

CHOWAN

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The appeal cites reports that were presented to Coastal Management officials but not provided to county officials. Those reports included a bird and bat study and other studies related to wildlife and human health.

"The type of damage this project is going to have on the citizen health and safety and Chowan wildlife is unknown, but Apex submitted that information to CAMA officials," the appeal states.

In a letter to Chowan County officials in 2015, John Morrison indicated in addition to the county permitting process "there are multiple layers of protection from multiple agencies," Morrison, an attorney

with the Twiford Law Firm, provides legal counsel to Chowan County.

Morrison's description of that protection includes a reference to the review by the state's Department of Environment and Natural Resources, a review he characterizes as beyond the county's resources and expertise.

"Before any proposed wind energy project gets to you, it must have approval from DENR," Morrison said in the April 6, 2015, letter to county officials.

The couple's petition cites Morrison's letter in support of their contention that state permits should have been obtained before the county permit application was heard by the county commissioners.

Morrison said Thursday

that his April 2015 letter was expressing an opinion of legal counsel and does not have the force of law. He also said that he indicated within the letter itself that he was acting at the time in the absence of a county planner and that once a planner was in place the county planner would guide the commissioners through the application process.

Morrison said he doesn't remember exactly what he intended in his statement about the DENR review, and that he understands that it would be reasonable to interpret it as meaning that DENR would review the project before the county commissioners reviewed the application for the project.

To the extent that the letter is understood in that

way it would be incorrect, he said.

But to the extent that the statement is understood to mean that DENR would review the project before it could be constructed — which he said was likely what he had intended the statement to mean — it would be correct, Morrison said.

Morrison emphasized that his advice to the county commissioners in the April 2015 letter does not have the force of law.

Morrison also explained that the Superior Court will not retry the case but will review the CUP hearing records to determine whether the county commissioners erred in the way the hearing process was conducted.

Don Giecek, Apex's senior manager of project

development, said the company hopes the Perquimans decision will be overturned and plans in the meantime to pursue the project in Chowan.

"We remain hopeful that the Superior Court will reverse the Perquimans County denial of Timbermill's permit," Giecek said. "This would allow the project to meet its full potential. In the meantime, we will also continue developing the project in Chowan County and pursuing the other state and federal permits required for the project."

"We remain committed to bringing the economic development, community investment, and job creation associated with Timbermill Wind to northeastern North Carolina," Giecek continued. "We appreciate

the strong support we have received from communities in both Perquimans and Chowan counties. We will continue to provide regular updates to the public on our progress, and the doors to our office in Hertford remain open to residents from both counties."

The Hertford Apex office is at 109 W. Market St.

Apex spokesman Kevin Chandler said Wednesday he was aware of the Flynn's petition but had not yet had an opportunity to review its content or formulate any kind of response to it. Chandler also indicated that his understanding is that the Flynn's petition is really a matter between them and county officials and that Apex would not be directly involved in that case.

LAWSUIT

Continued from 1

Apex to deposit \$50,000 into an account to cover county expenses related to the application.

Perquimans County Manager Frank Heath said the county used about \$5,000 of the \$50,000 to pay for an independent review of the Apex application.

The remaining \$45,000 was used to pay for an outside attorney, Douglas Hanna, to sit in on all seven of the quasi-judicial hearings the county held from August through October. Some of the hearings lasted six

hours.

The Apex argument is that all five of the voting commissioners agreed that Apex complied with the county's zoning ordinance. One commissioner, Matt Peeler, was recused from voting because a majority of the board felt he could not render an impartial decision.

All five remaining commissioners also agreed that the project presented would not materially endanger the public health or safety.

But two commissioners — Fondella Leigh and Wallace Nelson — said Apex had not shown that the project would not substantially in-

jure the value of adjoining or abutting property. On the fourth vote, Commissioner Kyle Jones voted that Apex had not shown that the project was in harmony with the surrounding land uses.

Even though the votes were 5-0, 5-0, 3-2 and 4-1 in favor of the project, the commissioners determined because a majority of commissioners had some concerns the board as a whole could not approve the project.

Henry Campen, the attorney for Apex, said that was wrong in his appeal.

"Under North Carolina law, the board only has power to make decisions

and act as a body," Campen wrote. "Individual commissioners themselves have no power or authority. Consequently, North Carolina law recognizes only actions taken by the board. The votes of dissenting commissioners have no effect. The dissenting votes from separate decisions by the board cannot be 'aggregated' to deny an application when the board, as a body, found that the application satisfies all requirements of the ordinance."

Heath said the county has 45 days to submit the transcripts and other documents related to the case to the court. Heath said he

wasn't sure what would happen after that.

Perquimans has grappled with the issue since the summer of 2015 when the project was first proposed. Starting in August 2015 residents started packing commission meetings to object. That prompted a 45-day moratorium on consideration of any new wind projects. The moratorium ended in early 2016 and the board tweaked the existing ordinance.

Supporters of wind power say the project will allow farming and timber operations to continue operating. The Timbermill project spans more than 20,000

acres but the actual land use is much smaller. The footprint of each turbine is only about an acre.

Supporters also point to the lease revenue property owners would get for allowing Apex to use the land. For taxpayers, the conservative estimate is Timbermill would generate at least \$250,000 in annual property taxes to Perquimans County each year and a like amount for Chowan. That's based on agreement the county made several years ago when Iberdrola was developing what is known now as Amazon Wind Farms East. Some officials say it's not likely Apex will get the same deal.

PETITION

Continued from 1

son Winslow, Paul and Kristi Copeland, Derek and Dabney Scaff, Dennis and Sheena Hunter and William Elliott III.

The Winslows, Copelands,

the Hunter's and Elliott own property that directly adjoins or abuts land leased for the Timbermill project. The Scaff's own property in close proximity.

In the Winslow case, an Apex tower is less than 900 feet from their property line and the area is subject to

up to 660 hours per year of shadow flicker, according to the petition.

Flicker is the term used to describe a strobe-light effect during certain times of the year as the turbine blades pass between the sun and a person or object on the ground.

The Copelands' property is surrounded on all sides by the project and about 2,100 feet from the nearest turbine. They expect a 40-percent decrease in property value if the wind project is built.

Paul Copeland and his wife built their two-bedroom home on four acres of the 75 acres his family owns.

"My grandmother bought the land 50 years ago, they were farmers by trade."

The home was completed in May 2015 and he said he and his wife didn't hear about plans for the wind project until August of that year. With one brief exception, Copeland said he's lived all of his

38 years in the Bear Swamp area.

He said worries about shadow flicker are real for both he and his wife.

"We just finished a brand new home and we may not be able to stay there because of shadow flicker and the noise. This is something we've wanted to do for 15 years and now as soon as we get finished we hear about the windmills."

Copeland owns a used car dealership in Hertford.

"Now we got almost \$300,000 invested in a house and we've got windmills. What happens if the value of the house goes down 40 percent?"

Copeland said he went to a family Christmas Eve party in Belvidere and the 104-turbine Amazon Wind Farms East project.

"At night you could see the red lights flashing. It was sickening. All this has broke our hearts. We've lost sleep over it. Finally we get a house

we've dreamed about and we don't know what's going to happen."

The petition said from the Scaff's front porch they'd be able to see almost two dozen turbines, the closest about three quarters of a mile away. They expect a loss in property value.

Elliott's property is surrounded by the project on three sides and the nearest turbine is more than a half-mile away. That area has been singled out as one of the top 10 percent of homes that will be subject to shadow flicker, about 660 hours a year. Also the petition says Elliott worries about his adult stepson, who lives there. The stepson suffered a serious brain injury in a motorcycle accident, can't take care of himself and is uniquely sensitive to flickering light, according to the appeal.

The Hunter's property is about a half mile from the nearest turbine. Their home is expected to get the most number of hours of shadow flicker, The petition says they'll be able to see 40 turbines from their property and they expect property values will decrease 25 percent.

COURT REPORT

Judge Edgar L. Barnes

Dec. 7 JUDGMENTS

■ Debra Lynn Beattie, simple possession Schedule VI controlled substance, pay \$100 fine and cost of court.

■ Alvin Trendalle Burke, carrying a concealed weapon and disorderly conduct, 60 days suspended, 12 months supervised probation, pay \$300 fine and cost of court.

■ Erskin Glenn, communicating threats, three days active time.

■ Michael Lee Volberding, second-degree trespass, 10 days active time.

DISMISSALS

■ Debra Lynn Beattie, possession of marijuana paraphernalia.

■ Karl Brammer, two counts communicating threats.

■ Clinton Brothers, simple assault.

■ Steven Cox, assault on a female and injury to personal property.

■ Alton Xavier Hardy, assault and battery and injury to personal property.

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Town of Winfall Offices will be Closed:

Monday, January 2, 2017
For observation of New Year's Day

In case of an Emergency call 426-5751



PUBLIC NOTICE

PERQUIMANS COUNTY BOARD OF COUNTY COMMISSIONERS

The Perquimans County Planning Board will hold a public meeting on Tuesday, January 10, 2017 at 7:00 PM in the Commissioners' Meeting Room on the 1st floor of the Perquimans County Courthouse Annex Building located at 110 North Church Street, Hertford, NC, next door to the Historic County Courthouse, to consider the following: (1) Conditional Use Permit No. CUP-16-05, requested by Ground Trahos (for Alpha Value Solar, LLC) for a Large Scale, ground-mounted Solar Power Energy System Facility in the 700-block of Ocean Highway South (US Hwy. 17) to include Tax Parcel No. 3-0049-00010A; and (2) Parent-to-Child Deed of Gift No. NZV-16-02, requested by Wanda L. White for Brenda Johnson, for a one-acre lot (portion of Tax Parcel No. 4-0036-0130, located on Opal's Trail, south of Swayne's Lane).

Property owners, residents and other interested parties may review these items during normal business hours before the public meeting at the Perquimans County Planning & Zoning Office, at 104 Dobbs Street, Hertford, NC, or call 252-426-2027 or email dgodfrey@perquimanscountync.gov for more information. You may make comments at the meeting and/or provide written comments. If you are unable to attend the meeting but wish to make comments for the Board's consideration, please do so in writing by 4:00 PM the day before the meeting.

PERQUIMANS COUNTY PUBLIC NOTICE

Except for the Sheriff's Department, Dispatch Office and Emergency Medical Services, all County Offices in the Perquimans County Courthouse, Courthouse Annex, Social Services, Agricultural Extension Service, Perquimans County Library and the Perquimans County Recreation Department will be closed on Monday, January 2, 2017, for New Year's Day. The Library will close at regular hours on Saturday, December 31, 2016, and be closed on Monday, January 2, 2017, for New Year's Day. The Water Department will be closed but emergencies may be reported to the Dispatch Office by calling 426-5751. The Board of Commissioners Meeting scheduled for Monday, January 2, 2017, has been changed to Tuesday, January 3, 2017, at 7:00 p.m. due to the holiday.

Frank Heath
County Manager

The Offices of Town of Hertford Will be Closed

Monday, January 2, 2017
for the observance of
New Year's Day

In case of an emergency please call 426-5751

PUBLIC NOTICE

PERQUIMANS COUNTY BOARD OF COUNTY COMMISSIONERS

Due to the retirement of our current sheriff prior to the next election, the Perquimans County Board of Commissioners is seeking to fill the position. If you are interested in filling this vacancy, please contact the County Manager's Office at 426-8484 for an application. You must be a resident of Perquimans County and should have the qualifications to serve as sheriff in Perquimans County. Applications will be taken until December 30, 2016 at 5:00 p.m.

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