

BOARD OF COUNTY COMMISSIONERS
FOR SOMERSET COUNTY
TUESDAY, FEBRUARY 28, 2012

At 2:00 P.M., The Board of County Commissioners for Somerset County met in regular session with Commissioner President Rex Simpkins, Commissioner Vice-President Charles F. Fisher, Commissioner Craig N. Mathies Sr., Commissioner Jerry S. Boston and Commissioner Randy Laird.

Also present was Ralph D. Taylor, County Administrator-Clerk; and Cynthia R. Ward, Executive Aide.

President Rex Simpkins called the meeting to order and asked Commissioner Mathies to lead those attending the meeting in the Lord's Prayer and the Pledge of Allegiance.

Upon a motion made by Commissioner Fisher, seconded by Commissioner Boston, it carried 4-0 to dispense with the reading of the Minutes of the meeting held on Tuesday, February 14, 2012, and approve as presented.

Commissioner President Simpkins declared a public hearing open relating to the following matter:

In accordance with Article 66B of the Annotated Code of Maryland and Section 13 of the Somerset County Zoning Ordinance, Somerset County is considering an amendment to Section 5.2 of the Zoning Ordinance, entitled "Uses Permitted in Each Zoning District" to permit "Industrial Wind Energy Conversion Systems (IWECS)" by Special Exception from the Board of Zoning Appeals (BZA) in certain zoning districts, and to revise Section 5.8 of the Zoning Ordinance, entitled "Additional Regulations for Specific Uses" to add a subsection to include development standards that will regulate these systems.

Members of the public are invited to attend the Public Hearing and comment on the proposed Ordinance. The Somerset County Planning Commission has forwarded a favorable recommendation to the County Commissioners. The Board of County Commissioners will consider all public comment prior to making a decision on the Ordinance.

Fair Summary

The proposed amendments will allow large-scale wind turbines (IWECS) by Special Exception from the BZA in the AR Agricultural Residential District; the C-2 General Commercial District; the I-1 Light Industrial District; and the I-2 General Industrial District, and will include development standards that will address application procedures, bonding requirements, setbacks, noise, and other potential impacts of these systems.

Mr. Gary Pusey, Director of the Somerset County Department of Technical and Community Services, appeared before the Board to review the case report. He began by reporting on the Planning Commission's recommendation. A public hearing was held by the Planning Commission on January 5, 2012 on the proposed text amendments to the County's

Zoning Code concerning large-scale turbines. After reviewing all information submitted and testimony presented, the Planning Commission forwarded a favorable recommendation to the County Commissioners. Mr. Pusey advised that the proposed amendment has been a year-long process. The first work session was held in March of 2011 which was followed by many months of research. The only other area of the State with a similar wind energy ordinance is in Western Maryland. Input has been received from various wind companies; Maryland Energy Administration; and Patuxent River Naval Air Station.

There are two ways that wind turbines could be allowed in the County – (1) as a Permitted Use in certain zoning districts; or (2) as a use allowed only by the granting of a Special Exception (SE) by the Board of Zoning Appeals (BZA) at an advertised public hearing, again only in certain districts:

- 1) AR – Agricultural Residential District
- 2) C-2 – General Commercial District
- 3) I-1 – Light Industrial District
- 4) I-2 – General Industrial District

There are certain criteria that must be met for Special Exceptions that will help ensure that impacts on surrounding properties are limited and that any approved uses would be compatible with the neighborhood. For wind turbines, it is suggested that they only be allowed by Special Exception.

Before a Special Exception can be approved by the Board of Zoning Appeals, a Public Hearing must be held with the property posted and the Special Exception advertised in the local newspapers. The BZA will consider all testimony presented at the Public Hearing before making a decision.

There are recognized benefits associated with the wind turbines. These include a source of clean, renewable energy; property tax revenue to the County; land lease revenues for property owners which can supplement income for farmers, among others; and the creation of jobs for turbine construction, maintenance and manufacturing. In other areas of the country where turbines exist or have been proposed, several concerns have been raised by opponents of wind turbines. These include aesthetics; noise; possible interference with radio/television signals; bat and bird kills; and “shadow flicker”. In addition, in our area, a portion of Somerset County is located within the “radar viewshed” for the Patuxent River Naval Air Station and their

representatives have stated that turbines of a certain height (which varies, depending on the exact location) will adversely affect their operations.

Commissioner Mathies inquired as to any possible liability the County may incur if the Department of Defense states their operations are affected by the wind turbines. Mr. Pusey stated that it could be appealed to court but does not believe the County would have any liability. In a court case, the County Attorney or Applicant's Attorney could be utilized. Mr. Bob Sperry, Stormwater Management/Zoning Specialist with DTCS, stated that the County would most likely not prevail over the Department of Defense.

At this time, President Simpkins asked for proponents wishing to testify on the proposed amendment to the Zoning Ordinance.

Mrs. Susan Stuckey, of 31130 Charles Barnes Road, Westover, Maryland, stated that she believes the Ordinance was well prepared and researched and that the established guidelines could be very beneficial to the County.

President Simpkins asked for any other proponents wishing to testify.

Mr. Adam Cohen, of Pioneer Green Energy, stated that he has been working in the County for the last two years and have found the residents to be very cooperative and interested in the project. He also expressed his appreciation to the County for their willingness to research the issue and for their hard work.

President Simpkins asked for any other proponents wishing to testify.

Mr. Steve Volkert, of Delsea Energy, also expressed his appreciation to the County and its residents for all of their work.

President Simpkins asked for any other proponents wishing to testify.

Mr. Andrew Gohn, of Maryland Energy Administration, confirmed his attendance to today's meeting and offered his assistance in answering any questions.

President Simpkins asked for any other proponents. There were none.

President Simpkins then asked for any opponents wishing to testify.

Mr. Bill Monheiser, of 5076 Whittington Road, Marion, Maryland, stated that everyone has ignored the issue of groundwater. Mr. Monheiser believes the aquifers will be perforated and therefore drinking water will be contaminated. Mr. Andrew Gohn stated that he was unsure of the effect on groundwater. Mr. Monheiser replied by advising this was a pitiful response and not enough research has been performed to ascertain the impact this will have on groundwater,

especially with crop planting over it. Mr. Pusey reminded everyone that each application will look at this concern, as well as any other concerns. The ordinance amendment only allows the possibility to submit an application for a wind turbine.

President Simpkins asked for any other opponents wishing to testify.

Ms. Tanna Johnson, of 5340 Burnettsville Road, Marion, Maryland, expressed her opposition to the ordinance amendment. Ms. Johnson described a medical injury sustained by her fiancé as the result of an automobile accident. Because of his brain injury, he is very sensitive to noise and she is very concerned that the noise emitted by the turbines may be detrimental to his health.

President Simpkins asked for any other opponents wishing to testify.

Mr. Thomas Leef, 5100 Whittington Road, Marion, Maryland, also expressed his concern for the noise and inquired about the height of the wind turbines. Mr. Pusey advised that the maximum height would be determined by the setbacks and by the adjoining property. Mr. Sperry gave further clarification to the inquiry by referring to Item #3 of the proposed Ordinance, which specifically addresses the Setback Requirements, and stated that a wind turbine could be as high as 400-500 feet, depending upon the location. However, each project must also go through an FAA permitting process. Mr. Leef also addressed his concerns for the turbine's effect on the bald eagle population and other native wildlife; and also any effect there may be on poultry houses.

President Simpkins asked for any other opponents wishing to testify.

Mrs. Tammy Truitt, of 5144 Whittington Road, Marion, Maryland, appeared before the Board in opposition to the proposed Zoning Ordinance Amendment. Mrs. Truitt noted that the wind energy companies have spoken with large landowners, but smaller landowners have had no voice in the proposal. Upon researching the issue online, she has discovered many negative comments, particularly in relation to the noise emitted by the turbines. In one particular case, the property owner regretted the turbine installation. Mrs. Truitt stated that she works out of her Marion home, and that she, in addition to her neighbors, are very concerned about the proposed wind energy amendment, and that her vote should be as important as the large landowners. She concluded by asking the Board to not support the proposal and that it will make the area a wasteland.

President Simpkins asked for any other opponents wishing to testify.

Mrs. E.J. Monheiser, of 5076 Whittington Road, Marion, Maryland, also appeared before the Board in opposition to the proposed Zoning Ordinance Amendment. Mrs. Monheiser expressed her concern for the effect upon property values, which are already declining, and reiterated her husband's concerns for the effect upon groundwater. In a non-residential area, the wind turbines may be very beneficial. However, in her area, it is not fair to retirees that have located to this community, and if the wind turbines are installed, it may force people to relocate.

President Simpkins asked for any other opponents wishing to testify. There were none.

Mr. Pusey provided his closing comments. In recognition of everyone's concerns expressed today, Mr. Pusey reminded everyone that each wind energy project will have a process to go through before it can get approved. During this process, citizens will be afforded the opportunity to comment and express any concerns they may have.

Before concluding the hearing, Mr. Johnny Walker, of Pioneer Green Energy, offered his assistance to anyone seeking information on wind energy.

President Simpkins declared the hearing closed at 2:43 p.m. Written comments will be accepted for ten days.

At this time, the County Administrator reviewed discussion items and correspondence with the Board.

With Mr. Pusey still present, the Board reviewed two requests to waive permit fees and one request to refund or reduce permit fees:

- 1) Joseph Klimas and Brenda Gayle are the recipients of new replacement homes through the State's Special Loans Program. Since the Program is administered jointly by the County's DTCS Office and the Maryland Department of Housing and Community Development, the County has historically waived the permit fees, which total \$472.70 for each homeowner, with a grand total of \$945.40 for both.

A motion was made by Commissioner Laird, seconded by Commissioner Fisher, to waive the permit fees for Joseph Klimas (\$472.70) and Brenda Gayle (\$472.70), totaling \$945.40 for both, for the home replacements they are receiving through the Special Loans Program. The motion carried unanimously.

- 2) Eddie and Sue Heath have requested a return or reduction of permit fees for the extension they are planning to add to a large pole building. The original pole building was planned for 60' wide and 154' long, for a total of 9,240 sq. feet. The permit fees were paid and the permit was issued on August 2, 2011. Before construction began, the Heath's decided to enlarge the structure, with a new addition on each end of the building, for an addition of another 9,000 sq. feet, for a grand total of 18,240 sq. feet. Since this was a revision of their initial approval, they have asked for some consideration in reducing and/or returning the additional funds. Also the Heath's believe it is unfair to pay for the additional inspection fees that will be performed simultaneously at the same site.

A motion was made by Commissioner Boston, seconded by Commissioner Laird, to refund Eddie and Sue Heath, of 27806 Phoenix Church Road, Marion, \$900.00 for the building inspection and \$100.00 for the second zoning application, as they relate

to the extension of the original planned structure. Their total refund will be \$1,000.00. The motion carried unanimously. The Board also authorized Mr. Pusey to research a policy revision that would address similar circumstances in the future.

The Board revisited their review of landfill tipping fees and transfer station permit fees for Fiscal Year 2013. Historically, the County has delayed raising the landfill tipping fees for The City of Crisfield, The Town of Princess Anne, and the Sanitary District, by one year after an increase has taken effect for private individuals and businesses. This allows each jurisdiction to incorporate the increase into their upcoming fiscal year budget. Since the County raised the landfill tipping fee last year, from \$60.00 to \$62.00 per ton, we would accordingly increase the rates for the other jurisdictions to the same level this year. Therefore, a motion was made by Commissioner Laird, seconded by Commissioner Fisher, to increase the landfill tipping fees for the Town of Princess Anne, The City of Crisfield, and the Sanitary District, from \$60.00 to \$62.00 per ton. The motion carried 4-0.

The Board requested additional information on current revenues before making a decision on the remaining landfill tipping fees and transfer station permit fees.

A letter from Vicki Miller, Director of Finance for Somerset County Public Schools, was reviewed by the Board, requesting the Commissioners approval of a budget amendment for the Fiscal Year 2012 budget. This amendment will increase revenues and expenditures from the current approved budget of \$32,551,771 to \$32,668,221, an increase of \$116,450. The purpose of the amendment is to appropriately account for the increase in revenue and expenditures to implement a new account system. The amendment was approved by the Board of Education at its regular meeting on February 21, 2012.

A motion was made by Commissioner Laird, seconded by Commissioner Boston, to approve the budget amendment for the Somerset County Board of Education, as described above. The motion carried 3-0. Commissioner Fisher and Commissioner Mathies abstained.

The Board revisited a discussion, from their February 14, 2012 meeting in which Somerset County was invited to join a newly initiated coalition named "Association of Western, Agricultural, Rural, Eastern Shore Counties (AWARE)". This attempt for a broader coalition was recommended so that more rural counties would have more involvement in the legislative process in Annapolis. After a brief discussion, a motion was made by Commissioner Fisher, seconded by Commissioner Boston, to table the issue. The motion carried 4-0.

The Board discussed the membership and terms of service for the Citizens Review/Grievancy Committee. A motion was made by Commissioner Mathies, seconded by Commissioner Laird to appoint Weldon Corbin to serve as member of the Citizens Review/Grievancy Committee for a term of three (3) years. The motion carried unanimously. Mr. Corbin will serve as replacement to Dale Jamison, whose term has expired.

Mr. Taylor advised of a request received for a Proclamation recognizing Georganna Cottman for her many years of dedicated service as a 4-H Volunteer. A motion was made by Commissioner Fisher, seconded by Commissioner Boston, to adopt a Proclamation in recognition of Ms. Cottman's service. The motion carried unanimously.

The Board revisited a discussion from their February 14, 2012 meeting, regarding a request from the University of Maryland Extension Office to reallocate a salary savings of \$1,566.00 to purchase a laptop and related items for Amanda Chesser, 4-H Faculty Member. Further information was now available regarding the proposed purchase, such as the detailed quote and purchasing request form for the State of Maryland. With the additional information provided, President Simpkins called for a motion to re-consider the request. A motion was made by Commissioner Laird, seconded by Commissioner Boston, to approve the re-allocation request from the salary savings of \$1,566.00. The motion carried 4-0. Commissioner Fisher abstained from the vote.

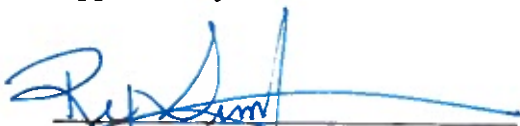
With no further business, President Simpkins adjourned the meeting at 3:40 p.m.

Respectfully Submitted:



Cynthia R. Ward
Executive Aide

Approved By:



Board of County Commissioners
For Somerset County