substation is located deep in the project. He stated that this increases the voltage will be increased here and move six miles to the interconnecting switching station. He stated that this is on private land under a voluntary lease. He stated that the switching station will be constructed, owned and operated by Dominion. He stated the 2016 application decision was appealed and it was not until the appeal was dismissed that they began designing a route for the transmission line. He stated they worked with landowners to secure voluntary easements. He stated no on site construction will begin until all permits are secured. He stated that the ordinance requires that the Board approve the application unless they find it is not within their jurisdiction, the application is incomplete or if the application does not comply with the ordinance. He stated the application is within the County's jurisdiction, the application is complete and follows the ordinance requirements.

Ms. Arizaga-Womble asked if the Board has any questions.

Commissioner Kersey asked for clarification what information is included in the binder.

Mr. Campen clarified the site plan and other documents are in the binder.

Commissioner Kersey asked for clarification on the parcels in Tab 6 of the application. She asked if this is 100' or 150'.

Mr. Giecek said that this tab is parcels within 150 feet of the amendment facility parcels.

Mr. Howard stated the 150' is a requirement for notification within the ordinance.

Commissioner Kersey asked if all are participating landowners.

Mr. Giecek said no they are not all participating. He stated that this tab was provided to show the parcels within the required notification distance. He stated the collector substation is deep into

the tract and the closest home to that is 5,385 feet. He stated that there are very few homes within a close proximity to the transmission line and switching substation.

Commissioner Kersey stated that there were one or two residences near the project.

Mr. Giecek stated the collection switching station and where the transmission line crosses Paradise Rd. He stated there are agreements with the homeowners that are close to the switching station and transmission line.

Vice Chairman Bonner asked if there were any further questions from the Board, there were none. He then asked the applicant if there were additional questions for the witness.

Mr. Campen asked Mr. Giecek to refer to Tab 8 of the application. He asked if the sheets reference residences.

Mr. Giecek stated yes.

Mr. Campen asked how the structures are identified on the sheets.

Mr. Giecek stated they are red for occupied and yellow for unoccupied.

Tracey Butler stated he would testify on the engineering and design. He noted he testified in the CCCUP16-02 application he is a licensed engineer (18 years of experience and 6 years with Apex).

Mr. Campen moved to have Mr. Butler qualified as an expert witness for civil engineering and the construction of windfarms.

Vice Chairman Bonner granted the motion.

Mr. Butler provided the Board with Exhibit 2 "Map of Existing Transmission lines in Chowan County". He noted the collection station is located within the Weyerhaeuser track. He stated this substation increases the voltage of the project from 34.5kv to 230kv. He reviewed Exhibit 3 "Location of the Timbermill Interconnection Switching Station & Transmission Line". He stated the only sound in the switch yard is the cooling fans. He reviewed Exhibit 4 "Photos of Existing Albemarle EMC Substation in Chowan County". He stated that the design will be constructed within the parameters of the National Electrical Safety Code and the North Carolina Building Code. He stated that Apex has designed a few facilities like this in the County and this is a common design. He stated there will be a 75' buffer from the Transmission line and that will be cleared in the Weyerhaeuser land. He stated the design is in compliance with industry standards and codes. He reviewed Exhibit 5 which was section 8.100 of the Chowan County Zoning Ordinance. He reviewed the zoning standards in section 8.100. He stated that the application meets the standards of the ordinance. He then reviewed Exhibit 6 "Decommissioning Report for Transmission Facilities". He stated a third party engineer prepared the decommissioning report was provided by DNV-GL. He stated he agrees with the methods used for decommissioning. He

stated he is of the opinion the methods in the report meet industry standards. He noted the switching station is not included in the report as that will be owned by Dominion.

Vice Chairman Bonner asked if the Board had any questions for Mr. Butler.

Commissioner Kersey noted the existing transmission lines and substations in the County, what is the height or size. She stated these will be between 60-80' She asked what exists now.

Mr. Butler stated that what exists is 230 kV, he stated that he proposes wooden poles rather than the metal poles that exist.

Commissioner Kersey asked why not use metal which is stronger.

Mr. Butler stated the wood poles are strong and this is common. He noted steel poles have to have prefabricated bolt holes.

Commissioner Kersey asked how many residences are beyond 100 feet from the substation.

Mr. Butler stated it is 380 feet from the nearest residence to the substation.

Commissioner Kersey asked if there are agreements with the property owners closest to the substation.

Mr. Butler stated that question should be directed to Mr. Giecek.

Commissioner Mitchener asked about the CUP being issued to Apex and not Dominion. He stated that he can see potential for a problem between Apex and Dominion.

Mr. Butler stated there is a generator interconnection agreement between Timbermill and Dominion and that agreement dictates the relationship between the two.

Commissioner Kersey asked for clarification on the type of transformer. She stated that she understands there are different kinds of transformers (low loss that make less sound).

Mr. Butler stated the sound at a transformer is the fans that cool the radiator. He stated if there is a transformer without a fan would be quieter. He stated he is not aware of a quiet transformer and they are most likely not on the scale of this project.

Commissioner Kersey asked about air blasting the circuit breakers. She asked how often this happens and what kind of sound that is.

Mr. Butler asked if this was purging the air and gas in the breakers

Commissioner Kersey stated yes this is known as air blasting.

Mr. Butler stated he is not sure of the context there. He stated the breakers have gas and oils to provide insulation. He said he is not aware these have to be purged. He stated when they are

constructed they are filled and after commissioning they have to ensure there are no bubbles or gas. He stated the transformers have a gas sensor in them and a sensor may pick that up. He stated he is not aware of that as a standard operating procedure.

Commissioner Mitchener asked about the decibel issue. He stated the fans would not be within 100 feet of a residence. He asked about decibel levels from 100 feet away.

Mr. Butler stated that decibels are measured at the equipment. He stated the next witness would speak on the sound modeling.

Commissioner Mitchener stated the decibel issue was a major concern and should be a sensitive issue.

Commissioner Lawrence asked if \$7.3 Million for decommissioning is guaranteed.

Mr. Butler stated it is a bond that has to be put up before construction.

Ms. Womble explained the decommissioning bond is referenced in the original application that requires a cash bond. This staff report recommends that be readjusted if the modification is approved.

Vice Chairman Bonner asked the Applicant if they had additional questions.

Mr. Campen asked a few questions of Mr. Butler. He stated the design of the poles for the transmission line, are they typical of utilities in the area.

Mr. Butler stated these poles are typical.

Commissioner Cummings stated that under the Land Use Plan discusses agricultural uses in this area. He asked how this project is agricultural related.

Mr. Butler stated the transmission line is in the A-1 zoning district allows for other uses other than just farms.

Commissioner Cummings stated that uses are discouraged that increase a service demand.

Mr. Butler stated that emergency personnel will have access to the project by roads. He stated you will be able to drive along it.

Mr. Campen asked if there is anything different with the design of this transmission system from the way Dominion designs their substations or accesses.

Mr. Butler stated this is a very common design. He stated the access ways are identical.

Mr. Campen asked if the components create a greater risk for fire or services.

Mr. Butler stated no.

Mr. Campen stated the Conditional Use Permit runs with the land and the County will have leverage over Dominion because it is under this permit. He further noted the agreement with Dominion is a three party agreement with the federal government.

Drew Silverman reviewed Exhibit 7 “Sound Report for Transmission Facilities” for the Board. He stated his credentials and stated he is present to testify on compliance with the standards.

Mr. Campen asked that Mr. Silverman be qualified as a Sound Modeling Expert.

Vice Chairman Bonner stated he would be accepted.

Mr. Silverman stated that the Sound Modeling report was prepared by Mark Bastasch with Jacobs Engineering for Apex. He stated that Mr. Bastasch testified at the 2016 proceedings. He reviewed the report in Tab 7. He stated the methods used in the report are typical and reliable. He noted that the sounds at each of the residences would not exceed the 55dBa limit.

Commissioner Kersey asked if the modeling is international standard.

Mr. Silverman stated this modeling is from the I.S.O. (International Standards Organization).

Commissioner Kersey stated that ambient noise is louder in a rural area, she asked how this was accommodated into his measurements.

Mr. Silverman stated the ordinance does not lay out ambient noise, he stated the modeling used is what is required in the ordinance.

Commissioner Kersey asked if the modeling uses the actual equipment that will be installed.

Mr. Silverman stated the modeling uses equipment standard.

Commissioner Kersey said the modeling does not correlate to the equipment to be installed here.

Mr. Silverman stated the modeling is indicative of the equipment to be used here.

Commissioner Kersey asked if MVA is a familiar term. She stated with MVA residences may complain.

Mr. Silverman stated that the standards of MVA are not laid out in the ordinance. He stated the nearest residents at 380 feet could realize sounds at 35dBa which is less.

Commissioner Kersey stated there is no information on radio frequency noise. She asked how there will not be interference with phones and satellites.

Mr. Silverman stated that was outside of the scope of noise but with regards to transmission buzzing there are lines country wide.

Commissioner Kersey asked if Mr. Silverman is familiar with corona hissing.

Mr. Silverman stated the hissing noise is under 20decibals.

Commissioner Kersey stated Mr. Bastasch is from another company. She asked if Mr. Bastasch has done modeling measurements that were faulty and he had to go back and redo.

Mr. Silverman stated not to his knowledge.

Commissioner Faircloth asked if the louder equipment is furthest away from residents.

Mr. Silverman stated that was correct.

Vice Chairman Bonner asked the Applicant if they had additional questions.

Mr. Campen asked if the collector substation is 5,400 feet from the nearest residence.

Mr. Silverman stated that is correct.

Mr. Campen asked if sound modeling is based on the type of equipment or sound power.

Mr. Silverman stated is based on sound power.

Mr. Campen stated that he would not call any further witnesses.

Vice Chairman Bonner noted the County's exhibit 100 and the 8 exhibits from the applicant be entered into evidence.

Mr. Campen stated that in closing the Board has heard evidence from Timbermill's witnesses. He noted the requirements of the County Ordinance for approval of the project. He stated the Board has heard evidence that his project is within the County's jurisdiction, the application is complete, and there is no evidence no competent material or substantial evidence that would prohibit the Board from approving the application.

Commissioner Lawrence moved to close the evidentiary hearing. Vice Chairman Bonner asked for all in favor, the motion passed unanimously (6-0).

Vice Chairman Bonner called for a five minute recess. After five minutes Vice Chairman Bonner called the meeting back to order.

Ms. Womble noted that the Board must deliberate in open session. She stated that Board members should talk into the microphone. She noted this was a quasi-judicial hearing. She stated the Board can only consider what was brought before them during the evidentiary hearing. She stated that as an impartial decision maker you have to base your decision on the evidence brought before you. She stated the burden of proof is on the applicant. She then read section 3.14 of the ordinance.

Vice Chairman Bonner asked if there were any further discussion or questions.

Commissioner Cummings stated he has questions about the Land Use Plan and the language for agricultural uses (small scale commercial uses). He stated he does not feel the answers given were adequate.

Vice Chairman Bonner stated he feels the evidence is complete. He stated the Board has not received complaints about the overhead lines and substations. He stated he cannot see how this will adversely affect the land owners. He stated there are utility lines and substations in the Town of Edenton and there are no noises coming from this.

Commissioner Faircloth stated he agrees with the Vice Chairman. He stated that currently there is a transmission line running through the Town of Edenton into the Sound he stated he has not heard a problem from anyone.

Commissioner Kersey stated that she is disappointed because the sound issue is of concern for the residents. She stated that she is disappointed that the gentleman that did the study was not present to answer questions.

Commissioner Faircloth stated that he feels Highway 17 would make more noise than the substation. He stated he can hear trucks on the bypass but never has heard a transformer.

Commissioner Mitchener asked about decibels and the distance from homes and the impact. He stated the monitoring of decibels is in place for the original application.

Vice Chairman Bonner stated that the distance of the residences from the equipment, he cannot perceive an impact.

Commissioner Kersey stated she asked if Mr. Bastach has made mistakes before or if the measurement was an error, she stated that Mr. Mark has made mistakes before so if the measurement is wrong, it needs to be corrected. She stated she would want the developer responsible not the County.

Ms. Arizaga-Womble stated the duty of enforcement is charged to the building inspections and planning. If there was a complaint or issue found, whomever owns the substation would be required to bring it into compliance. The County is not responsible for bringing it into compliance.

Commissioner Lawrence stated he does not have any concerns and does not have a problem with the application.

Vice Chairman Bonner opened the floor for motions.

Commissioner Faircloth moved to find as a fact that the application is complete. Vice Chairman Bonner asked for all in favor, the motion passed unanimously (6-0).

Commissioner Faircloth moved to find as a fact that Planning Board reviewed the application and made recommendation. Vice Chairman Bonner asked for all in favor, the motion passed unanimously (6-0).

Commissioner Faircloth moved to find as a fact that the notice requirements were met for the meeting. Vice Chairman Bonner asked for all in favor, the motion passed unanimously (6-0).

Commissioner Faircloth moved to find as a fact that based on the evidence presented, the planner's report and application the applicant complied with specific ordinance requirements set out in CCPO-8.100. Vice Chairman Bonner asked for all in favor, the motion passed (5-1 Cummings).

Commissioner Faircloth moved that based on the evidence presented, the planner's report and application the use will not materially endanger the public health or safety if located where proposed and approved. Vice Chairman Bonner asked for all in favor, the motion passed unanimously (6-0).

Commissioner Faircloth moved that based on the evidence presented, the planner's report and application the use will not substantially injure the value of adjoining or abutting property. Vice Chairman Bonner asked for all in favor, the motion passed unanimously (6-0).

Commissioner Faircloth moved that based on the evidence presented, the planner's report and application the use if developed according to the plan as submitted and approve will be in harmony with the area in which it is to be located. Vice Chairman Bonner asked for all in favor, the motion passed (4-2 Cummings and Kersey).

Commissioner Faircloth moved that based on the evidence presented, the planner's report and application the proposed use is in general conformity with the Land Use Plan for Chowan County. Vice Chairman Bonner asked for all in favor, the motion passed (4-2 Cummings and Kersey).

The Board approved the conditions recommended by staff. It was discussed that if Board members wished to add any conditions they could.

Commissioner Faircloth moved that the Conditional Use Permit Application amendment be approved subject to the conditions specified (1, 2,3,4,5 and 6 as specified in County's exhibit 100 listed below)

1. Final civil site design (including new road location and building specifications) shall be reviewed by County staff at a subsequent TRC meeting to ensure compliance with state and local building standards
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. Transmission lines and substations owned by Timbermill shall be decommissioned with the rest of the project.
4. The Applicant shall obtain all applicable NCDOT permits required for any additional accesses to state-maintained roads.
5. All details/improvements shall be installed/constructed according to Chowan County Development Code requirements.
6. Applicant shall require a North Carolina licensed engineer to design the transmission line in accordance with the National Electrical Safety Code and applicable portions of the N.C. Building Code (the "Codes"). The engineer will confirm in writing to the county that the transmission line as designed complies with the Codes.

Commissioner Mitchener discussed noise issues, he would recommend an increase the distance for future applications.

Ms. Womble stated that the Board can change that for future reference but cannot be changed this evening. She stated that would require a modification to the ordinance.

Vice Chairman Bonner asked for all in favor, the motion passed (5-1 Cummings).

The Board authorized by consent the County Attorney to prepare the order for the Vice Chairman to sign.

Vice Chairman Bonner thanked the staff, applicant and public for their work on this hearing.

Mr. Campen thanked the Board for their diligence during previous hearings and this hearing as well.

DSS Testing

Ms. Smith stated the County Auditor is mandated by the Office of the State Auditor to perform additional testing of DSS programs. She asked that the Board consider approval of this addition to the contract in the amount of \$5,000.

The Board discussed funding sources for the audit.

Commissioner Lawrence moved to approve the request for funding and to authorize staff to prepare a budget amendment.

Ms. Smith noted this will come from the General Fund and not be charged to DSS.

Vice Chairman Bonner asked for all in favor, the motion passed (5-1 Cummings).

Memorial Day Proclamation

The Board reviewed a proclamation that thanks, remembers and honors military men and women who gave their lives for our freedom.

Commissioner Kersey moved to approve the proclamation as presented. Vice Chairman Bonner asked for all in favor, the motion passed unanimously (6-0).

Memorial Day Proclamation

Chowan County Board of Commissioners

May 21, 2018

WHEREAS, on Memorial Day, America undertakes its solemn duty to remember the brave Americans who sacrificed their lives for the cause of freedom and the security of our nation; and

WHEREAS, we are constantly reminded that there are those in the world who would attempt to deprive us of our freedom and undermine our nation's very foundation; and

WHEREAS, military men and women from Chowan County have served our nation throughout American history with County service members losing their lives in action; and

WHEREAS, by honoring these proud Soldiers, Sailors, Airmen, Marines and Coast Guardsmen lost throughout our country's history, we renew our commitment to upholding the democratic ideals they fought and died to preserve; and

WHEREAS, the citizens of Chowan County must never take for granted our privileges and freedom or forget to give thanks and honor to those who risk their lives so that we may enjoy our many blessings.

NOW, THEREFORE, the Chowan County Board of Commissioners does hereby recognize May 28, 2018 as Memorial Day in Chowan County and urges citizens to remember the bravery of those who gave their lives, so that their sacrifices serve as a reminder of the cost of our freedom.

Adopted this the 21st day of May, 2018

DF Walker Building Repair Bids

Mr. Howard provided the Board with bids for the roof, asbestos removal and windows at the former DF Walker School. He noted the roof bid was \$294,000 and the asbestos removal was \$92,890. He noted the bids for the windows came in much higher than previously expected.

Mr. Howard discussed options to make adjustments to the window bid specs to accept alternate bids. He noted that there are various other options to get the costs down. The Board agreed to table the matter to the May 24, 2018 budget meeting.

Lease with Steamers

Ms. Womble provided the Board with a lease agreement between Chowan County and the Edenton Steamers (Edenton Baseball LLC) for one season. She noted a longer term lease is

being drafted and that requires a 30 day advertisement period. She stated that lease will be placed on a future agenda.

Commissioner Faircloth moved to approve the lease as presented. Vice Chairman Bonner asked for all in favor, the motion passed unanimously (6-0).

A copy of the lease is in the meeting file labeled May 21, 2018.

Finance Officer Report

Finance Officer Cathy Smith provided the Cash Balance Summary and Cash and Investment Balance and Revenue/Expense information for the fiscal year to date through the month of April.

Manager's Report

County Manager Kevin Howard updated the Board on the following:

CAMA has released the Bennett's Millpond permit to finish the work.

Timely and Important Matters

Vice Chairman Bonner thanked staff and the manger for their work.

RECESS

Being no further business Vice Chairman Bonner declared the meeting recessed until Thursday May 24, 2018 at 8:45am. He asked for all in favor, the motion passed unanimously (6-0).

Greg Bonner, Vice Chairman

Susanne Stallings, Clerk

Regular Meeting recessed
Thursday, May 24, 2018
Chowan County Public Safety Center
305 West Freemason Street
8:45am

Present Chairman Jeff Smith, Commissioners John Mitchener, Greg Bonner, Patti Kersey, Don Faircloth, Ellis Lawrence and Ron Cummings.

Staff present County Manager Kevin Howard, Finance Officer Cathy Smith, County Attorney Lauren Arizaga-Womble and Board Clerk Susanne Stallings.

This meeting was recorded. A copy of the recording is in the meeting file labeled May 21, 2018.

Chairman Smith called the meeting back to order. He thanked Vice Chairman Bonner for running the meeting on May 21, 2018.

Mr. Howard provided the Board with bids for the roof, asbestos removal and windows at the former DF Walker School. He noted the roof bid was \$294,000 and the asbestos removal was \$92,890. He noted the bids for the windows came in much higher than previously expected being at \$966,000. He discussed alternative options such as doing only one floor or using a different type of window

Commissioner Kersey stated her concern with only doing a floor at a time.

Commissioner Cummings asked about the impact on the budget.

Mr. Howard stated fund balance can handle this project.

Commissioner Faircloth stated he would recommend approving the roof work and asbestos removal now and re-bid the windows with alternative specs. He stated the County may see some savings.

Commissioner Mitchener stated he would prefer white windows.

Commissioner Faircloth moved to accept the roof bid at \$294,000, the asbestos removal bid at \$92,890 and to re-bid the windows with alternative specs.

Commissioner Lawrence asked about the time frame for rebidding.

Mr. Howard stated bids would be back the end of June.

Mr. Howard noted the work on the gym will be added to the capital projects.

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

Adjourn

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

Jeffery Smith, Chairman

Susanne Stallings, Clerk