

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
October 8, 2008**

The Planning Board for the Town of Duck convened at the Duck Municipal Offices at 6:30 p.m. on Wednesday, October 8, 2008.

Present were Chairman Jon Britt, Vice Chair Joe Blakaitis, Ron Forlano, John Fricker and Claiborne Yarbrough.

Absent: None.

Also present were Director of Community Development Andy Garman, Council Liaison Dave Wessel and Permit Coordinator Sandy Cady.

Others Present: Bill Lane of East Coast Construction and Charlie Pratt.

Chairman Britt called to order the Regular Meeting of the Planning Board for October 8, 2008 at 6:32 p.m.

PUBLIC COMMENTS

None.

OLD BUSINESS

Discussion of Renewable Energy Forum and Future Activities

Chairman Britt suggested opening the discussion on what direction the Board wanted to go with regard to the issue.

Vice Chair Blakaitis clarified that the Board decided that public comments would be solicited the first time the issue was discussed. He further clarified that the comments would be received before the Board began deliberations. He asked Director Garman for his suggestions. Director Garman stated that one suggestion was to have something at the Council Retreat in January. Member Fricker asked if there was also a suggestion of a forum in the Town of Duck before the Retreat. He noted that the Town of Kitty Hawk already had a forum and thought maybe that would make the forum for the Town of Duck moot. Vice Chair Blakaitis thought a forum would be unnecessary, but thought Town meetings where comments would be heard could be something that would happen before the Retreat. Member Yarbrough recommended an online survey or a paper survey available to pass out at the Town's Jazz Festival. Director Garman stated that staff could put something together quickly and maybe use the general survey the State uses as a guideline. Chairman Britt noted that a lot of the people at the Jazz Festival may not be from Duck.

Vice Chair Blakaitis thought there should be something that involved the citizens of Duck as well as any property owner that wished to attend. He thought it would be valuable to have something going into the Retreat and suggested discussing the issue at the Board meeting in November as well as advertising that the public would be welcome to attend to give their input. Member Yarbrough thought the survey would give insight as to what would be covered in the forum. Vice Chair Blakaitis stated he did not want the meeting referred to as a forum as he didn't think it would educate anyone. He added that the Board would only be looking for input. Member Yarbrough clarified that the November meeting would be an opportunity for public comments.

Member Forlano thought the issue should be sent to the Town Council to let them decide how they want to handle it. He stated that he didn't see where it would be in the Board's jurisdiction to be addressing the issue. He stated that if the Town Council wanted the Board to come up with an ordinance, they could come up with something that has already been worked out with some of the other municipalities. He thought that to study the issue and find out how the citizens feel about it should be left to the Council to decide if there should be a forum or survey. Chairman Britt stated that he somewhat agreed with Member Forlano, but thought it should be something the Board should do in order to have information to present to Council, especially if it will be at the Retreat. Member Forlano agreed that the direction should be decided at the Retreat. He thought a committee should be formed to further study the issue if the Council wanted to move forward.

Vice Chair Blakaitis asked Member Forlano if he felt the Board should continue discussing the issue. Member Forlano thought the Board's only job was to draft ordinances and not make decisions on an issue as large as this one. Vice Chair Blakaitis stated he somewhat agreed but felt it was another reason to do something before the Retreat.

Chairman Britt asked if there was a need for a stop gap ordinance at this time. Director Garman stated that he did not see a need for an immediate stop gap ordinance. Member Forlano thought there should be one if there was a need. Vice Chair Blakaitis didn't think there was. Member Forlano thought there would be eventually. Chairman Britt and Vice Chair Blakaitis agreed.

Member Fricker thought that the Town Council had charged the Planning Board with looking into all forms of alternative energy. He stated that he didn't know if it included having the Board draft ordinances or not. He thought the Board needed to look at the Town Council minutes as well as the staff report to the Board to see whether it was clear or ambiguous. He stated that he understood that the Board produces proposed ordinances, but in order to get to it, the Board had to be fact finders. He thought it was consistent with what the Council had asked – to determine facts and explore the issue to gain information for making a recommendation. Chairman Britt agreed. Member Fricker thought the Board may be above their ability of what they could handle. He stated that he liked the idea of an ad-hoc committee. He thought the questionnaire was no more valuable than the clarity of the questions. He thought it would need to be thoughtfully done and not in haste. He stated he would not want to rush to get a questionnaire out at Sunday's Jazz Festival.

Chairman Britt thought Member Fricker had a good point. He stated that the Town Council wanted the Planning Board to address all relevant forms of alternative energy. Member Fricker

asked if it specified for what purpose. Chairman Britt stated it didn't. Council Liaison Wessel recalled that the building code did not say anything about wind towers, cisterns, etc. He thought that a committee had been proposed but nothing has been formed. He added that he didn't think there was any rush on Council's part to have an ordinance drafted.

Chairman Britt thought the Board could talk about other energy forms at their November meeting and then at the Council Retreat; give Council a synopsis of what the Board learned. He stated it would be consistent with what Council asked the Board to do. Member Forlano stated that he would like to receive input from the Building Inspector to have him give the Board feedback on the potential dangers of wind towers and solar panels on roofs.

Vice Chair Blakaitis wondered if solar farms would need to be considered. Director Garman noted that solar panels could be put on a roof of a house provided that they do not exceed the height requirement and could be put on the ground so long as they don't exceed the setbacks and coverage requirements.

Member Fricker stated he would not be opposed to recommending an ordinance that would be designed to preclude someone putting in a wind turbine until the Board had a chance to explore the issue. Director Garman stated that the Town Council could put a moratorium in place if an emergency situation were to arise.

Member Fricker felt the newsletter survey would be the way to go in conjunction with the online survey. He stated that he would be willing to help draft a survey. Director Garman stated that he could put together some surveys for the Board's review and development. Member Forlano thought it was a great idea to have something at the Jazz Festival letting people know that the Town was starting to study alternative forms of energy at future meetings. Director Garman stated that he will attempt to have something at the Jazz Festival for people to take with them.

Member Fricker asked if anyone got the sense at the Kitty Hawk forum that people that have turbines should have more say about them. He stated that he was very interested in hearing of their experiences. Chairman Britt stated that he got the same feeling but thought they were tired of talking about them. Director Garman stated that since the Kitty Hawk forum, the Town has received calls from a number of wind developers; with one that gave a preliminary assessment of what could be done at the Town Hall site.

Chairman Britt stated that a postcard or notification could be crafted for the Jazz Festival. He added that the Board would look at a survey to be put in the Town newsletter as well as online for the November meeting to help gather information for the Council Retreat.

Member Yarbrough asked if solar or cisterns would be discussed. Director Garman wondered how cisterns would fit in with the energy issue.

Chairman Britt stated he would like to have input from the Building Inspector at the Board's December meeting.

Member Fricker asked Director Garman if he would provide the Board with more information on renewable energy prior to the November meeting. Vice Chair Blakaitis thought it should be

information that the Board would want to consider. He suggested a matrix of all renewable energy available that could be used in Town.

Chairman Britt suggested that a survey be worked on to be presented at the next meeting. Director Garman stated he would have a presentation for the Board. Chairman Britt suggested having Building Inspector Cory Tate at the Board's December meeting.

NEW BUSINESS

Discussion of Electronic Message Board Signs and Vehicle Signs

Director Garman stated that there had been one (1) inquiry about an electronic message sign. He noted that at a previous meeting the Board wondered if they would be allowed. He stated that anything considered a billboard would not be allowed as billboards – electronic or not – and would not be permissible in Town. He stated that if a business owner decided to put in a free-standing sign that was electronic or LED, it would not be prohibited based on how the current ordinance language was written, as long as the message did not change. He stated he was bringing it to the Board's attention to obtain an opinion on whether or not electronic signs should be something allowed and whether they would be consistent with the aesthetics the Town was trying to achieve.

Chairman Britt asked the Board how they felt about electronic signs. Member Yarbrough thought they should not be allowed. Members Forlano, Fricker and Vice Chair Blakaitis all agreed.

Member Forlano asked if the Board wanted to ask Council to give direction on forming an ordinance or amending the existing ordinance to prohibit electronic signs. Chairman Britt thought that was the case. Director Garman stated that the way the Board has been doing it was by a motion to ask Council to bring an issue back to the Board for further discussion.

Director Garman stated that vehicular signs have also been giving the Town trouble. He stated that there were a lot of signs on vehicles throughout Town. He suggested language to easily address the issue that would be more easily enforced and not so subjective.

Member Forlano thought Director Garman's idea was excellent. He stated that it was something the Board should deal with.

Vice Chair Blakaitis asked if changeable signs included the ones on the trucks that drive around with the LED signs. Director Garman thought that based on the existing ordinance, they would be prohibited. Vice Chair Blakaitis thought it should be specifically written in the ordinance that those types of trucks are prohibited in Town. Director Garman stated it would not hurt to clarify them as a prohibited use.

Member Fricker moved to have the Board request the Council authorize the Board to draft and recommend the adoption of ordinances precluding all electric signage and precluding parking of vehicles displaying signage larger than ten (10) feet from parking adjacent to rights-of-way or public streets. Member Yarbrough asked if electronic signs should be in the motion. Member

Fricker amended his motion to say regarding electronic digital display signs. Vice Chair Blakaitis seconded.

Motion carried 5-0.

Review of Town Quasi-Judicial Procedures

Director Garman stated that there had been several special exceptions, variances and Town Council conditional use permits that have come up in the last year. He stated that the Town has worked on adopting ordinances to deal with many different items. He stated that a lot of the ordinances have incorporated provisions for special exceptions. He stated that he wanted to make the Board aware of what has been done to make things more consistent. He stated he was not sure why certain ordinances were selected to go before the Board of Adjustment while others go before Council. He stated that there were different procedures for each board, i.e. special exception for land disturbing activities go before the Board of Adjustment while a special exception that goes before the Council always goes before the Planning Board. He stated that he was trying to figure out why they procedurally should be treated differently.

Chairman Britt stated he didn't see why they should be treated differently. He felt the Board of Adjustment should be hearing the variance requests and thought they had to. Director Garman noted that the Council can designate themselves as the board for certain types of variances or for all variances. He added that there didn't need to be a separate Board of Adjustment, but the Town does differentiate and the Council has decided that it wants to hear certain types of variances but not all of them.

Chairman Britt clarified that the Board of Adjustment decisions were final. Director Garman stated he was correct. Member Fricker asked if they were appealable to any body. Director Garman stated they were. Chairman Britt stated they could be appealed to the courts. Member Fricker clarified that the Planning Board did not make final decisions on anything and only recommended items. Chairman Britt stated he was correct.

Chairman Britt thought it was odd that the Board of Adjustment just had hearings for certain types of special exception. Director Garman explained that when Council hears a special exception, they help draft the rules as they understand the intent, however the Board of Adjustment does not always understand the Council's intent unless it was clearly spelled out for them in the findings of fact that they have to make.

Member Fricker felt the Planning Board had no jurisdiction in addressing the issue since they were an appointed advisory board to the Town Council. He wondered why the Board would need to solve problems the Board of Adjustment may have and felt the Board of Adjustment should be utilizing staff to recommend corrections to its area of jurisdiction. Director Garman explained that any action that was taken to make the ordinance more consistent would be through the form of a text amendment, which has to be heard by the Planning Board and Town Council.

Member Fricker thought the motion should be made by the Board of Adjustment to the Town Council to charge the Planning Board with revising any language. Member Yarbrough asked how often the Board of Adjustment met. Vice Chairman Blakaitis stated they don't meet all that

often. Member Yarbrough clarified that they didn't meet unless they were called to meet for an issue. Director Garman stated she was correct.

Chairman Britt had to leave the meeting for a fire emergency call. He asked that Vice Chair Blakaitis finish running the meeting. The time was 7:48 p.m.

Member Yarbrough moved to refer the review of the Town's quasi-judicial procedures to the Town Council for Planning Board review. Member Fricker seconded.

Motion carried 4-0.

APPROVAL OF MINUTES

Planning Board Meeting September 10, 2008

Vice Chair Blakaitis directed the Board to review the minutes from the September 10, 2008 meeting.

Member Fricker moved to approve the minutes as presented. Member Yarbrough seconded the motion.

Motion carried 4-0.

OTHER BUSINESS

Council Liaison Wessel noted that the mid month Town Council meeting for October had been canceled.

STAFF COMMENTS

None.

BOARD COMMENTS

None.

ADJOURNMENT

Vice Chair Blakaitis moved to adjourn the meeting.

Motion carried 5-0.

The time was 7:51 p.m.

Approved: _____
/s/ Jon Britt, Chairman