At 7:00 p.m., Acting Chair Craig Buhrow called the meeting to order and asked the Clerk to call the roll:

Members present:  Buhrow, Pratt, Bothe, Forster

The first order of new business was the approval of the minutes for the April 25, 2013 meeting. Mike Pratt made a motion to approve the minutes. A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. The motion was adopted.

The next order of business was a motion to adjourn pursuant to Petition No. 12-P-1483 by Mainstream Renewable Power, LLC, in accordance with the final vote by the Lee County Board. Bruce Forster made a motion to adjourn, and a second was discerned. There was no debate. A vote was taken, and the ayes prevailed. The motion was adopted.

Under new business was the public hearing on Petition No. 13-P-1487, by GSG 6, LLC, requesting to combine the four separate ordinances for the Shady Oaks Wind Farm under one ordinance.

Mike Pratt made a motion to engage Retired Judge Tim Slavin as a hearing facilitator, and a second was discerned. There was no debate. A vote was taken, and the ayes prevailed. The motion was adopted.

Chair Buhrow turned the meeting over to the Facilitator, Tim Slavin. Mr. Slavin stated the rules of procedure governing this session.
Katherine Lemley, attorney for Petitioner GSG 6, LLC, gave an opening statement on behalf of the Petitioner. She stated that the intent of this petition is to combine the four separate ordinances for the Shady Oaks Wind Farm under one ordinance. There are currently four separate ordinances for the wind energy conversion system known as Shady Oaks Wind Farm. Each ordinance has a different set of conditions that apply to the turbines found within it. This results in guidelines and restrictions varying from turbine to turbine (some turbines having many conditions that apply, while others having few or none). Therefore, the Petitioner is requesting that the County combine the ordinances under one single ordinance, with one set of conditions.

With regards to the conditions, the Petitioner is asking the County to adopt the most stringent conditions as found in Ordinance No. 008-006-002a.

The Petitioner will not be making any changes or additions to the Shady Oaks Wind Farm. No turbines are being added. The Petitioner is trying to create administrative efficiency by combining the project under one ordinance, and after consulting with Lee County, it was decided that this would be the best way to achieve that.

Ms. Lemley stated that the Petitioner has provided notice to the public in accordance with State Statute.

Andrew Evans, Commercial Director for Gold Wind and Project Manager for Shady Oaks, was sworn in on behalf of the petition.

Mr. Evans provided some background information regarding the Project. He described the turbine size, economic impacts such as jobs creation, and tax benefits. He discussed the design and layout of the project, and their efforts to minimize the impact to the local farming industry. He described regulatory restrictions such as setbacks, and the use of underground transmission lines.

Mr. Evans also addressed areas of concern such as wildlife in which they have implemented a two-year, post-construction wildlife monitoring project to confirm there are no environmental impacts to wildlife. He also discussed other areas of concern such as decommissioning and sound.

Mr. Evans explained that wind energy conversion systems exist to produce clean, renewable energy. It does not require hazardous materials or burning.

Ms. Lemley’s presentation of the witness concluded at 7:49 p.m.

Judge Slavin asked if the Board had any questions for the witness. There were none.

Judge Slavin asked if there were any other interested parties that would like to cross-examine Mr. Evans.

Ed Gerdes cross-examined Mr. Evans. He asked Mr. Evans about setbacks, and Mr. Evans said that they are 1,400 feet from the residence. He asked if there are signs posted around the turbines warning of ice throws, and Mr. Evans said there are not. Mr. Gerdes asked Mr. Evans if he knew of any incidents of ice throws, and Mr. Evan said he did not. Lastly, Mr. Gerdes asked if the turbine blades are fiberglass, and if they will need to be recycled. Mr. Evans did not know.
Jim Timble cross-examined Mr. Evans. He asked if consolidating the ordinances would change the tax revenue. Mr. Evans said it shouldn't. He asked if the consolidation would alter any of the existing benefits of the turbines, and Mr. Evans did not think it would. Mr. Timble asked why Ordinance 008-006-002a had been amended. Mr. Evans explained that it had amended at some point after it was originally approved but that it had not been amended by the Petitioner. Mr. Timble confirmed that the Petitioners are not asking to amend the petition.

Margina Schwartzbach cross-examined Mr. Evans. She asked when construction began, and Mr. Evans believed that they broke ground in August, 2011. She asked if the decommission report found in the petition had been previously presented to this Board, and he said it had not. She inquired about why the Petitioner is petitioning to combine the four ordinances under one ordinance instead of amending the previous petitions. Mr. Evans asked that after consulting with the County Zoning Administrator Chris Henkel and Matt Klahn, it was determined that this would be the best course of action. Ms. Schwartzbach also inquired about a complaint resolution.

Gail Barnickel cross-examined Mr. Evans. Mr. Barnickel inquired about the good neighbor program and complaint resolution.

Marcia Thompson from East Grove Township cross-examined Mr. Evans. She inquired about the good neighbor program and if participants were allowed to talk about their good neighbor agreement. Mr. Evans did not believe that there was anything in the agreement that would prevent them from doing so. She also asked about testing for shadow flicker, and confirmed that all the turbines in the Shady Oaks Wind Farm are operational.

Judy Truckenbrod, a member of the Lee County Board, wanted to know if the most-stringent decommissioning condition would be used. She also asked about the condition that stipulates the amount of time a turbine could go without operating. Mr. Evans clarified that they are not picking the most stringent conditions from each condition, but instead are using the ordinance that has the most stringent conditions.

Marilyn Shippert, Lee County Board, wanted further explanation as to why they are combining the existing ordinances. Mr. Evans explained that they are trying to ensure, going forward, that all of the turbines in the Shady Oaks Wind Farm have the same conditions.

Ms. Lemley asked that Exhibits 6 through 14 be admitted into evidence, and Judge Slavin allowed it. She stated that the presentation of the Petitioner’s evidence was completed.

Mr. Evans was dismissed as a witness.

Judge Slavin asked if any interest parties wanted to give testimony.

Jim Timble was sworn in. Mr. Timble said there are other strict conditions that are not being included. He also said that Paragraph 5 of the Petition list 85 parcels, but in Paragraph 6, the Petition states there will be 71 turbines. Because of this, Mr. Timble alleged that the Petitioner is trying to add additional turbines. Mr. Timble also alleged that the Petitioner is also trying to remove a condition that calls for a six-foot safety fence and a condition that requires the project
to be substantially under way within a certain time frame. Mr. Timble also stated that the Lee County Ordinance requires LESA scoring, but no LESAs have been done.

Mr. Timble concluded his testimony. Judge Slavin asked if the Board had any questions for the witness. Mr. Buhrow inquired about the discrepancy between the number of parcels and the number of turbines. Mr. Pratt, Mr. Bothe, and Mr. Forster did not have any questions.

Ms. Lemley cross-examined Mr. Timble and asked that he point out, in the petition, the discrepancy to which he was referring.

Margina Schwartzbach cross-examined Mr. Timble. She asked Mr. Timble if he is aware that the original petition requested the construction of 80 wind turbines. He said he was not aware of the original number of turbines. She then asked if he knew it had been reduced to 52 turbines. Mr. Timble said he knew the number had been reduced to 52 but that he was not aware of what the original number of turbines was.

Judge Slavin asked if there were any other interested parties that wanted to cross-examine Mr. Timble. There were none.

Mr. Timble was dismissed as a witness.

Judge Slavin asked if there were any other interested parties that wanted to testify. There were none.

Judge Slavin asked Ms. Lemley if the Petitioner would be calling any rebuttal witnesses. She requested a brief recess to consult with her client. At 8:49 p.m., Bruce Forster made a motion for a short recess. A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. The motion was adopted.

At approximately 9:00 p.m., the public hearing resumed.

The Petitioner did not wish to call any rebuttal witnesses, and Judge Slavin proceeded with closing arguments.

Ms. Lemley gave a closing argument on behalf of the Petitioner. She again stated that the intent of this petition is to combine the four separate ordinances for the Shady Oaks Wind Farm under one ordinance in an effort to create administrative efficiency. She said there is no hidden agenda to make any changes or additions to the Shady Oaks Wind Farm that is already built and operating.

With regards to Mr. Timble’s concern regarding the discrepancy between the number of turbines referenced in the petition versus the number of parcels referenced in the petition, Ms. Lemley explained that, at the direction of the County, some of the host parcels were divided after the project had been approved. This is why there are more host parcels than turbines. There are presently 71 turbines and no additional turbines will be built.

Ms. Lemley stated that Shady Oak Wind Farm is a point of pride for the Petitioner as it is a highly technical project, using cutting-edge technology, and operating under local, State, and
Federal regulations. She said it will continue to operate under the highest standards, as it has been doing.

Judge Slavin proceeded with closing arguments by interested parties.

Ed Gerdes gave a closing statement. He said he has been to many County meetings and has heard a lot of testimony regarding wind energy conversion systems. He feels that the wind energy companies always say they can be trusted but there is no guarantee. He has heard numerous testimony regarding issues such as shadow flicker, TV reception interference, and noise, and is concerned that there is no complaint resolution policy for such issues. He is also concerned because he feels that the only recourse will require a complainant to sue the wind energy company so that a judge can order a turbine to be shut down.

Margina Schwartzbach gave a closing statement. She said that this petition is the only petition she received notice of and that she did not receive notice for the previous petitions. She feels that in the past, the County shouldn’t have rushed through these hearings and that because they did, things are now convoluted. Mrs. Schwartbach feels it is erroneous to combine four petition since they each have a different set of conditions and that they should amend the original petitions instead of filing this new petition.

Mr. Timble is concerned that while Ordinance No. 008-006-002a may have the most stringent conditions, the Board should be reviewing the other ordinances and adopting the most stringent conditions from each of those.

With regards to the discrepancy between the number of turbines cited in the petition and the number of host parcels cited in the petition, Mr. Timble thinks the Board should have the wind energy company provide more specific wording.

Mr. Timble believes that the wind energy company is asking that the most stringent conditions be adopted but that they are trying to remove certain conditions regarding safety fencing and the time when a project must be substantially under way. He feels that approval of this petition would infer that all 71 turbines originated under one set of condition and that the record should not be changed. Mr. Timble requested that the Board turn down this petition and ask the Petitioner to return with more information.

Judge Slavin asked if there were any other interested parties that wished to make a closing statement. There were none.

Judge Slavin stated that the public hearing portion has been completed, thus concluded his duties as hearing facilitator.

The next order of business will be the finding of facts. Mike Pratt made a motion to engage Judge Slavin as Parliamentarian (or Chairman pro tem) during the finding of facts. A second was discerned, and there was no debate. A vote was taken, and the ayes prevailed. The motion was approved.

At 9:21 p.m., Gene Bothe made a motion to recess the hearing until Tuesday, June 11, 2013, at 7:00 p.m., in the County Board Room at the Old Lee County Courthouse. A second was
discerned, and there was no debate. A vote was taken, and the ayes prevailed. The motion was adopted, and the meeting was recessed.

Respectfully submitted,

______________________________
Alice Henkel