

**Chowan County Board of Equalization and Review
Meeting
Monday May 6, 2018
Chowan County Public Safety Center
305 West Freemason Street
6:00pm**

Present Chair Patti Kersey, Commissioners Greg Bonner, Ron Cummings, Larry McLaughlin, Don Faircloth, Bob Kirby and Ellis Lawrence

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

Chair Kersey called the Board of Equalization and Review to Order.

Oath

Board Clerk Susanne Stallings administered the oath of office to the Board of Equalization and Review members.

County Attorney Lauren Arizaga- Womble noted that this is not inclusive of the pending Riversound appeals.

Presentation of Appeals

- Citizens having appropriately and timely appealed their property valuations to the Tax Department will be heard.

Ms. Radke, the County Tax Assessor noted that any person owning property in Chowan County may appeal any property value at any time prior to the Board's Adjournment scheduled to occur on May 20th, 2019 at 6:00 pm. Any appeals brought after that point cannot be heard for the 2019 tax year.

Ms. Radke stated that if we have no questions from the Board she then informed the Board that we currently have no open appeals. She asked the public here tonight if there is anyone present who wishes to present an appeal to the board.

(There were none)

Ms. Radke stated that if there are no appeals to bring forward she will state that our next scheduled meeting of the Board of Equalization and Review is set for May 20, 2019 at 6:00pm when we plan to adjourn for the year. If anyone has an appeal to present, please submit your appeal forms prior to the May 20th meeting to the tax office.

Chair Kersey recessed the Board of Equalization and Review until May 20th.

Regular Meeting
Monday, May 6, 2019
6:00pm
Chowan County Public Safety Center
305 West Freemason St.
Edenton, NC

This meeting was recorded. A copy of the recording is in the meeting file labeled May 6, 2019.

Present Chair Patti Kersey, Commissioners Greg Bonner, Ron Cummings, Don Faircloth, Larry McLaughlin, Bob Kirby and Ellis Lawrence

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

Regular Meeting

Chair Kersey called the regular meeting to order and led all in the pledge of allegiance.

Commissioner Cummings then provided the invocation.

Approval of Draft Agenda

County Attorney Lauren Arizaga-Womble asked to amend the agenda to add a closed session for Attorney Client privilege.

Commissioner McLaughlin moved to approve the agenda as amended. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

Public Comment

Chair Kersey opened the floor for public comment.

John Mitchener 1000 West Queen St. Edenton, NC discussed legislation to ban windfarms in the northeast region. He shared an article from the News and Observer on the matter. He urged the Commissioners to act on this now and contact their legislators to request an exemption from the legislation.

There was no further public comment.

Consent Agenda

a. Minutes

Minutes of April 15, 2019 meeting

b. Tax Refunds/Releases

| | | |
|---------------------|----------|---|
| Dimino, Z. | \$641.83 | Paid Twice |
| Edenton Bay Trading | \$1,100 | Release of Occupancy Tax Assessment after information Was provided to Tax Office |
| Wathich, H. | \$1,100 | Release of Occupancy Tax Assessment after information |

Layton, K. \$1,100 Was provided to Tax Office
Release of Occupancy Tax Assessment after
information

Hardison Inv. Properties \$1,100 Was provided to Tax Office
Release of Occupancy Tax Assessment after
information

Was provided to Tax Office

Commissioner Kirby moved to approve the consent agenda as presented. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

Budget Amendments

Finance Officer Cathy Smith provided the budget amendments.

BA-1819-064

| Account Number | Account Description | Revenue (Inc+/Dec-) | Expense (Inc+/Dec-) |
|--|---------------------------------|---------------------|---------------------|
| Capital Reserve Fund | | | |
| 40-5913-634-00 | School Capital Outlay | | (489,914.96) |
| 40-5913-850-00 | Contr. To School Capital Outlay | | 489,914.96 |
| | Balanced | - | - |
| Justification: | | | |
| <i>To amend the 2019 budget to correct an accounting error. An incorrect line item number was used for school capital.</i> | | | |

BA-1819-065

| Account Number | Account Description | Revenue (Inc+/Dec-) | Expense (Inc+/Dec-) |
|--|---------------------|---------------------|---------------------|
| Recreation | | | |
| 11-6130-321-00 | Telephone | | (330.00) |
| 11-6130-125-00 | Cell Phone Stipend | | 330.00 |
| | Balanced | - | - |
| Justification: | | | |
| <i>To amend the 2019 budget to include additional monies for Cell Phone Stipend for Recreation. Monies are being transferred between line items.</i> | | | |

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

T-Mobile Contract

Emergency Management Coordinator Cord Palmer provided a proposal from T-Mobile (cellular phone provider) to lease tower space from the County located at 100 West Freemason Circle Edenton. The radio engineer for the 911 center has confirmed that T Mobile should not interfere with public safety radio communications. T-Mobile has a report showing the tower structure is ready to accept the load.

County Attorney Lauren Arizaga Womble stated she has reviewed the contract and proposes some changes to the commencement date. She asked that the Board, if they decide to approve the contract, approve it subject to her final review.

Chair Kersey asked for clarification on the 3% increase.

Ms. Womble noted the contract will increase the annual rental payment by 3% and it builds on prior years.

Chair Kersey asked for clarification on paragraph 10.

Ms. Womble stated this is language that details when a court enforces a contract and the “legal/equitable remedies”. She stated the law of equity states some things cannot be fixed with money.

Commissioner Faircloth asked for clarification on measurable interference.

Mr. Palmer stated the engineer has certified the antenna will not interfere.

Commissioner Lawrence discussed the insurance requirement. He then moved to approve the contract subject to the County Attorney’s final review and approval. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

Chair Kersey called for a five minute recess, after five minutes she called the meeting back to order.

PUBLIC HEARING Conditional Use Permit – CC-CUP-19-02

As previously noted this meeting was recorded. A copy of the audio is saved in the meeting file labeled May 6, 2019 and is also stored in the digital files of the office to the Clerk to the Board.

The agenda noted that the Board will hold a public hearing for CC-CUP-19-02, an application for a Conditional Use Permit to construct a 5 MW solar farm on approximately 56 acres located near 414 Sign Pine Road in Tyner. The full application packet can be found on the Chowan County Website. The Staff Report, legal ad, draft Planning Board minutes and Technical Review Committee (TRC) minutes are attached to the agenda packet.

Chair Kersey noted that this is item is the Quasi-judicial hearing application CC-CUP-19-02. Applicant is Gliden Solar, LLC (a SunEnergy1 Company).

Ms. Womble provided a description of the quasi-judicial hearing process noting that this is an evidentiary hearing which differs from a public hearing in that the purpose of the evidentiary hearing is to gather facts not solicit citizen opinion. The hearing on this matter will be judicial in nature with sworn testimony and evidentiary safeguards. She noted that because this is a judicial hearing, the board is sitting as a judge therefore a board member participating in a quasi-judicial hearing shall be impartial. She noted that impermissible conflicts include but are not limited to a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex-parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. Before opening the hearing, she asked are there any conflicts for the remaining Board Members?

None were noted.

Board Clerk Susanne Stallings noted the following Board members were present: Chair Patti Kersey, Commissioners Greg Bonner, Ron Cummings, Larry McLaughlin, Don Faircloth, Bob Kirby and Ellis Lawrence.

Chair Kersey noted the procedure the Board will hear from staff and other County witnesses, then from the applicant and their witnesses, and then from opponents to the request if there are any. She noted that parties may cross-examine witnesses after the witness testifies when questions are called for. If you want the Board to see written evidence, such as reports, maps, or exhibits, the witness who is familiar with the evidence should ask that it be introduced during or at the end of his or her testimony.

Ms. Womble noted that on behalf of Gliden Solar is Linda Nwadike. She noted that on behalf of the opponent is Colbert Byrum represented by Thomas Wood.

Ms. Stallings noted the property owner Gene Jordan has asked to speak.

Ms. Womble asked is there anyone who claims they would have special damages based on this proposed project and therefore has standing to act in opposition to the application.

Chair Kersey asked that before we swear the witnesses, are there any other motions or matters to be addressed. There were none.

Board Clerk Susanne Stallings then administered the oath to the following individuals:

Brandon Shoaf, County Planner
Thomas Wood, Attorney for opposition
Linda Nwadike, Applicant
Richard Kirkland, Applicant witness
Keith Hardt, Applicant witness
Jeff McDermott, Applicant witness
Gene Jordan, Land Owner
Colbert Byrum, Opposition

Thomas Cleveland, Applicant witness (was sworn in later)

Chair Kersey then asked for a motion to enter the quasi-judicial hearing.

Commissioner Faircloth moved to enter the quasi-judicial hearing. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

Chair Kersey then called on Planner Brandon Shoaf to present the staff report.

Mr. Shoaf then read the staff report into the record:

STAFF REPORT

To: Chowan County Board of Commissioners and County Manager
Date: April 29, 2019
Case: CUP 19-02

GENERAL INFORMATION

Requested Action: Review and make a decision regarding the Conditional Use Application for a Solar Farm to be developed behind 414 Sign Pine Road, with a vehicular access near 638 Gliden Road.

ANALYSIS

Gliden Solar, LLC (a SunEnergy1 Company) has made application for a Conditional Use Permit to develop a 5 megawatt generation facility near 414 Sign Pine Rd. (northwest, with PIN 790300575240) This is an approximately 82-acre tract, where roughly 56 acres will be utilized for the solar development.

SunEnergy1 is proposing to lease this tract from Eugene N. Jordan, Inc.

Staff review:

- The proposed site is located in an A-1 Zoning District where Solar Farms are permitted by a CUP.
 - 100' setbacks need to be addressed at all property lines
 - The parcel does not border any immediately adjacent residential property or a public right of way, and has standing timber around roughly 1/3 of the proposed project site. The County's Ordinance does not require any created buffer in this case to meet the Ordinance.
 - Proposed placement of panels meet ordinance requirements.
 - Proposed height of equipment is under the maximum in the ordinance, and will be closer to 10 ft.
 - State Stormwater permit and the erosion and sediment control plan is provided in the CUP application packet.
 - NCDOT driveway permit is provided.
 - Liability insurance proof is provided.
 - Third Party decommissioning plan is provided, actually two. The plan from Pungo Engineering was presented to the County at the Planning Board meeting. My understanding is that Mr. Hardt will be here at the hearing to discuss his decommissioning plan and answer questions and concerns.
-
- The proposed site has been posted with signage advertising the CUP application and appropriate contact information. Adjacent property owners have been notified via first class mail.
 - Technical review committee meeting minutes are attached as well as any received comments from TRC members that were not in attendance of the March 12, 2019 meeting.
 - I have met with Mr. Colbert Byrum, an adjacent property owner, about his concerns that he brought before the planning board. His concerns were for increased runoff created from this development and how that could affect his cropland. SunEnergy1 also met with Mr. Byrum and provided an option to him that would create a ditch to handle the possible runoff (the information from SunEnergy1 is attached to this staff report).
 - o In visiting the site, twice on my own and once with Mr. Byrum, I can see that a ditch could alleviate the potential for future runoff.
 - o On my visits, the property where the panels are proposed to be placed, had standing water in a few areas.

RECOMMENDATION

Staff recommends a favorable decision by the County Board of Commissioners for this development, as it meets the requirements set forth in the Ordinance.

There is no need for a vote of consistency on this matter.

Chair Kersey asked if there were any questions from the applicant. There were none.

Chair Kersey asked if there were any questions from the opposition.

Thomas Wood asked where the location on the site of the standing water in relation to the proposed panel area.

Mr. Shoaf stated it was north/northwest.

Mr. Wood asked if grading will be necessary.

Mr. Shoaf stated he was not sure if that would necessitate grading.

Chair Kersey asked for any Board questions.

Commissioner McLaughlin asked if there is a planting schedule.

Mr. Shoaf stated there is no planning requirements for this property or any it borders.

Commissioner McLaughlin stated that there are people who are able to see this project from their rear yard. He asked if planting was considered.

Mr. Shoaf stated he is not sure if this was considered but it was noted.

Commissioner Kirby asked which decommissioning plan is to be considered.

Mr. Shoaf stated that the applicant will respond as to which to consider. He stated there are two plans based on conversations about decommissioning at a previous hearing.

Being no further questions, Ms. Womble noted the entire packet, the staff packet is County exhibit 1.

Commissioner Bonner asked if all requirements have been met.

Mr. Shoaf stated yes, if the decommissioning plan from Pungo is the primary plan that will need to be updated.

Linda Nwadike 192 Raceway Drive Mooresville, NC stated she was applicant representing Sun Energy 1. She provided a PowerPoint presentation. A copy of the PowerPoint is in the meeting file labeled May 6, 2019. She noted this project is a proposed 5MW facility located west of Gliden Road and east of Sign Pine Road. The property is approximately 56 acres and Sun Energy currently has an offer to lease the property. She noted that in negotiations with adjoining property owners Sun Energy agreed to move the property off the road. She stated the site is ½ mile from the closest home. Ms. Nwadike reviewed information on the existing setbacks.

Commissioner Kirby asked for clarification on the setbacks shown in the PowerPoint and the packet.

Ms. Nwadike noted the sheet in the binder which was a larger version of the slide.

Chair Kersey asked who owns the timber located near the project boundary.

Ms. Nwadike stated she will look into this.

Chair Kersey stated she has questions regarding visibility.

Ms. Nwadike stated that the timber would have to be cut in order to make the project visible.

Ms. Nwadike stated the County has a maximum height of 15'. She noted the proposed panels are 8.6'. She discussed the ordinance requirement for visibility.

Chair Kersey asked for clarification of visibility (routine view).

Ms. Nwadike stated routine view is from the roadway. She stated that if you are on Gliden Road, you are over ½ mile away you cannot see the panels. She stated that on Sign Pine you cannot see it as well. She noted a site plan, vertical elevation drawings, and state and locate storm-water permits, NCDOT permit and liability insurance documentation has been provided.

Ms. Nwadike discussed that previously there were concerns from another project (Ryland Road Solar) she brought to the Board regarding decommissioning. She stated that there are two decommissioning plans one is from Structures Inc. and one is from Pungo. She stated that the engineer from Structures Inc. came to the first planned Planning Board meeting prepared to discuss his decommissioning plan. She stated she disagrees with the number in the Pungo decommissioning plan. She stated that this is an effort to be transparent and provide another number. She discussed economic impact of the project noting about 100 jobs are created with the construction of the project. She noted the answer to the question "Will the project materially endanger the public health or safety?" She stated the answer is no. She noted that Thomas Cleveland, NC professional engineer will speak on this matter. She noted the question "Will the project substantially injure the value of adjoining or abutting property?" She stated the answer to this question is no and Rick Kirkland a licensed NC real estate appraiser will speak on this matter. She noted the question "Will the project be in harmony with the area it is to be located?" She stated that the answer to this question is no and Mr. Kirkland will speak to this as well. She noted the question "Will the project be in general conformity with the land development plan or other plans officially adopted by the County?" She stated the answer to this is yes.

Ms. Stallings administered the oath to Thomas Cleveland.

Thomas Cleveland a licensed professional engineer in NC.

Ms. Nwadike asked if Mr. Cleveland is an expert to speak on solar energy.

Mr. Cleveland stated yes and he developed a white paper at NC State on the health and safety impact of solar panels.

Ms. Nwadike asked if Mr. Cleveland has looked at the site and asked if there is any danger to the public health or safety.

Mr. Cleveland stated he has looked at the site and no the project will not endanger the public health or safety.

Chair Kersey asked for more information on toxicity of the materials or breakage.

Mr. Cleveland stated that his research about the materials go back decades. He stated that the working parts are nontoxic elements. He stated that strips of metal and plastic coats keep the

cells dry. He stated there is a glass front with an aluminum frame. He stated the solar cell is common elements with no liquids. He stated the panels are designed for 40 year life.

Chair Kersey asked if there is lead or cadmium.

Mr. Cleveland stated that there may be some lead in the solder. He stated that studies to see if lead can come out during the life of the panel. He stated that there are standardized tests for leaching procedures where the panels are crushed up (landfill scenario) and test for chemicals. He stated the results come back with negative results.

Chair Kersey asked about a list of materials.

Ms. Nwadike stated that in the decommissioning bond from Structure Inc includes a list. Ms. Nwadike provided a handout TCLOP "Toxicity Characteristic Leaching Procedure" which was previously submitted with the Ryland Road project application.

Ms. Womble marked the application and all materials submitted previously as Applicant Exhibit 1. She noted the new handouts will be listed as Applicant Exhibit 2.

Commissioner McLaughlin asked if the panels were to break due to a several wind or hail storm would the person who has to clean up the materials have to be certified.

Mr. Cleveland stated no special permit is required. He stated the only danger is broken glass. He noted the panels are a tempered glass which stays in the sheet much like that in a windshield.

Commissioner McLaughlin asked if hazmat would be required.

Mr. Cleveland stated no.

Commissioner Kirby stated that best practice is to not intentionally break the glass.

Mr. Cleveland stated yes.

Commissioner Kirby stated that best practice at decommissioning the panels will be removed carefully to ensure no breakage.

Mr. Cleveland stated it that is correct it should be orderly.

Commissioner Kirby asked when in the process is the sun converted to electricity.

Mr. Cleveland stated in the cells of the panel.

Commissioner Kirby said once it comes out the two wires in the back it is electricity.

Mr. Cleveland stated yes that is correct.

Mr. Wood asked for more information regarding the plan for the vegetative buffer.

Mr. Cleveland stated he is not the expert to address that.

Mr. Wood asked if Mr. Cleveland has walked the site.

Mr. Cleveland stated he has not walked the site but has a good view using Google Earth.

Mr. Wood noted the southwest corner of the project, there is a swamp area or ditch.

Ms. Nwadike stated that the environmental witness will speak on this.

Mr. Wood asked if there is anything concerning here.

Mr. Cleveland stated he did not see anything concerning.

Rick Kirkland 9408 North hill Court Raleigh. He stated he is a certified real estate appraiser. He state he was asked to look at impact values for solar farms. He stated the predominate adjoining use is residential and agricultural. He stated this is a consistent use. He stated that he reviewed matched pairs from other solar farms in North Carolina. He stated he compared 16 sales and found no impact. He stated there were 3 land sales and found no impact with those. He noted that in some cases there is a 0-17% increase in the adjoining property values. He stated that that in his professional opinion there is no impact on adjoining property.

Commissioner McLaughlin asked for additional circumstances.

Mr. Kirkland stated he has not submitted matched pairs.

Commissioner McLaughlin asked if the appraisals address landscaping/screening.

Mr. Kirkland stated that it does not if there is any screening and what type it is.

Commissioner McLaughlin asked if the type of housing is considered.

Mr. Kirkland stated he looks at homes around it.

Commissioner McLaughlin asked if solar farms without landscaping are located in lower income areas.

Mr. Kirkland stated most without landscaping are located in rural areas.

Ms. Nwadike asked if Mr. Kirkland visited the site.

Mr. Kirkland stated yes.

Mr. Wood asked what could be attributed to the increased values.

Mr. Kirkland stated that this has been identified by other researches that have found similar correlations.

Ms. Nwadike called on Keith Hardt.

Keith Hardt 424 East Main St. Washington NC stated he is registered in 27 states and provided his background in working with the solar industry. He stated he is responsible for the Pungo decommissioning report.

Ms. Nwadike stated that she would like to use the Pungo report and documentation. She stated she would prefer the Board to average the numbers from the Structures Inc and Pungo decommissioning report however she will use the Pungo report. She asked Mr. Hardt if the materials listed in the report were the same as those used by Structures Inc.

Mr. Hardt stated yes.

Commissioner Kirby discussed the PV modules portion of the report. He stated that Pungo gave a cost of 37.5 cents each. He stated the panels have 8 connection points and weigh about 50 lbs. He stated the person removing the panels has to remove 19 1/3 panels every hour.

Mr. Hardt stated that the estimate is based on experience. He stated that three years ago the removal was around 30 cents a panel. He stated he added some to his estimate.

Commissioner Kirby asked if those removing the panels make minimum wage.

Mr. Hardt stated yes.

Commissioner Kirby asked if they can be removed this fast.

Mr. Hardt stated yes if he had not seen it himself he would not believe it.

Commissioner Bonner asked if the Board will revisit the decommissioning cost later.

Ms. Nwadike stated the ordinances requires a decommissioning bond review every five years or at change of ownership.

Commissioner Bonner asked if at decommissioning the owner does not comply how the county can recoup their monies.

Ms. Womble stated that the bond covers the County if the applicant defaults and the County is able to file suit.

Commissioner Faircloth asked who is responsible for reviewing the bond every five years.

Ms. Womble stated that the Planner (Mr. Shoaf is responsible).

Ms. Nwadike stated that he concerns regarding drainage should be addressed by Mr. Jeff McDermott. Ms. Nwadike stated that during the Planning Board meeting there were drainage concerns brought up by Mr. Byrum. She shared that there were some issues with his property located on Gliden Road. She stated that Mr. Byrum complained that the drainage. She stated that during the construction of the Jehu site there were concerns made by Mr. Byrum. She stated that our environmental program manager met with Mr. Byrum to look for any blockages. She stated the engineers determined that the site cannot be the cause of the problem. She stated that the

vegetative buffer is green and the water would have to go through it. She stated that there has been a lot of rain.

Mr. Wood stated the drainage issue at Jehu is due to drain tiles being crushed.

Ms. Womble stated that this may have been addressed in the Planning Board minutes however the Jehu site is not relevant to what is before the Board tonight. She stated that Sun Energy was asked to follow up on Jehu by the Planning Board and they have done that.

Ms. Nwadike stated that Mr. McDermott visited the Gliden site drainage concerns. She shared slides of the sites from the Gliden site. She noted the site has not been touched by Sun Energy. She stated that any drainage issues are naturally occurring.

Ms. Womble noted to Mr. Wood that his client is standing in the back and wants to speak. She stated that Mr. Byrum will have an opportunity to speak.

Jeff McDermott, 192 Raceway Drive Mooresville, NC stated he worked for Sun Energy 1 for almost two years. He stated he met with Mr. Byrum in March on site. He stated they drove around the site and he expressed concerns over runoff on his property. He stated he agreed that there was drainage in that direction. He stated they discussed a ditch. He stated after going back to the office and looking at the plans it was decided it was not necessary. He stated the topography map shows the drainage lines that drain to a specific area offsite and onsite. He stated that the plan shows the drainage goes to the south. He stated the reason a ditch is not necessary, the current state of the land is farm land with no vegetation. He stated the grass planted will reduce the runoff to the property. He stated that solar panels are not on the impervious list but farmland and turf grass are on the list. He stated that there will be less run off on the site.

Ms. Nwadike stated a letter was sent to Mr. Byrum. She stated that the attorney Mr. Wood did not respond to the letter.

Mr. Wood objected to her statement.

Ms. Nwadike stated there was no response to the first or second letter. She stated today she spoke to Mr. Wood before the meeting and Sun Energy has not done anything wrong. She stated nothing has been touched out there. She stated Sun Energy offered a 50/50 split for the expense of the ditch. She stated Sun Energy does not feel it has done anything wrong. She stated Mr. Byrum rejected the proposal and wants Sun Energy to pay for the ditch.

Mr. Wood stated he did try to contact Mr. McDermott and left messages. He stated his client feels a ditch would solve the problem.

Mr. McDermott stated that they do not feel there is a problem.

Mr. Wood stated that there was testimony that there is standing water where the panels will go.

Mr. Shoaf noted where there was standing water on the map when he visited the site. He stated the area where the panels will be located is the darker green area of the map.

Mr. Wood asked if the turf grass will take in the area where there is standing water.

Mr. McDermott asked how deep the standing water was.

Mr. Wood stated he did not know.

Chair Kersey stated the panels will not increase the natural flow of water.

Mr. McDermott stated the panels are impervious but below the panels is vegetation. He stated that there has been erosion under the panels but it has not spread and is manageable.

Chair Kersey noted the letter to Mr. Byrum acknowledges flow currently. She stated the panels may change the flow.

Mr. McDermott stated the grass will help.

Commissioner Bonner asked about the impact of the panels on water falling.

Mr. McDermott stated the vegetation is the difference.

Mr. Wood asked how the vegetation takes more than a crop.

Mr. McDermott stated that the crops rowed in hills and furrows. He stated that currently the land is flat.

Mr. Wood asked for scientific data on this.

Mr. McDermott stated that NC DENR has multiple studies on this.

Mr. Wood stated he did not have any further questions after conferring with his client Mr. Byrum he stated Mr. Byrum wanted to make some points.

Commissioner Kirby asked for clarification on the referenced Aquatic Resource Map.

Mr. McDermott stated the NCDENR kept the map that accompanies the submittal he stated the notated they agree with the delineation. He stated there is a map. He stated they never gave them the map. He noted that figure 7 map will come back.

Commissioner Kirby asked was the corps plan approved by Mr. Jordan.

Mr. McDermott stated they have to get authorization.

Commissioner Kirby asked if Mr. Jordan approves the plan as the owner.

Mr. McDermott stated no.

Chair Kersey asked about the swale system maintenance requirements. She stated that Mr. Kenny Habul, is listed as the responsible party for ensuring the rules are complied with.

Ms. Nwadike stated he is owner of the company and will make sure the engineer gets this done.

Mr. McDurmott stated the Bethel office visits the sites regularly.

Mr. Wood asked if this is Bethel near Greenville.

Mr. McDurmott stated yes.

Ms. Nwadike stated the property owner Mr. Gene Jordan asked to speak.

Mr. Jordan stated that he lives at 414 Sign Pine Rd he stated the land to be leased is part of his family farm along with four siblings. He stated that the family determined the lease is in their best interest to lease the land to strengthen their business plan. He stated the original plan was to put the farm near Gliden Road and neighbors voiced their concerns and they agreed to move the farm back from concerned parties. He stated that Mr. Byrums concerns about the drainage were unknown until now. He stated that there has not been a need for a ditch for the property line. He stated this is a higher use of the property which is of interest to the Board at budget time. He stated the proposed project is away from residential areas and roads and is a prime location for a solar farm. He encouraged the Board to approve the CUP application.

Mr. Wood stated he did not have any questions for Mr. Jordan.

Ms. Nwadike stated Sun Energy wants to be good neighbors. They have moved the project back and attempted to work with Mr. Byrums concerns. He stated that the request from Mr. Byrum is asking them to put something in place that is not currently a problem.

Commissioner McLaughlin stated the third finding regarding “harmony” stating the applicant will install buffering.

Ms. Nwadike stated the property is more than ½ mile from a residential property. She stated that it is hard to see.

Commissioner McLaughlin discussed visibility.

Ms. Nwadike noted that this is 10 football fields away.

Commissioner Kirby noted his concerns with Gliden Jehu Road Solar LLC. He stated it is map 2 of 2. He asked where map 1 is.

Ms. Nwadike stated map 1 is the first design near the road.

Commissioner Kirby stated his concern with redacted information in the application packet under tab 4.

Ms. Nwadike stated this information is confidential (how much is paid to the landowner).

Commissioner Kirby stated the Tax Office will want to know this.

Ms. Nwadike stated this is not for purchasing this is for rent. She stated the information that is required is provided to the Tax Office.

Commissioner Kirby asked where was exhibit B under tab 4.

Ms. Nwadike stated that information is not there. That is the easement from Mr. Jordan to the roadway.

Commissioner Kirby asked where exhibit c is.

Ms. Nwadike stated the contract is confidential.

Commissioner Kirby asked what the solar skyway is.

Ms. Nwadike stated that is the transmission lines.

Commissioner Kirby asked about redaction on page 8 limits of insurance.

Ms. Nwadike stated that is confidential.

Commissioner Kirby asked about page 15 paragraph 21.2. He asked if the property will be subdivided.

Ms. Nwadike stated no it will not be subdivided.

Commissioner Kirby asked about section 10 page 1 redaction.

Ms. Nwadike stated that originally the Jehu name was removed.

Commissioner Kirby asked about section 10 page 7 the dates.

Ms. Nwadike stated they will not know the dates until they get approval.

Commissioner Kirby asked about Section 11 page 3 of 3 redaction.

Ms. Nwadike stated that is his contact information and she wants all questions to come to her.

Chair Kersey called for a five minute recess. After five minutes she called the meeting back to order.

Commissioner McLaughlin asked about the powerlines, he asked if they are overhead.

Ms. Nwadike stated they are underground but there will be some poles with overhead line to get to the distribution line.

Commissioner McLaughlin asked why they decided to go underground.

Ms. Nwadike stated the landowner wanted it underground.

Commissioner McLaughlin asked if it is more expensive.

Ms. Nwadike stated it is more expensive but they wanted to be good neighbors.

Commissioner McLaughlin asked about the access road.

Ms. Nwadike stated the current road is in good shape now and that is what would be used by emergency vehicles.

Commissioner McLaughlin asked what the current road condition is.

Ms. Nwadike stated it is dirt farm path.

Commissioner McLaughlin asked if it is sandy and sufficient to hold emergency vehicles.

Ms. Nwadike stated yes it is sandy and is sufficient.

There were no further questions for Ms. Nwadike.

Mr. Thomas Wood called on Mr. Byrum.

Colbert Byrum stated that the land where the panels will go is 2 feet higher than the land on his side. He stated the two heavy rains in the past two years. He stated the grass will not soak up the water flow from a heavy rain. He stated this will create more water in his direction. He stated there is an explanation for the dark spots on the map which can be explained.

Mr. Wood stated they are not here to contest the overall project. He stated drainage is the issue. He stated to give Mr. Byrum peace of mind this is all he wants. He stated this is a small project. He stated that vegetation would be nice but a ditch consistent with the compromise of them bearing the burden of a special condition. He stated that Mr. Shoaf noticed standing water on the site. He stated that turf grass will not grow in standing water. He stated that the prospect of this working out is not.

Commissioner McLaughlin asked if the ditch were a condition, how the ditch would be paid for.

Mr. Wood stated they are asking for Sun Energy to bear the cost of the ditch. He stated this is not an outrageous proposal.

Chair Kersey asked for follow up from Ms. Nwadike.

Ms. Nwadike stated if there is standing water on the Jordan property is there any on the Byrum property.

Mr. Byrum stated there has been standing water and it is standing across the line.

Ms. Nwadike stated this has been an issue.

Mr. Byrum stated this has been an unusually wet season.

Commissioner Bonner asked what the cost of the ditch is.

Ms. Nwadike stated the estimated cost is about \$10,000 including a storm water permit.

Ms. Womble asked if the storm water permit has to be resubmitted if a ditch permit is requested.

Ms. Nwadike stated yes.

Chair Kersey noted they negotiated up until tonight for a 50/50 split.

Mr. Wood stated the cost of the ditch is a minor aspect and the developer does not want a cheap project that would endanger lives. He stated that there is no screening. He stated if something needs to be done to mitigate the concern is not too much to ask.

Commissioner Bonner stated that there is no absolute run off needed for a ditch.

Mr. Wood stated that Mr. Shoaf said there is standing water out there.

Commissioner Bonner stated the expert witness stated that there is not enough there to warrant a ditch and negotiated it up until tonight.

Ms. Nwadike stated that they met the ordinance standards. She stated the project is a lot of money. She stated the applicant does not believe the ditch is needed. They refused the 50/50 negotiation.

Commissioner Lawrence moved to close the quasi-judicial hearing. Chari Kersey asked for all in favor, the motion passed unanimously (7-0).

Chair Kersey noted that at the conclusion of the evidentiary hearing, the permit-issuing board may proceed to vote on the permit request, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

Ms. Womble noted the handout is a guideline that sets forth what has to be voted on at a quasi-judicial hearing.

FINDINGS OF FACT MOTIONS

Commissioner Kirby moved to find application complete. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

Commissioner Faircloth moved to find Planning Board reviewed the application and made recommendation. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

Commissioner Lawrence moved to find notice requirements were met for the meeting. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

Ms. Womble noted the next item includes the decommissioning report, that the motion should be made based on which decommissioning report is adopted.

Commissioner Bonner moved that based on the evidence presented, the planners report, and application the applicant complied with specific ordinance requirements set out in CCPO -8.108. based on the Pungo Engineering Service Report. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

CONDITIONS MOTIONS

Chair Kersey noted that these will be motions for conditions the Board deems are necessary to bring the project into compliance with specific standards in the Ordinance.

Ms. Womble noted the two items she noted the following two items from the discussion included

1. Army Corps of Engineers Aquatic Resource map (requesting that it be submitted).
2. Designate numbering on the last map under Tab 3, instead 2 of 2 be listed as 1 of 1.

Commissioner Kirby moved to adopt the following two conditions:

1. Army Corps of Engineers Aquatic Resource map (requesting that it be submitted).
2. Designate numbering on the last map under Tab 3, instead 2 of 2 be listed as 1 of 1.

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

MOTIONS OF BOARD'S CONCLUSIONS AS TO WHETHER STANDARDS HAVE BEEN MET.

Commissioner Lawrence moved that based on the evidence presented, planner's report, application, the use will not materially endanger the public health or safety if located where proposed and approved.

Commissioner McLaughlin asked if the ditch or screening is under this category.

Ms. Womble stated these would be discussed under harmony not health or welfare.

Chair Kersey asked for all in favor the motion passed unanimously (7-0).

Commissioner Faircloth moved that based on the evidence presented, planner's report, application, the use will not substantially injure the value of adjoining or abutting property.

Chair Kersey asked for all in favor, the motion passed (6-1 McLaughlin).

Commissioner Bonner moved that based on the evidence presented, planner's report, application, the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located.

Commissioner McLaughlin stated that based on the testimony from Mr. Wood the potential for run-off exists. He stated now is the time to address this to alleviate a future disturbance. He stated that screening in lieu of planning he would suggest a 50' strip of land to be unattended for screening.

Commissioner Lawrence stated he did not see the ditch as a solution and asked what happens if it does not deliver.

Commissioner Bonner stated he did not see the effect and stated he did not want to pass on extra cost. He stated he did not wish to amend his motion.

Commissioner Kirby stated the developer provided a professional who stated a ditch will not be necessary. He stated with all respect to the adjoining land owner he did not hear anything to refute that from the standpoint of a professional.

Chair Kersey stated that Mr. Jordan and Mr. McDermott wanted to work with Mr. Byrum. She stated negotiations started and then broke down. She stated they testified about standing water and currently water runs into Mr. Byrum's property. She stated she would like to see Mr. Byrum have that peace of mind. She stated she lives in a soggy place and she does not believe the sod will mitigate the runoff of the water. She stated she feels the panels will exacerbate the problem.

Commissioner Bonner stated he did not feel it is fair to pass on the cost. He state he would rescind his motion to allow for discussion.

Commissioner McLaughlin moved that a ditch be a condition between the property of Mr. Jordan and Mr. Byrum that the burden be put on the applicant as proposed in the letter.

Commissioner Kirby stated this is a stretch beyond the ordinance. He stated both conditions are pile on and result in a cost to the developer. He stated he would vote for one but not both proposed conditions.

Chair Kersey noted the ditch was in play until the negotiations broke down.

Commissioner Kirby noted the grass being planted in a currently empty field mentioned by the witness would preclude a lot of run-off. He stated he would prefer one or the other not both.

Commissioner Bonner stated the buffer is not an issue if the project is not visible.

Chair Kersey asked for all in favor, the motion failed (2-5 Faircloth, Cummings, Bonner, Kirby and Lawrence).

Commissioner McLaughlin moved to require a 25-50' strip be left unattended of general natural growth.

Commissioner McLaughlin amended his motion to require a 50' strip be left unattended of general natural growth. He stated this will be no cost to the developer. Chair Kersey asked for all in favor, the motion failed (1-6 Faircloth, Cummings, Bonner, Kersey, Kirby and Lawrence).

Commissioner Bonner moved that based on the evidence presented, planner's report, application, the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located.

Chair Kersey asked for all in favor the motion passed (5-2 McLaughlin and Kersey).

Commissioner Faircloth moved that based on the evidence presented, planner's report, application, and the proposed use is in general conformity with the Land Use Plan for Chowan County.

Chair Kersey asked for all in favor, the motion passed (6-1 McLaughlin).

MOTION FOR APPROVAL/DISAPPROVAL

Commissioner Kirby moved to approve the CUP Application subject to the specific conditions # 1 and #2.

Chair Kersey asked for all in favor, the motion passed (6-1 McLaughlin).

MOTION TO INSTRUCT DECISION DRAFTED

Commissioner Lawrence moved to direct the attorney to draft written decision granting/denying permit w/ said conditions, findings of facts and conclusions of law and submit to Chair for review and signature. Chair Kersey asked for all in favor, the motion passed (6-1 McLaughlin).

External Board/Committee Report

Chair Kersey asked for the activities of the external boards to which they have been appointed.

Commissioner Lawrence reported on the Senior Center Board meeting.

Manager's Report

County Manager Kevin Howard updated the Board on the following:

- Department of Environmental Quality noted there are monies available for a regional water projects. He stated an example would be a regional plant or upgrade and involve other parties in the area. He stated they are moving forward with the Chowan River effluent project but if the Board wants him to investigate a regional plant he will do so. He stated the regional office wants counties to look at regional plants.

Board members indicated their support of looking into the project more and the manager will bring back his findings.

Timely and Important Matters

There were none.

Closed Session

Commissioner Cummings moved that the Board go into closed session, in accordance with NCGS 143-318 (11) (a) (3) attorney client privilege. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

The minutes of the closed session are sealed.

Commissioner Cummings moved to come out of closed session. Chair Kersey asked for all in favor the motion passed unanimously (7-0).

Adjourn

Being no further business, Commissioner Bonner moved to adjourn the meeting. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

Patti F. Kersey, Chair

Susanne Stallings, Clerk