

Meeting Minutes
NORTH CAROLINA MILITARY AFFAIRS COMMISSION
LEGISLATIVE AFFAIRS COMMITTEE
North Carolina Legislative Office Building
Conference Room 300-B
300 N. Salisbury Street
Raleigh, North Carolina 27603
December 9, 2013

Voting Members Present: Sen. Harry Brown; Rep. George Cleveland, USMC, Retired; SGM Bill Hatcher, USMC, Retired; and Honorable Efton Sager, USAF, Retired. Mr. Jeremiah Daniels was unable to attend meeting.

Non-voting Members Present: Lt. Governor Dan Forest; Rep. John Bell; Ilario Pantano (Director of NC Veterans Affairs); MajGen Cornell Wilson Jr. USMC, Retired (Military Advisor to the Governor); BG Mabry "Bud" Martin, USARNG, Retired (via phone); BrigGen Paul Dordal, USARNG, Retired (via phone) and Col Frank Bottorff, USMC, Retired. Sen. Wesley Meredith was unable to attend meeting.

Others Present: Sen. Norman Sanderson; Sen. Ronald Rabin; Rep. Pat McElraft; Jenny Hartsock (Military Affairs Advisor, Office of Senator Kay Hagan); Drew Moretz (VP Government Relations, UNC GA); Mitch Gillespie (Assistant Secretary for the Environment, DENR); Carr McLamb (Deputy Director of Legislative Affairs, DENR); Dr. Don Van der Vaart (Chief of Air Quality Permits, DENR); Layla Cummings (Legal Specialist, DENR); Chris Russo (Director of Military Affairs and Strategic Planning, DENR/Ag); Tom Bowlin (Director of Legislative Affairs, NC National Guard); Beau Memory (Senior Policy Advisor, Office of the Senate President Pro Tem); Grant Brooks (Deputy Chief of Staff for Budget & Policy, Office of the Senate President Pro Tem); Hal Pell (NCGA Staff); Jennifer Mundt (NCGA staff); Bobby Lumsden (NC Office of Military Affairs staff) and Darryl Black (Sen. Brown staff).

Others Present via teleconference: Mr. Jonathan Kilberg (President, Torch Renewable Energy LLC); Mr. Rocky Ray (Vice President, Torch Renewable Energy LLC); Mr. Frank Rackley (Timberlands Manager, Weyerhaeuser NC); Ms. Alissa Cale (Timberlands Manager, Weyerhaeuser NC); Ms. Nancy Thompson (Government Relations, Weyerhaeuser NC); Ms. Kathy Hawkins (Duke Energy); Mr. John Droz, Jr. (WiseEnergy.org); MajGen Tom Braaten, USMC (Ret) (Director, Coastal Carolina Regional Airport, New Bern NC); Mr. Robin Comer (Carteret County Commissioner); Mr. Paul Friday (NC Commander's Council); Johanna Reese (Director of Government Affairs, NC Association of County Commissioners); Ms. Heather Barrett (Director of Government and Media Relations, Ward and Smith, P.A.); Mr. Bo Heath (Vice President of State Government Affairs, McGuireWoods Consulting LLC) and Mr. Kyle Parker (Military Affairs Advisor, Rep. G.K. Butterfield).

Call to Order

Chairman Brown called the meeting to order at 2:00 p.m. and welcomed all to the meeting.

Agenda Review

Washington D.C. Trip Update

Chairman Brown provided an update of the Washington D.C. trip that started off with a visit to the Pentagon and a lunch discussion with General James Amos, USMC Commandant who believes most consolidations with the USMC have already occurred. The delegation also met with VADM Scott Swift, the Director of US Navy staff who was impressed that a sitting governor had taken the time to travel to the Pentagon to meet with the service chiefs since most governors just send a representative. Topics of discussion included NAS Oceania and Camp Lejeune hospital expansion.

Mr. Wilson provided an overview of U.S. Air Force discussions that included a meeting with Eric Fanning, the Secretary and Gen. Larry O. Spencer, Vice Chief of Staff. (The new secretary has been nominated but has not been placed.) The F15E Strike Eagle is a long-term platform and it is perceived that Seymour Johnson AFB is a good location to hold this platform; however, this does not necessarily mean it will always be a protected location. Partnerships with local communities and municipalities such as prisons are being sought after to save federal dollars. It appears that the USMC does not want a BRAC since they have a limited number of installations while the USAF likely does. The Marine Corps presence is limited and includes: Camp Pendleton, Cherry Point, Camp Lejeune, Okinawa and Guam. A BRAC has not been funded during this congressional session.

Chairman Brown further added that the evening congressional delegation included 11 of the 13 members and it was likely the first time they had been in the same room in a while. The presentation by the Governor's Military Advisor emphasized the importance of the military economy on the entire state (83 NC counties receive DOD dollars) not just surrounding counties.

Federal Legislative Update

Ms. Jenny Hartsock, Sen. Hagan's Military Affairs Advisor, stated that Sen. Hagan believes it is time to come together to overcome partisan gamesmanship and crisis management. After hearing from NC military advocates, Sen. Hagan supports the bipartisan Ryan-Murray compromise budget since it will prevent deep sequestration-related cuts and provide budget relief in the near future. In regards to the military retirees COLA, Sen. Hagan will be considering future legislative solutions to restore cuts. The National Defense Authorization Act (NDAA), a United States federal law specifying the budget and expenditures of the US Department of Defense, passed after several amendments were stripped. A RFI to the Navy has been submitted for a possible relocation of an Oceania squadron to the State. Per Gen.

Lusk's request, Sen. Hagan is supporting Sen. Manchin's letter to Defense Secretary Hagel about keeping the National Guard force structure intact as an operational force.

In-State Tuition

Mr. Moretz stated that federal legislation before Congress is ever-changing and would require states to pay in-state tuition for veterans (does not include spouses and dependents). If proposed federal legislation does not pass by Jan 2015, it would be dead until the new Congress convenes. To get ahead of this potential federal mandate and retain workforce talent in the State, the UNC Board of Governors will like to obtain statutory authority to allow veterans to be eligible for in-state residency status. There is both a policy and budgetary aspect to this request and the UNC System is willing to absorb a portion of the financial burden. Proposed legislation would waive the one-year residency requirement and would have certain caveats such as the veteran would have a NC home of record or should have separated from a NC base (includes those who are living on-base). Spouses and children would also be included under the State plan. The preliminary estimate is the annual impact would exceed \$6 million with any excess being absorbed by the UNC system (as of Jan 2014, this figure has since been revised upward to \$8 million) It was acknowledged that once the visibility of this program increases and a drawdown bringing home 10,000 to 30,000 troops occurs, these numbers will likely increase. There will be some cost regardless if the State had to abide by approved federal legislation.

VA Secretary Pantano added it is estimated there will be a similar financial impact to the community college system of about \$800K per year.

Chairman Brown emphasized that one challenge is some veterans may have a residency status in states such as Florida in which they do not pay an income tax.

Rep. Cleveland stated federal benefits play a vital part of the local community economy and the impetus of this initiative began when the GI Bill program no longer covered the full cost of education. He did not rule out the possibility of a short session action and said some "tweaks" are still needed. Concerns about tax status have already been discussed at UNC Board meetings and one approach could be to establish a reciprocity agreement with participating states. He was hopeful they could work through these matters during the upcoming short session.

Rep. McElraft who grew up in a military family stated that a link to the forgiveness of student debt is preferable so as to encourage graduates to stay and work in the State. Admittedly this could be an issue especially if quality local jobs are not present for graduates who would then have student debt. Perhaps a pilot program should be established to study how many would stay after the completion of higher education programs.

Sen. Rabin mentioned that at a recent economic forecast forum held at Campbell University, an existing workforce skills gap issue was discussed. While community colleges often provide credit for military training, universities do not always accept such credits.

Chairman Brown stated the Commerce Secretary is looking at ways to leverage military veterans' skillsets to assist with job creation. He also added due to unforeseen complexities just discussed, this legislative request may eventually become a long session priority.

Lt. Gov. Forest recalled one creative approach was a House bill for a \$1,000 tax credit for apprenticeship jobs and that a similar approach could be used to assist veterans.

Newport Wind Project- Industry Perspective

Mr. Kilberg stated that Torch Energy has experience working with military air force bases such as Kirtland AFB (near Albuquerque, New Mexico), Holloman Air Force Base (near White Sands, New Mexico), Cannon AFB (near Clovis, New Mexico), and Davis-Monthan Air Force Base (near Tucson, AZ). Historically Torch Energy contacts the military first which is the case in NC and the military DOD Clearinghouse program to address their needs as well as the FAA and NC DENR. From his experience, the NC process is a stringent program and covers all potential hazards.

Mr. Ray then provided a brief history of the Newport wind project by stating that Torch originally looked at nine projects across four counties in NC at the end of 2010. To address military concerns, a site between two restricted air spaces was chosen. Examples of site restrictions at other sites considered include: Pamlico B Military Operating Area (MOA), restricted area space R-5306A and restricted area space R-5306D. Torch decided upon the existing site despite its proximity to Cherry Point due to its position in the alert area. Once this site was chosen, a met tower was installed for a two-year period to study the resource. On July 6, 2013 Torch filed for an informal review with the DOD Siting Clearinghouse to address any military concerns. Torch Energy then commissioned Capitol Airspace Group based in D.C. to perform a vertical obstruction analysis. This report identified mitigated concerns including a TACAN approach into Cherry Point and non-directional beacon approach at Michael J. Smith Field Airport located in Beaufort. To mitigate these concerns, Torch positioned turbines clear of any vertical constraints. On Aug 28, 2013, Torch Energy filed a FAA determination of no hazards report. Another meeting discussing the timeline with Mr. Michael Aimone, the Executive Director of the DoD Siting Clearinghouse was conducted. Torch Energy left this discussion with an impression that a formal review with the military including services was in sight. At the end of Oct 2013, Torch scheduled an interagency meeting with Marine Corps Installations East, Air Force, Army Corps of Engineers, DENR, Fish and Wildlife, NOAA, Wildlife Resources, Town of Newport and Carteret County. Admittedly this process was perhaps a bit premature since this meeting was ahead of the enactment of related legislation and a formalized DENR permitting process and matrix. Unfortunately the Mitigation Response Team response has been adversely affected by the federal shut-down and recent furloughs. Torch Energy is currently working with Lynn Landers, Col. Brett Ben and Major Michael Roberts and it is expected local military branches will establish a mitigation response team that will meet in Jan 2014.

Mr. Kilberg added that DoD has a renewable standard goal of 25% by 2025. Bases in compliance with this renewable standard will move up favorably in the BRAC process due to the lower energy costs. Wind and solar are the only domestic sources of energy in NC while everything else is imported. With wind energy, local employees pay taxes and royalties. In Texas, wind energy generates more than 3,000 full time jobs with \$91M in rural property tax revenue and \$100m in land-owner royalties on an annual basis. Hence the arguments that wind power is not an economic boon are untrue.

Mr. Rackley stated that Weyerhaeuser has been working in the State since 1955, has 1,000 employees and owns or manages 550K acres of timberland. Weyerhaeuser is a good partner with the military and looks for compatible uses of land while balancing the needs of the military and land owner property rights.

Ms. Hawkins shared Duke Energy's role with project. Usually renewable energy discussion is focused on SB3 that passed in 2007 that created the renewable portfolio standard. Back in 1978 Congress passed the Public Utility Regulatory Policies Act (PURPA) that forced regulated, natural monopoly electric utilities to purchase energy from other more efficient producers, if that cost was less than the utility's own avoided cost rate to the consumer (the avoided cost rate was the additional costs that the electric utility would incur if it generated the required power itself, or if available, could purchase its demand requirements from another source.) Qualifying facilities are two types: co-generators and small power producers such as biomass, wind, geothermal or hydro. The Newport project would be a qualifying facility producing 80 megawatts or less that uses a biomass, solar or renewable source. Duke Energy is in negotiation for the renewal of a federal mandate which would allow Duke Energy to recover their costs. There are about 2,000 renewable projects in queue for Duke Energy a business that employs 13,000 in the State. The avoided cost (the cost Duke Energy avoids paying by not generating electricity) is determined by the NC Utilities Commission. There is also a performance adjustment factor for alternative energy providers that are bonded against. Subsidies are not a factor in the rate.

Newport Wind Project- Local Perspective

Sen. Norman Sanderson states he is not against alternative energy. He is at the meeting not to represent the military and power companies but to represent the people who are adamantly against this effort. This project is a direct threat to the military presence (jobs) and tourism industry. Many jobs at risk and the local tourism authority and chambers of commerce are also against this project. There is a public forum before the county commissioners on Jan 2, 2014 to discuss a 30 or 60-day moratorium to review whether existing tall structure ordinances are substantive to manage wind farms.

Mr. Comer, a Carteret County Commissioner, said that the projected economic benefit does not outweigh the potential adverse impact to military, tourism economy and local municipal airport. For example an important asset is the horizon over the water in which the windmills will be a primary feature. He believes limiting wind turbine heights could take some pressure away from waterfront properties. These windmills are in the

instrumental landing field used for inclement weather and putting them in the middle of a pine forest without fire stations could present a fire risk.

Mr. Tom Braaten, the Airport Director for Coastal Carolina Regional Airport, stated though Coastal Carolina Airport is located in Craven County, it depends upon the FAA regional radar provided by the Marine Corps Air Station (MCAS) Cherry Point. This support also extends to Michael Smith airport in Beaufort as well. They guide aircraft to the final approach before handing them off to the tower. The radar provides notifications of air traffic to aircraft to ensure safe separation. There is a significant amount of air traffic including: military, high speed jets, military rotary-wing aircraft, commercial passenger carriers, and general aviation aircraft. Primary surveillance radar would be affected by wind turbines. Secondary surveillance radars will not be affected since they operate by reading transponder codes. Most light aircraft below 14,000 feet do not use the more expensive transponders so false targets, false locations or no target on primary radar screens will result in the controllers not being able to provide accurate aircraft separation information --- hence they would be flying blind. Lack of information would result in decreasing the safety for military, passenger carriers, and general aviation aircraft. Allowing tall structures in line with the instrument approach to the Runway 32 at MCAS Cherry Point will force the Marines to alter their operational procedures. Should another BRAC occur, these structures would be viewed as encroachment which is a negative factor. With regards to renewable energy credits for bases, the downside of operational safety concerns and BRAC encroachment vastly outweigh any potential upside.

Joanna Reese, the Director of Government Affairs, had no comment and stated that the NC Association of County Commissioners is still getting up to speed on this issue.

Rep. McElraft stated she has concerns about the DoD Clearinghouse. An executive order states that the only way a green energy project can be dismissed outright is if it adversely affects national security --- not an adverse BRAC impact or consideration of pilots. As a result, there appears to be two viewpoints, a genuine unofficial concern by local military personnel responsible for safe operations and a DoD Clearinghouse perspective influenced by an executive order that encourages mitigation efforts over outright dismissal. As a state representative for Carteret County, she wants to do what is right for local pilots and the people of Cherry Point who do not appear to favor wind turbines - not the Pentagon. A broad level of concern includes adverse impacts to property values, health (nurses and doctors recently testified on issues related to windmill issues) and environment (many have voiced concerns about birds especially along the forest and coast). She is not averse to renewable energy efforts and is supportive of solar which could help the military installations to reach renewable energy goals.

Mr. John Droz, a physicist with wind energy expertise stated that the Mill Pond project is expensive proposition with no tangible benefits. Bad environmental policy such as Senate Bill 3 results from lobbying efforts for those with financial and political interests. No alternative sources of energy should be allowed in the grid unless they provide a net societal benefit supported after an objective empirical technical screening process. No scientific objective proof exists for the endorsement of wind energy for it is a net economic

(jobs) and an environment loser. This is well documented at www.wisenenergy.org. This project should be considered as a major threat to the \$2 billion base located at Cherry Point. Obstructions and radar interference from 500' turbine blades "obstacles" will distort radar and adversely affect the main flight path. With adverse weather there will be certain peril and a right hand approach isn't suitable. Wind turbine blades can distort ground control and make it more dangerous to fly. Furthermore a recent Canadian Air Force report shows that a wind farm facility will create areas that cannot be reliably observed or controlled for military and civilian aircraft. In addition the impact to BRAC cannot be discounted either. NC House Bill 484 (H484) was a result of Pantego project that affected Seymour Johnston AFB. This bill started with lofty goals but due to lobbying was watered down to become a shell of what it should have been. While environmental concerns are addressed, a significant problem ignored is the scientifically proven adverse impact to the health of nearby citizens. There is only a single sentence about a requirement for an undefined study of the noise impacts. It is left up to the developer to determine which noise test a hired gun will use. Whereas there are multiple rejection criteria, there is no denial for the health of surrounding citizens. He summarized the dissertation by appealing to the Committee to tighten up the existing process.

Newport Wind Project- State Regulatory Perspective

Mr. Gillespie thanked the General Assembly for passing H484 based on a DENR draft in conjunction with NCGA staff. This piece of legislation is the only kind in the nation that protects the military and environment and provides local communities a seat at the table. H484, page 5, includes a broad list of rejection criteria including adverse impacts to major military installations, ecological systems, natural resources, cultural sites, recreation areas, historic sites; fish/wildlife, State or national park views, major navigation channels or does not follow applicable federal, State, or local permit requirements, licenses, or approvals, including local zoning requirements. If these rules need to be further tightened, he is willing to work with the NCGA during the short session. The legislation also includes a public hearing and provides DENR with broad discretion in setting up such requirements. The minimum time period once the process started would be nine months if everything moved perfectly. The Oct meeting was an optional project informational meeting and again the process has not even started. Finally with a sensitive military encroachment issue at hand, the Governor could still weigh in on the issue.

Sen. Brown stated he worked with Hal Pell and Jennifer Mundt on this bill to put in place as many relevant safeguards as possible. He too would be open to making this bill more stringent if necessary. He then asked whether Mr. Russo had anything to add to the discussion.

Mr. Russo stated that this is a parallel process. The military received a letter in Oct 2013 to set up a mitigation response team for them to take a look at all issues. It is ineffective and a waste of the company's time and resources to discuss the project until the military has identified any mitigation concerns (red "serious", yellow "engaging" and green status "no problem"). Hence the magnitude of an issue and whether it can be effectively mitigated. The mitigation response team will make a presentation at the Jan 2014 meeting and will

ask the company whether it would wish to mitigate. If the company says no then it is denied and if yes the application goes to DoD which will review a couple of areas including training & readiness and installations & environment (birds, bees, etc.) There will be a sheet including all animal species impacted and any operational issues such as flicker or ground clutter. Then it is discussed in order to come up with an accommodation such as with Pantego. Flight operators will likely state especially in private that obstructions will adversely affect flight operations; however, this may not be the case and by law the final decision maker is not with the installation. An application will first go to the service secretary and/or chief of staff for a recommendation and then to the DoD Clearinghouse for a decision. If further mitigation is needed then this would involve local officials, state officials, military and industry as with Pantego.

Rep. McElraft requested clarification on how expressed concerns are mitigated. She voiced concerns that the DoD should factor in local sentiments and impact to BRAC process.

Mr. Russo replied theoretical matters such as health impacts and potential radar interference can be sorted out. For example the Pantego mitigation revealed math errors in that the standoff distance was not 45 km but about 15 km. This was in the best interest of the company. Once this evaluation is completed, the Deputy Secretary of Defense will make a decision and if necessary will send a letter to Capitol Hill stating that this project constitutes an extreme threat to national security. This has never been done and the process from here is unclear. Remember that this is a neutral interest scenario and the State can still weigh in.

Sen. Brown added that as a State, this is why we needed to take an initiative to protect our bases and requested that DENR develop a map where wind energy works or does not work with military.

Mr. Russo replied that the State is a great resource for wind energy. For the Mill Pond project since the process has not started, there is only a general notion about air space and environment -- the true impact is not known. Torch Energy has been upfront with their intentions and is working well with DENR. The clock has not even started.

Rep. Cleveland stated perhaps it would be best if the clock never gets started.

Mr. Russo replied that everyone has an opinion which he respects, however everything should be placed on the table and all parties should be given a fair chance to proceed.

Sen. Rabin stated the only wind energy proponents are industry advocates and environmentalists. The only person who should have decision making authority is the unit commander who has access to classified information. Any overriding decision especially for national security should remain with the military not a civilian hierarchy heavily influenced by an executive order. He agreed with Rep Cleveland's position.

Rep. McElraft stated that Torch Energy is a good company and again suggested a solar project. She stated that the local military have already seen this proposal and voiced

concerns. Unfortunately they also seen how the Commander at Seymour Johnson AFB was reprimanded and are afraid to speak out. As a result, she will be their spokesperson. It is still early in the process and Torch Energy has only approached the utilities commission and hasn't yet leased any property.

Mr. Kilberg agreed it is early in the process and he has no intention to interfere with national security or cause significant hazards such as radar interference. He looks forward to receiving a list of any hazards during the next 60 days and will cease if hazards should appear. He feels during the discussion a few things were misrepresented. All he wants is a fair and unbiased opportunity.

Mr. Comer stated huge wind turbines located inland do not affect property values like they do on the coast. He then said why his community should gamble if it is unnecessary since future air space issues may occur.

Hofmann Forest Update

Mr. Friday heard about two weeks ago that the parties involved were trying for an early 2014 closing. The first workgroup meeting and negotiations is expected to occur about Jan 15, 2014 once land has been formally transferred. Meanwhile military staff has been meeting internally. He has not heard anything about the court case recently or from the involved parties so he believes the process is proceeding as expected.

Other Business

Sen. Rabin stated that the 2013 Legislative Research Committee (LRC) on Civilian Credit for Military Training and State Adjutant General Selection Criteria is starting to meet. Despite a high unemployment rate, there is a workforce shortage for needed skillsets like mechanics and nursing. He believes promoting a shorter training time for experienced accredited personnel will be a positive step. Mr. Moretz added that the process for providing college credit for formal military training is inconsistent among the community colleges. Fayetteville Technical Community College (FTCC) due to proximity to Ft. Bragg is likely more receptive to this idea. Once a community college provides such credit, a shorter course for skilled experienced personnel is applicable. Rep. Cleveland stated that sometime next year a comprehensive agreement should be in place to aid with credits.

Sen. Brown stated that legislative bills making crossover have been identified. The short session will likely be 4 to 5 weeks.

VA Director Pantano stated that Veterans Affairs has established an ongoing working group called Veterans Focus on Families and Service Members which is largely funded through federal grants managed by DHHS and will tackle wellness and substance abuse issues.

Sen. Sanderson stated that he does not want be a part of "rolling the dice" with the military for once an issue becomes evident it likely too late to undo the damage done.

Mr. Wilson commented that he felt there was good discussion on both sides.

Mr. Black stated as a working committee, the NCMAC Legislative Affairs committee will resolve action items and directed members to a list of open action items from the previous meeting.

- Congressional delegation bios and their military representatives were provided.
- Draft NCMAC bylaws have been updated.
- There are 15 eligible bills from the previous session and committee members were instructed to go to the NCGA website to get a brief summary of each. Mr. Pell added that some of the outstanding legislative items under consideration are stranded in a committee or are appropriation-related items.
- The full amount of funding the state invests for military in FY13/14 is about \$62 million. The majority of Clean Water Management Trust Fund dollars are invested to handle encroachment issues.
- Federal PSTD dollars are disappearing due to sequestration and the UNC System has the legislative authority to reinvest state dollars in such programs if desired.
- Sen. Brown stated the NCMAC Quality of Life committee has referred a Morale, Welfare, and Recreation Programs (MWR) funding request to the Legislative Affairs committee. Unfortunately the NCGA shifted previous dollars to BRAC efforts. Rep. Cleveland added MWR dollars are temporary funds for times of deployment when large numbers of troops are absent and are temporary funds. Mr. Bowlin clarified in addition to active personnel that NC National Guard personnel also have a need for MWR funding.
- Mr. Black stated the only outstanding action item was related to cellular towers and he has obtained a list of DoD contacts and was working on this matter.

Adjournment

The Committee adjourned at 3:45 p.m.