



Town of Southern Shores

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Council Meeting
March 1, 2011
7:00 p.m.- Pitts Center

The Southern Shores Town Council met on March 1, 2011 at the Pitts Center.

The following Council Members were present: Mayor Hal Denny, Council Members Jodi Hess, Jim Pfizenmayer, Kevin Stroud, and George Kowalski.

Also present were: Town Manager Peter Rascoe, Town Attorney Ben Gallop and Town Clerk Carrie Gordin.

Mayor Denny called the meeting to order at 7:00 p.m. He led the Pledge of Allegiance. He asked that a moment of silence be held for Ross Mitchell whose Mother recently passed away and for all our men and women in uniform serving around the world.

APPROVAL OF AGENDA

Council Member Hess moved to approve the agenda. Council Member Kowalski seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer, Stroud, and Kowalski voting aye.

INTRODUCTION OF NEW POLICE OFFICER

Chief Kole introduced Officer Eddie McKeever as the Police Department's newest force addition.

APPOINTMENT OF DEPUTY CLERK

The Town Manager stated Sheila Kane, Administrative Specialist, recently attended the Annual City/County Clerks' Academies and Institute Conference along with town clerk Carrie Gordin. Upon completion of this conference Mrs. Kane is to be sworn in as a Deputy Clerk. The town clerk swore in Mrs. Kane.

APPROVAL OF MINUTES-February 1, 2011 and February 15, 2011

Council Member Hess moved to approve both sets of minutes as presented. Council Member Kowalski seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer, Stroud, and Kowalski voting aye.

STAFF REPORTS

Town Planner

Wes Haskett presented the monthly report.

[Clerk's Note: A copy of the Planner's monthly report is hereby attached as Exhibit A].

Police Department

Chief Kole presented the monthly report.

Southern Shores Volunteer Fire Department-None

REPORTS FROM BOARDS, COMMITTEES, AND ASSOCIATIONS

Planning Board

[Clerk's Note: Copies of the Planning Board Recaps for February 7 and February 22 are hereby attached as Exhibit B].

Southern Shores Civic Association (SSCA)

Karen Kranda, President, reported the SSCA has received its CAMA permit to replace the bulkhead at the North Marina. There has been no word from AT&T on the telecommunication tower project. A meeting has been scheduled with the Town and the real estate property managers on March 30 to discuss parking issues for renters. The SSCA is investigating the long range possibility of a dog park.

Chicahauk Property Owner's Association (CPOA)-None

PROJECT REPORTS-Canal Dredging

Tom Bennett, Canal Dredging Project Manager, reported the canal maintenance dredging of Phase 1 is completed. He thanked the Council Members for their support and patience. He stated the contractor did a great job. Final reports will need to be submitted by the Town to the regulatory authorities, and the contractor has begun to demobilize. Affected properties will be restored within the next thirty days.

Mayor Denny stated from his observation he has found the performance of the contractor, Byrd Brothers Emergency Services, LLC and its subcontractors to be nothing but professional.

GENERAL PUBLIC COMMENT

Lori Williams, 109 Pudding Pan Lane, co-president of the League of Women Voters (LWV), presented Council with copies of the annual Dare County Citizen's Guide. She thanked Council for their monetary support in the printing of the guide and asked that they continue their funding support of the Guide. She extended an invitation to all to join the LWV. She stated two workshops are scheduled one for March 16 at Kelly's Restaurant on Beach Nourishment and April 16 a Go See Tour to see the beaches of Nags Head.

OLD BUSINESS

Presentation of Draft Ordinance Allowing Dogs on Beach in Summer Months

The Town Manager stated after receiving a petition last year and as a follow-up from Council's direction at that time, staff has prepared a draft amendment to the Town Code proposing to allow dogs on the ocean beach before 9:00 a.m. and after 6:00 p.m. from May 15 to September 15 provided the dogs are under a secured leash.

Council Members Hess and Kowalski both stated they are willing to amend the ordinance for this year to see what problems, if any, may occur and then rescind the ordinance after the summer season if determined to be necessary.

Following discussion by Council, Council Member Stroud moved to keep the current ordinance as is with no change. Council Member Pfizenmayer seconded. The motion passed with Mayor Denny, Council Members Pfizenmayer and Stroud voting aye and Council Members Hess and Kowalski voting no.

Discussion of Current Procedure for Filling Council Vacancies

Council Member Stroud stated he asked for this item to be on the agenda. He stated he had wanted to discuss the specific document adopted by the previous Council in 2009 which requested the General Assembly to authorize an alternate method for filling a Council vacancy, being a special election. He noted a copy of that 2009 request was not available for tonight's meeting.

Mayor Denny stated Council currently follows the North Carolina General Statutes (NCGS) which authorize vacancies to be filled by appointment of the Town Council. He stated the alternative would be to seek authority to hold a special election. He stated he favors continuing with the current practice of Council appointment, as most other towns in North Carolina do as authorized by the NC General Statutes. Following further comments from Council members, the Mayor stated he recognized a clear division of positions among the Council members with three favoring no change in the current procedure. He asked if any Council member wanted to continue with the discussion. Hearing no reply and hearing no move for action, the Mayor moved to the next agenda item.

Discussion of Current Personal Watercraft (Jet-skis) Town Code

The Town Manager stated the current Town Personal Watercraft ordinance and the applicable North Carolina General Statute (NCGS) have been provided for discussion.

Council Member Stroud stated he asked for this item to be placed on the agenda. He stated personal watercraft designs have changed and they are less noisy now. He feels the NC General Statute adequately covers all regulatory matters needed - and asked why would the town require something for jet skis that they don't require for boaters.

Police Chief Kole stated that he supports Council Member Stroud's position that the Town's ordinance is outdated, and he supports rescinding the applicable Code sections.

Mayor Denny moved that Council rescind Sections 34-52 Personal Watercraft Operations of Article III. Beach and Waterway Usage of the Town Code. Council Member Stroud seconded.

Mayor Denny stated to rescind this section of the ordinance requires a 2/3 vote which is a 4 to 1 vote. If the motion fails a Council Member may bring it back for a second reading at a subsequent meeting.

Council Member Kowalski stated he would like to hear residents input on this matter before he would vote to approve it.

The Town Attorney stated a public hearing on this issue is not required but one could be held.

The motion passed with Mayor Denny, Council Members Hess, Pfizenmayer and Stroud voting aye and Council Member Kowalski voting no.

NEW BUSINESS

Presentation of Planning Board's Recommended Wind Generation Facilities Ordinance

Sam Williams, Planning Board Chairman, stated currently the Town Zoning Ordinances prohibits all Wind Generation Facilities. Following a Power Point Presentation Council Members asked several questions and presented several issues of concern.

Mayor Denny requested Chairman Williams provide a list of the concerns addressed by Council Members tonight to be included as part of the minutes.

By consensus of all members of the Council, a public hearing was set for April 5 for the draft Wind Generation Facilities Ordinance.

Council will discuss the recommendation again following the public hearing.

[Clerk's Note: A copy of a list of concerns addressed by Council following the presentation is hereby attached as Exhibit C].

Consideration of Capital Funding for the Chicahawk Trail Improvement Project and Canal Dredging Project for FY 2011-2012 Budget

Mayor Denny stated that at the Council's Budget Workshop held on February 15th, consensus had been reached among all members of the Council present to direct the Town Manager to include in his proposed budget certain capital items as recommended by the Capital Improvement Plan (CIP) Committee. Included in those directed for inclusion in the projected budget for FY 2011-2012 is the projected cost of seeking a CAMA Major permit for completion of the canal dredging project.

The Mayor also stated that at the Budget Workshop, the Council members present did not achieve consensus on the CIP Committee's recommendation for Council to budget a projected cost to rebuild Chicahawk Trail during the upcoming fiscal year. There were different positions expressed among the Council Members present at the Workshop as to whether to fund the Chicahawk Trail rebuild or save capital funds for a subsequent year when they could be used to complete the canal dredging. Several engineering and financial options for the rebuild of Chicahawk Trail were also presented at the Workshop. The Mayor also stated that due to one Council Member being absent from the Workshop, Council agreed to continue discussion on the recommended rebuild of Chicahawk Trail until this Council meeting of March 1.

The Town Manager again reviewed all the CIP Committee recommendations discussed at the February 15 Budget Workshop. He then presented the Town Engineer's most recent updated projected costs for the rebuild of Chicahawk Trail. The Town Manager also commented that the current projected cost to finish dredging the remaining Town canals is approximately \$1.5 million to \$2.0 million. He stated he is now requesting direction from Council on whether to include in his proposed capital improvement budget for FY 2011-2012, the latest projected costs of the Chicahawk Trail rebuild - or alternatively to reserve capital improvement funds to off-set completing the canal dredging project in future years.

During discussion, the Mayor recognized that four of five Council Members are still in favor of directing the Town Manager to include in his FY 2011-2012 proposed budget the cost of seeking a CAMA Major permit for completion of the canal dredging project.

Council Member Kowalski argued against funding the cost of seeking this permit, and proposed a one-year moratorium in order to reevaluate all aspects of the dredging. He did not support the Town Manager including the projected cost in his proposed budget.

Mayor Denny stated road improvements to Chicahawk Trail were deferred last year and the current cost data received is a best estimate. The Mayor stated that funds are available this year to do a full rebuild, including stormwater enhancement measures, of Chicahawk Trail. The Mayor also stated it is possible for the Town Council to later consider a two-phase approach if bids come in higher than budgeted.

Following further discussion, Mayor Denny moved to direct the Town Manager to include the latest projected cost of rebuilding Chicahawk Trail in his proposed FY 2011-2012 budget as a capital improvement item. Council Member Hess seconded. The motion passed with Mayor Denny, Council Members Hess and Kowalski voting aye and Council Members Pfizenmayer and Stroud voting no.

OTHER ITEMS

Town Manager

The Town Manager addressed several matters as a part of his report:

- Announced the next budget planning session will be held on March 29 at 8:00 a.m. in the Pitts Center.
- Commended Project Manager Tom Bennett on his dedication to the canal dredging project.
- Ocean Rescue is preparing for the upcoming season by purchasing new red flags. Waiting to hear where the third lifeguard stand will be placed.
- Waiting to hear from NCDOT on the proposal for Trinitie Trail Bridge Project.
- Public Works Department is clearing under brush that may be a threat to pedestrians and to prevent areas from encouraging potential criminal activity.
- Coastland Times is publishing all municipalities' monthly building inspections reports.
- Dominion Power is continuing the project of moving over-head power lines in the vicinity of the North Marina.
- Staff continues to monitoring General Assembly actions daily during this session.
- If the Chicahawk Trail Road Project is adopted as part of the budget, the final design will be presented to Council for its approval prior to Requests for Bids being published.

Town Attorney

The Town Attorney requested Council go into closed session following regular business under NCGS 143-318.11(a) (3) attorney/client privilege.

Mayor-None

Council

Council Member Hess stated the Government Access Channel Budget Interlocal Agreement will be on the April agenda for Council consideration.

Council Member Pfizenmayer announced the "Meals on Wheels" program for Southern Shores has been dropped due to the lack of recipients. He stated in order to keep the program going there needs to be 6-7 recipients. He asked if anybody is interested to contact him.

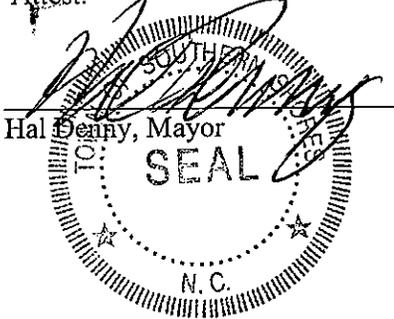
Council Member Kowalski stated he noticed in the Mid-Currituck Bridge Project brochure a proposal to make changes on US Highway 158/Duck Woods Drive. He stated Congresswoman Candice Miller from Michigan has a bill, HR435, relating to the National Flood Insurance Termination Act of 2010 which shows state-by-state funds collected and received since 1978. He also stated CAMA is promoting awareness of a sea level rise over the next 100 years and is proposing changes to be made to coastal towns.

Mayor Denny moved to go into closed session pursuant to NCGS 143-318.11(a)(3) attorney/client privilege. Council Member Hess seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer, Stroud, and Kowalski voting aye.

Upon returning from closed session and hearing no other business Council Member Hess moved to adjourn the meeting at 10:25 p.m. Mayor Denny seconded. The motion passed with Mayor Denny and Council Members Hess, Pfizenmayer, Stroud, and Kowalski voting aye.

Attest:


Hal Denny, Mayor



Respectfully submitted:

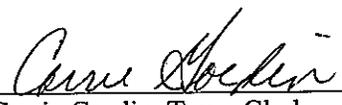

Carrie Gordin, Town Clerk

Exhibit A

3-1-11 TC Report

1. Wireless Facilities

- We still have not been contacted by AT&T regarding the proposed stealth tower to be located at Triangle Park.
- The Verizon Wireless collocation modification work has commenced and we are waiting to receive reports on the inspections conducted. No Certificate of Compliance will be issued until the required inspection reports are submitted and accepted.

2. Draft Wind Generation Facilities Ordinance

- The Town Planning Board unanimously recommended approval of the proposed Wind Generation Facilities Ordinance during their February 22nd Workshop Meeting. A presentation will be given shortly which addresses background information, issues, and the proposed permitting of Wind Generation Facilities in Southern Shores. I would like to take this opportunity to thank the Planning Board members and Wind Committee volunteers for the time and effort that they put into this project.

3. Dogs on Southern Shores Ocean Beaches

- is also on the agenda tonight which is a proposed amendment from Town Staff to amend the current Animals Ordinance. The proposed amendment would only prohibit dogs on the ocean beaches of Southern Shores from May 15th to September 15th between the hours 9:00 a.m. and 6:00 p.m. (except for dogs used to aid handicapped persons). At all other times, dogs would be allowed provided that they are restrained by a leash that stretches no longer than 10 feet in length.

4. Shoreline Management

- We are currently in the process of evaluating the existing sand fences, as well as the need for new sand fences, on the Town's beaches. This year's budget allows for up to \$20,000 to be spent on shoreline management which is a budget item that is reimbursed to the Town from Dare County. We plan on contacting local contractors in the next few days so that all work is completed by early April.

5. Mailed 2 Code Enforcement Violation Letters in February

- One violation letter was for obstruction of the Town's right-of-way with brush and limbs and the other was for not removing Town-placed chips from the right-of-way within 30 days.

6. Permitting and Inspections for February

- 5 zoning permits were issued.
- 21 building permits were issued: 1 addition, 1 remodel, and 19 others.
- 92 Dare County building inspections were conducted (90 residential and 2 commercial, 53 job sites).
- 3 Dare County fire inspections were conducted.
- Total amount of fees collected in February: \$3,725.10.

Exhibit B

To: Southern Shores Town Council (Hal Denny, Jodi Hess, George Kowalski, Jim Pfizenmayer, Kevin Stroud)

Copies: Town Manager (Peter Rascoe)

Town Attorney (Ben Gallop)

Town Staff (David Kole, Bonnie Swain, Carrie Gordin, Pat Forrester)

Planning Board (Mike Florez, Bill Gleason, Larry Lawhon, Elizabeth Morey, Bob Palombo, Jay Russell, Sam Williams and ETJ Rep, Ed Overton)

From: Wes Haskett, Town Planner

Date: February 10, 2011

Re: February 7, 2011 Planning Board Workshop Meeting Recap

RECOMMENDED ACTIONS FOR THE TOWN COUNCIL – None

PLANNING BOARD WORKSHOP MEETING FEBRUARY 7, 2011

Chairperson Sam Williams called the meeting to order at 7:00 pm. Planning Board Members Mike Florez, Bill Gleason, Jay Russell, Sam Williams, alternate member Larry Lawhon alternate member Elizabeth Morey, ETJ Representative Ed Overton, and Town Planner Wes Haskett were present. Town Councilperson Jodi Hess and Town Manager Peter Rascoe were also present. Planning Board member Bob Palombo was absent with excuse. Alternate member Elizabeth Morey served as a voting member due to the absence of Bob Palombo.

APPROVAL OF AGENDA

Bill Gleason motioned to approve the agenda. Jay Russell seconded the motion. The motion passed unanimously (5-0).

Agenda items for the meeting included:

1. Draft Wind Generation Facilities Ordinance Presentation
2. Public Comment on the Draft Wind Generation Facilities Ordinance
3. Planning Board Discussion of Public Comments

APPROVAL OF MINUTES

Mike Florez motioned to approve the minutes of the January 18, 2011 Workshop Meeting. Ed Overton seconded the motion. The motion passed unanimously.

PUBLIC COMMENT

None

DRAFT WIND GENERATION FACILITIES ORDINANCE

Overview of Draft Wind Generation Facilities Ordinance

Chairperson Williams presented a slide presentation addressing background information, issues, and the proposed permitting of Wind Generation Facilities (WGF) in Southern Shores

and noted that public comments on the draft WGF ordinance would be accepted and discussed following the presentation.

Public Comment on the Draft Wind Generation Facilities Ordinance

Although there were no comments on or suggested changes to the draft ordinance, there were a few questions seeking clarification or explanation of sections of the draft ordinance.

BOARD DISCUSSION OF THE PUBLIC COMMENTS

Planning Board Discussion of Oral / Written Public Comments

Chairperson Williams reported that in addition to the oral public comments, written comments on the draft WGF ordinance had been submitted to Town Staff prior to the meeting. Chairperson Williams also noted that he and Wes Haskett had identified a few sections of the draft WGF ordinance that may need revision. The Board discussed all of these comments, proposed changes, and agreed to the proposed changes. These changes will all be incorporated into a revised draft WGF ordinance to be discussed during the February 22, 2011 Workshop Meeting.

PUBLIC COMMENT

Willo Kelly reported that the North Carolina Department of Coastal Management is proposing new language addressing sea-level rise to be included in the required Land Use Plans in the twenty coastal counties in North Carolina. The proposed language would require all Land Use Plans to incorporate goals and policies for the mitigation of sea-level rise based on a projection that the sea-level will increase by one meter (about 39") by the year 2100. The Outer Banks Home Builders Association and the Outer Banks Association of Realtors oppose the proposal and are asking that Dare County and the local municipalities oppose it as well. Public comments on the proposal may be submitted and/or articulated in person to the Coastal Resources Commission when they meet on February 23rd and 24th and again on May 4th and 5th.

PLANNING BOARD MEMBER COMMENTS

Elizabeth Morey reported that she will be meeting with Peter Rascoe and Wes Haskett soon to discuss a proposed Lot Disturbance Zoning Text Amendment. She asked that anyone interested in participating on the Lot Disturbance Project team contact her.

Bill Gleason thanked Mike Florez, Sam Williams, Wes Haskett, and everyone else who assisted in the WGF project for their time and effort in bringing the draft WGF ordinance and white paper to the point it has reached.

Chairperson Williams reported that during the January 18, 2011 Workshop Meeting, the Board again raised the issue of changing its Workshop meetings to an earlier meeting time. The Board did not vote on the proposal due to the absence of some Board members. The proposal will be addressed during the February 22, 2011 Workshop Meeting. Chairperson Williams also noted that if the Town Council is to receive the draft WGF ordinance and white paper prior to their March 1, 2011 meeting, the Board will have two days for revisions, if needed, and approval following the Board's discussion of the draft WGF ordinance and white paper during its February 22, 2011 Workshop Meeting.

ANNOUNCEMENTS

February 22, 2011 Planning Board Workshop Meeting

ADJOURNMENT

Chairperson Williams motioned to adjourn. Jay Russell seconded the motion. The motion passed unanimously and the meeting adjourned at 8:15 p.m.

To: Southern Shores Town Council (Hal Denny, Jodi Hess, George Kowalski, Jim Pfizenmayer, Kevin Stroud)

Copies: Town Manager (Peter Rascoe)

Town Attorney (Ben Gallop)

Town Staff (David Kole, Bonnie Swain, Carrie Gordin, Pat Forrester)

Planning Board (Mike Florez, Bill Gleason, Larry Lawhon, Elizabeth Morey, Bob Palombo, Jay Russell, Sam Williams and ETJ Rep, Ed Overton)

From: Wes Haskett, Town Planner

Date: February 25, 2011

Re: February 22, 2011 Planning Board Workshop Meeting Recap

RECOMMENDED ACTIONS FOR THE TOWN COUNCIL – Approval of the draft Wind Generation Facilities Ordinance

PLANNING BOARD WORKSHOP MEETING FEBRUARY 22, 2011

Chairperson Sam Williams called the meeting to order at 7:00 pm. Planning Board Members Mike Florez, Bob Palombo, Jay Russell, Sam Williams, alternate member Larry Lawhon, alternate member Elizabeth Morey, ETJ Representative Ed Overton, and Town Planner Wes Haskett were present. Planning Board member Bill Gleason was absent with excuse. Alternate member Larry Lawhon served as a voting member due to the absence of Bill Gleason.

APPROVAL OF AGENDA

Mike Florez motioned to approve the agenda. Ed Overton seconded the motion. The motion passed unanimously (6-0).

Agenda items for the meeting included:

1. Draft Wind Generation Facilities Ordinance and White Paper
2. Rules and Procedures: Designated Workshop Meeting Time

APPROVAL OF MINUTES

Ed Overton motioned to approve the minutes of the February 7, 2011 Workshop Meeting. Jay Russell seconded the motion. The motion passed unanimously.

PUBLIC COMMENT

None

DRAFT WIND GENERATION FACILITIES ORDINANCE AND WHITE PAPER

Chairperson Williams noted that the draft Wind Generation Facilities (WGF) Ordinance and White Paper had been revised based on the comments discussed during the February 7, 2011 Workshop Meeting, including additional revisions made by himself and Wes Haskett since the last meeting, and asked for comments. Following discussion of the proposed revisions, the Board provided additional revisions which will be incorporated into a new draft ordinance and white paper.

Bob Palombo motioned that the Board recommend Town Council approval of the draft WGF Ordinance, as revised. Larry Lawhon seconded the motion. The motion passed unanimously.

Larry Lawhon motioned that the Board approve the draft WGF White Paper, as revised, and send it to the Town Council as background information for the draft WGF ordinance. Mike Florez seconded the motion. The motion passed unanimously.

The revised draft ordinance and white paper will be electronically distributed to the Board to review for accuracy prior to submittal to the Town Council.

RULES AND PROCEDURES: DESIGNATED WORKSHOP MEETING TIME

Chairperson Williams noted that at the previous meeting, the Board had discussed designating an earlier meeting time for all future Workshop Meetings and asked for suggestions for a new meeting time. It was noted that some of the Board members are employed and have working hours that would prevent them from being able to attend meetings held before 5:15 p.m. The Board discussed the possibility of meeting at 5:30 p.m. and decided that keeping the current 7:00 p.m. meeting time would be best.

PUBLIC COMMENT

None

PLANNING BOARD MEMBER COMMENTS

Bob Palombo asked the status of the transportation policies and action items previously tabled by Town Council. Chairperson Williams noted that the Town Council adopted the Transportation Infrastructure Resolution on December 7, 2010 and that no action was taken on the previously tabled associated policies and action items.

ANNOUNCEMENTS

Wes Haskett reported that Coastal Provisions will most likely be submitting a Conditional Use Permit application for Planning Board consideration on March 21, 2011. Coastal Provisions was

initially approved as a "Food Store" and "Delicatessen" as a permitted use by right. This use does not permit serving a full menu to provided seating areas. A condition of the initial approval states that no indoor or outdoor seating shall be provided. In order to continue serving a full menu to provided seating, a Conditional Use Permit must be issued to operate as a "Restaurant".

Wes Haskett also reported that Town Staff will be initiating a Zoning Text Amendment (ZTA) to amend the current Schedule of District Regulations for the C, Commercial Zoning District. This ZTA will be submitted for Planning Board review in March or April. The request is a result of recent inquiries regarding uses that are currently not permitted in the C, Commercial Zoning District.

ADJOURNMENT

Larry Lawhon motioned to adjourn. Mike Florez seconded the motion. The motion passed unanimously and the meeting adjourned at 8:35 p.m.

Exhibit C

3/2/11 Draft

**WIND GENERATION FACILITIES
DRAFT ORDINANCE**

ADDITIONAL INFORMATION REQUESTED BY TOWN COUNCIL – 3/1/11

At the March 1, 2011 Town Council meeting the Planning Board presented a draft Wind Generation Facilities (WGF) ordinance to the Southern Shores Town Council. During the discussion of the proposed draft ordinance, the Town Council requested additional information about wind generation facilities. A summary of these requests follows:

Subject	Information Requested
Battery Banks	What are the safety concerns about battery banks? How do existing regulations address these concerns?
Noise	How noisy are wind turbines? When do they make the most noise? What can be done to reduce noise from wind turbines?
Efficiency of Wind Generator Types	Comparison of efficiency of horizontal axis and vertical axis wind turbines
Wind Turbine Blade Failure	What is the failure rate of wind turbine blades?
Absence of WGF Owner	<u>Failure of WGF</u> - Under what circumstances and at what rate do wind generation facilities fail (both wind turbines and support structures)? <u>Shutting Down / Restarting WGFs</u> - How long does it take to shut down / restart a wind generation facility?