

**TOWN OF DUCK  
TOWN COUNCIL  
RETREAT  
January 18 & 19, 2010**

**RECONVENE**

The Town Council for the Town of Duck reconvened at the Sanderling Inn at 8:00 a.m. on Tuesday, January 19, 2010.

COUNCIL MEMBERS PRESENT: Mayor Dave Wessel; Mayor Pro Tempore Don Kingston; Councilor Neil Morrison; Councilor Monica Thibodeau; and Councilor Chuck Burdick.

OTHERS PRESENT: Town Manager Christopher J. Layton, Director of Community Development Andy Garman; Town Attorney Robert Hobbs; Fire Chief Donna Black; Deputy Fire Chief Bill Walker; Police Chief Phillip Ferguson; First Sergeant Jeff Ackerman; Sergeant Jeff Deringer; Building Inspector Cory Tate; Permit Coordinator Sandy Cady; Jim Snyder of Outer Banks Sporting Events; Public Relations Coordinator Kathy McCullough-Testa; Planning Board Chairman Jon Britt; Planning Board Vice Chairman Joe Blakaitis; Planning Board Member John Fricker; Planning Board Member Ron Forlano; and Administrative Assistant Christie Moseman.

ABSENT: Town Clerk Lori Kopec.

Mayor Wessel called the meeting to order at 8:22 a.m. He welcomed all to the second session of the Retreat and thanked all the presenters at the Retreat from the previous day. He noted that Councilor Burdick was not present but would be arriving soon.

**DISCUSSION WITH PLANNING BOARD ON RENEWABLE ENERGY**

Director Garman gave a short presentation on renewable energy to Council, the Planning Board members and the audience. He added that the Planning Board was looking for direction from Council.

Mayor Pro Tempore Kingston asked if vertical wind turbines made noise and had flicker problems. He further asked what the rating would be for hurricane winds. Director Garman stated that the structure he looked at was rated for 105 mile per hour winds. Building Inspector Tate stated that the structure would have to be listed as rated to withstand 130 mile per hour wind gusts and that the foundation would need to be rated to suit the site conditions. Director Garman noted that they could be designed to be lowered by the property owner. Building Inspector Tate stated that the Building Code would not recognize lowered turbines as suitable alternative methods.

Mayor Pro Tempore Kingston asked what the feeling was regarding flicker and noise. Director Garman stated that there would be noise, but that the model ordinance had guidelines for decibel levels.

Councilor Thibodeau asked if the model ordinance talked about suitability of a site. Director Garman stated that he only saw ordinances that require the placement of an anemometer. He stated that he had not seen any ordinance that had performance standards.

Member Forlano stated that he had looked into purchasing a windmill and the company would not sell one to him until they completed an anemometer study for one (1) year to see if he would receive the performance that was promised. He stated that he did not think the Town needed to get involved on

whether a product performed as it was advertised. Councilor Thibodeau agreed with Member Forlano's comments and thought it would be more of an educational component. Member Forlano thought all wind turbines would give a certain degree of shadow flicker and noise.

Councilor Burdick wondered if the Town should look at zoning districts. He questioned whether wind turbines came near the vision of the Town. He didn't think any survey would have the majority of the public in favor of wind turbines. He thought the issue should be dropped for good.

Member Fricker stated that the Planning Board recommended having a dialogue with Council because the issue had not come up. He thought the Board had not moved forward with a draft ordinance because the members were not sure that Council wanted to move forward or promote wind turbines in residential areas. Councilor Burdick thought the Council should debate the issue. Member Fricker suggested the issue be broken down into sub-parts as to whether Council would support wind turbines in residential districts, commercial districts and municipal districts.

Councilor Burdick stated he was having trouble finding a redeeming quality for wind turbines in residential areas. Councilor Thibodeau stated that she could not see the Town having tall wind turbines in residential areas. She pointed out that flag poles were allowed in Duck that make some noise and cause a little shadow flicker. She thought there was a personal property right issue with not knowing where the technology may go. She stated that she could not envision a wholesale ban on the issue, but liked the idea of a Conditional Use Permit for them.

Mayor Wessel agreed with Councilor Thibodeau's comments. He stated that it was possible that the wind turbines could not be seen in certain circumstances. He stated that he could see residential units that were acceptable under a Conditional Use Permit application. He added that an outright ban would be the opposite of the Town trying to be "green."

Councilor Burdick noted that there was a height ordinance in place, but wondered if there should be an ordinance that would allow a Conditional Use Permit before a smaller turbine could be built. Mayor Wessel noted that the noise ordinance would also come into play with the issue.

Mayor Pro Tempore Kingston noted that no one knew what new technologies would come. He suggested going ahead with an ordinance, but being on the cautious side.

Vice Chair Blakaitis cautioned Council and the Board not to lose sight of the fact that the purpose the two bodies were meeting was for Council to give the Board direction. He stated that the Planning Board was well equipped to deal with the ordinance. He added that he would not want to see the direction given to the Board with a limiting factor. He thought Council should not direct the Planning Board at this stage by eliminating choices. He asked Council not to tie the Planning Board's hands.

Councilor Burdick thought the direction for the Planning Board was if there was interest in the tall wind turbines. He thought the answer was no for residential areas as he hadn't heard anyone support it. Member Blakaitis stated that the Planning Board had completed a lot of work but had not sat down and nitpicked the ordinance. Councilor Burdick asked if Council wanted the Planning Board to spend time on an ordinance in an area they were not in favor of allowing. Vice Chair Blakaitis noted that there were other aspects of renewable energy and not just wind turbines.

Member Fricker thought there was some confusion. He stated that he came to the meeting with the understanding that the Council would give the Planning Board direction on the topic. He added that Member Blakaitis was now asking Council not to tie the Planning Board's hands. He asked if Council wanted to give the Board direction to go ahead and draft an ordinance.

Councilor Morrison understood that the Planning Board did not want to draft an ordinance if the Council had already made up their minds which way they would vote on it. Member Fricker thought that the Planning Board was not told to draft an ordinance but to investigate the issue and come back with a recommendation.

Mayor Pro Tempore Kingston thought at the last Council meeting it was decided that a moratorium would need to be worked on to put a halt on any activity that may be going on.

Chairman Britt noted that vertical turbines have come up and was more prominent as the Board has been discussing them. He added that there were obvious conflicts with the Town's Land Use Plan. He thought that vertical turbines needed to be visited more since it was newer technology.

Council and the Planning Board went on to discuss the issue further. Councilor Thibodeau didn't think there should be an ordinance written that states that wind energy of any kind was prohibited. Mayor Wessel suggested the Council charge the Planning Board with drafting a proposed ordinance with the direction being that they would be given current height, noise, safety, and visual impact that would protect neighbors and the community from negative impacts.

It was *consensus* to direct the Planning Board to continue its research and draft an ordinance with regard to the potential regulation of wind turbines and bring it back to Council. Vice Chair Blakaitis thought the Board was supposed to consider all aspects of renewable energy. Chairman Britt thought it was the hot button topic.

Councilor Burdick thought the Planning Board should prepare a wind turbine renewable energy ordinance in light of the current restrictions that exist within the Town ordinances.

Councilor Thibodeau clarified that the ordinance would be separated by residential, commercial and municipal.

Councilor Morrison clarified that Councilor Burdick wanted the Planning Board to draft an ordinance, keeping in place the current height restrictions in each classification. Councilor Burdick stated he was correct. He added that if the Board had a different recommendation, he would be happy for them to bring them forward. Chairman Britt stated that he would appreciate not having restrictions with regard to commercial and municipal.

Approved: \_\_\_\_\_  
/s/ Vice-Chair Joe Blakaitis