

## MINUTES

The Town of Manteo Board of Commissioners held their Regular session in the Manteo Town Hall meeting room, June 4, 2003 at 7:30 p.m.

The following members were present: Mayor Lee Tugwell  
Commissioner Dellerva Collins  
Commissioner David Farrow  
Commissioner Edward Etheridge  
Commissioner Stuart Wescott  
Commissioner H.A. Creef, Jr.  
Commissioner John Wilson, IV

The following member(s) were absent: None

Also present at the meeting were: Town Manager-Kermit Skinner  
Town Clerk-Becky Breiholz  
Town Attorney-Daniel Khoury  
Planner Fred Featherstone

Mayor Tugwell called the Regular meeting to order at 7:34 pm-followed by a moment of silent meditation and the Pledge of Allegiance.

**SUBJECT:** To amend the agenda-Mayor Tugwell added a report from Robert Green from Green Engineering to give an update on the waterline project and add Item D under Finance agenda to set date for public hearing for the budget, the latitude to move the order of agenda the Planners agenda before the Finance Officer agenda.

**MOTION:** Commissioner Wilson seconded by Commissioner Collins to approve the agenda as amended was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wescott, Wilson and Creef. Noes: None. Absent: None

**SUBJECT:** Approval of Minutes Regular Session May 7, 2003

**MOTION:** Commissioner Collins seconded by Commissioner Etheridge to approve the minutes were approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wescott, Wilson and Creef. Noes: None. Absent: None

**SUBJECT:** Approval of Minutes workshop Session May 21, 2003

**MOTION:** Commissioner Collins seconded by Commissioner Farrow to approve the minutes were approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wescott, Wilson and Creef. Noes: None. Absent: None

**SUBJECT:** Approval of Minutes BOC Retreat March 21, 2003

**MOTION:** Commissioner Etheridge seconded by Commissioner Farrow to approve the minutes were approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wescott, Wilson and Creef. Noes: None. Absent: None

(PUBLIC COMMENT)

Tom Mark-resident of Dogwood Circle, Manteo and representing the Board Of Education thanked the Board for their approval of remodeling the Manteo Elementary School and gave the Board a status report on the elementary school construction progress and an update on the New Manteo Elementary School

Donetta Livesay- shop-owner at the Manteo Waterfront in reference to Dare Days, she is trying to obtain clearance for parking permits for her clients and employees and not getting any clear answers and her staff members have been threatened to be towed. She does not want to be treated any differently, but she recalls years ago her staff received parking permits and does not know when it was changed. She feels the merchants downtown need to be treated with the same respect as the vendors are treated for Dare Days in terms of their ability to park. She also commented she spends a lot of money for advertising and getting people to come to Manteo. She is not in agreement with not allowing the merchants to park downtown; it is not fair to those who support the Town through the year. Ms. Livesay asked how the parking fairness law is rendered for Dare Days. Mayor Tugwell commented that this Board does not set that policy we have a special events committee who works with the County and does not know how the parking is done. Commissioner Farrow commented that he did not think they have issued parking permits and also most of businesses in Town have come into Town since Dare Days has started, they knew when they came here that they had Dare Days and have been having since they've been here. The roads are public and cannot see how we can issue parking permits to the businesses and not to someone else. Ms. Livesay commented that she cannot get an answer on the parking and "I have had permits from Lynda for many years". Commissioner Collins cannot recall when we have ever given parking passes and if Ms. Midgett issues them she was not aware of it. Commissioner Collins also commented that the vendors come in and unload then have to find a parking space any where they can find a place and they are not given parking passes. Ms. Livesay also commented that an employee made one phone call and was treated abruptly and it upset her staff but she would like to get the same respect as the vendors and she would do a survey of whom is parking downtown during Dare Days and get back up with Commissioner Collins so something could be done next year. Commissioner Wilson asked if we could contact Dare County and use their parking lot and asked Ms. Livesay to serve on Special Events committee and she said she would love to.

(PUBLIC HEARINGS)

**SUBJECT:** Proposed text amendment to Section 7.05 B2 general business district B Permitted Uses to add 19. Boat Building

**MOTION:** Commissioner Etheridge seconded by Commissioner Wilson to enter into a Public Hearing was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wescott, Wilson and Creef. Noes: None. Absent: None

Sybil Ross-102 Grenville Street, she commented that this is a hard one, she was born in Manteo and boat building in Manteo on the waterfront is a historic use but times change and they moved into a neighborhood and made a considerable investment and started a little business that does not make noise, "its called a bed and breakfast". The neighborhood has grown up and she thinks there may be 4 vacant lots on that canal now and it is all residential, there are a couple of in home businesses but they do not make noise. She understands the change is being asked for by her neighbor, but she cannot possibly see that a boat building business is going to be compatible with a bed and breakfast. There will be a problem with noise and she was told that her property would be devalued if they allow a boat building business there. She feels she has to protect her investment and quality of life. If they are going to change the zoning every time why have it and people make investments based on the zoning. She asked the Board to think long and hard before they make a decision.

Luther Daniels-100 Grenville Street, he commented he bought the property in 1963 when it was still in the County, before they bought it he called the County offices and they assured him it would always be residential and then it was incorporated and while they were living in Newport News the land got changed to business. Over the years business has not been a real problem but like Sybil you will be able to hear the noise and it will be going on all day long. He commented that my property will be devalued also and it needs to be considered before they allow this.

Bo Ross-102 Grenville Street-what we are here to discuss is boat building on this particular piece of property and the boat building facility not to exceed 3000 square feet. Is this 3,000 square feet on the ground, two levels or three levels, this language is not definite and needs to be changed. He also thinks that this type of problem should have gone before the Board of Adjustment. He also commented that if they want to change the zoning ordinance every time they can do away with the Board of Adjustment.

Billy Maxwell 103 Gilbert Street-he commented he guess he is the cause of this discussion. He has listened to his neighbors requests and views but to be honest about it when he first bought the property it was zoned B2 commercial property and he understood it to mean he could do whatever type of business he wanted on it. He commented he has worked with Buddy Canady for the last 12 years and he has taught him a lot about traditional boat building to this area. What he intends to do is put up a shop in his yard that meets the Town code and to use it December through March to build a boat. For eight months out of the year he is actively engaged in fishing. He commented that he would do nothing to hinder his neighbors businesses. He commented he only intended to use this business in the winter time and did not think it would be this complicated for a four month occupation.

Buddy Canady-Manteo-commented everyone knows where his boat shop is and he has been in the boat building business for years at his residence and has never had a complaint. We fish during the summer and build a boat during the winter. He feels like he has put a lot of money

into the County and the Town of Manteo. It was zoned commercial and the way he feels about it those against it can move out and get a residential place.

**MOTION:** Commissioner Wescott seconded by Commissioner Farrow exit the Public Hearing was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wescott, Wilson and Creef. Noes: None. Absent: None

**SUBJECT:** Proposed text amendment to 9.04 Application for building permits for permitted uses site plan expiration change from 24 months to 12 months.

**MOTION:** Commissioner Collins seconded by Commissioner Wilson to enter into a Public Hearing was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wescott, Wilson and Creef. Noes: None. Absent: None

**MOTION:** Commissioner Wilson seconded by Commissioner Collins exit the Public Hearing was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wescott, Wilson and Creef. Noes: None. Absent: None

**SUBJECT:** Report from Robert Green, Green engineering, gave the Board an update on the water and sewer lines installation and will be finished within a couple of weeks. Commissioner Wilson asked who made the decision to add to more streets, and Town Manager Kermit Skinner commented that we were below budget so he made the decision

**SUBJECT:** Introduction of new part-time Employee-Intern Andrew Barnett- Mr. Skinner introduced Mr. Barnett to the BOC. Andrew attends University of Richmond and is helping Mr. Featherstone commented that Mr. Barnett is working on CAMA grant and a CBDG grant and helped take a load off of him.

**SUBJECT:** Employee recognition-Mayor Lee Tugwell presented Kermit Skinner a plaque for her 15 years of service to The Town of Manteo.

The following items were moved up on the agenda:

**SUBJECT:** Discussion and consideration of text amendment to Section 9.04 Application for building permits for permitted uses to change site plan expiration date from 24 months to 12 months. This was discussed at the BOC workshop session May 21<sup>st</sup>.

**MOTION:** Commissioner Wilson seconded by Commissioner Collins to approve text amendment to Section 9.04 as presented was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wilson, Wescott, and Creef. Noes: None. Absent: None

**SUBJECT:** Discussion and consideration of text amendment Section 7.05B2 General Business District to add boat building as a permitted use. This text amendment was discussed at the BOC workshop session May 21<sup>st</sup>. Commissioner Farrow commented that he thinks they need to clarify square footage. Town Attorney Daniel Khoury commented that he reads that as

3,000 total. Commissioner Farrow commented maybe change from permitted use to conditional use and than allow them to use it only during the winter months. Mayor Tugwell commented that this has been centered on one activity on one parcel and he stated he thought most of the Board thought that Boat building was permitted in B2 but the zoning administrator did not think the language was strong enough and he was seeking clarification and direction in the zoning ordinance. Mayor Tugwell commented that this needs to work in all of B2, not just single parcels. Commissioner Creef commented “actually you are talking about a type of manufacturing, you manufacture boats and you build them but you bring all the materials to build one completed unit and then it is shipped out, they do cars that what and what he wanted to know what is the definition of B2”. Mayor Tugwell read the intent of B2 and what is permitted in the zoning ordinance at this time. Commissioner Wilson commented this was a difficult decision and understands both sides of the issue and if we limit the size of the facility and wondered if there is a compromise which would make boat building a conditional use and if the condition place on it was that it operated in the winter from December to March and not during the rest of the year. Commissioner Wilson also commented that if it is allowed it is going to have to meet lot coverage percentages, buffered from its neighbors, buffered from the street because of employee parking, buffered from the neighbor on either side, and buffered on the water side; the adjoining neighbor is across the creek which will help with noise. He also thought there was a difference between manufacturing boats and building one boat a year. Mr. Maxwell would like the BOC to consider adding October and November. Ms. Ross commented her main concern is noise and not quibble over the months; she would like the Board to add the consideration that some noise level condition be placed.

**MOTION:** Commissioner Wilson seconded by Commissioner Farrow to approve the zoning ordinance to allow boat building as a conditional use and gross square footage not to exceed 3000 square feet was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Wilson, and Wescott, Noes: Creef and Collins None. Absent: None

A 5 minute recess taken at 8:45 p.m.

**SUBJECT:** Discussion and consideration of site plan approval for Shallowbag Bay. Planning Chairman Bill Parker presented the Board with their recommendations. Town Attorney Daniel Khoury made recommendations to the Planning Board and during their review the Planning Board imposed some other conditions to the site plan and recommend approval to the BOC with the following conditions: 1) Homeowners bylaws need to provide for maintenance of wooden fence and for planting and maintenance of required trees 2) removal or modification of the present recorded easements; this needs to be recorded; 3)New easements or modifications be recorded; 4)Conditional use permit itself needs to be recorded; 5) Parking area needs to be refined on plat to reflect issues identified in Town Attorney letter of May 1, 2003; 6)Plat should note that the narrow strip of the easement be identified and not be used for approved parking 7)Copies of recorded documentation be provided for the Town Planners file after approval. Town Attorney Daniel Khoury recommend adding #8 that the developer reimburse the Town for Town Attorney fees Town Attorney Daniel Khoury recommended if the Board approves the site plan that the following needs to be included in the motion: to make reference to the site plan that is being presented tonight and the date of the site plan, subject to the following items as enumerated in the attachment being submitted to the Town Attorney for his review and approval

those items being #1; #2; #3; #7 and #8 being remittance of reimbursement of the fees for the Town Attorney, and once those items are submitted and documents drawn and recorded at the courthouse and once that is done he can notify Mr. Featherstone that we have an approved site plan and then he can issue the building permit.

**MOTION:** Commissioner Collins seconded by Commissioner Wilson to approve site plan with the Town Attorneys recommendations of making reference to site plan presented tonight and the attachment being submitted to the Town Attorney for his review and approval those items being #1; #2; #3; #7 and #8 being remittance of reimbursement of Town Attorney fees, recorded and once done Mr. Khoury can notify Mr. Featherstone those conditions have been meet and he can issue the building permit was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wilson, Wescott, and Creef. Noes: None. Absent: None

**SUBJECT:** Request from Roanoke Island Business Association regarding Section 50-140 of the Town of Manteo Utility ordinances. Section 50-140 requires that a fee of \$8.00 per gallon for the design flow demand, measured in gallons per day of the expanded use be charged. Pat Morrissey President of RIBA was asked by businesses to come before the BOC as a matter of fairness that each restaurant is being charged for 40 gallons per seat at \$8.00 per gallon so to add a seat to a restaurant is \$340 per seat times the number of seats added. That number came from the DENR code, but only came from part of the code, not from the second part of the code which says its this much money unless you can prove that you use less than that. There has been a study by the Town that shows that our businesses use less than that, it is 10.8 gpd. Ms. Morrissey commented that what they are asking is the Board to revisit this issue to make it fair. Paul Charron owner of Full Moon Café and a study was done which showed we use ¼ of what is being charged, we don't mind paying our fair share but when we pay 4 times more than we use, and it is not fair charging a restaurant more than other businesses. Pat Morrissey would like this resolved this evening if possible. Commissioner Wescott commented that when this ordinance was enacted and we used the DENR guidelines these were in fact what restaurants use in large cities used and these are sandwich shops and we saw last year by the history of the usage that they use less than what the DENR regulations show and does not have a problem with the \$8.00 a gallon, but if they can show us that they are not using that amount we should make some sort of compromise. Mayor Tugwell commented that the DENR code is an established document and we follow the guidelines they established for all uses and this figure was put in there as a potential of what can be used, very few use that amount and are buying into the potential encumbrances of what and if they use, if we make an adjustment we need to adjust all and not just the restaurants. Commissioner Wilson commented that it is not an accepted standard for an impact on a system, it's the DENR recommended number of gallons needed for a plant that one might be building or septic system and does not understand how it correlates. Commissioner Wilson commented that if you read further in the DENR chart it allows for a refund or credit the actual usage differs from that for which they were charged as he understands it. Commissioner Wilson also stated that part of the DENR code is not incorporated in our ordinance but the State saw fit when they developed this code to allow actual usage to be calculated over a period of time and the fees to be adjusted. Commissioner Wilson suggested we do a study of all restaurants seats in Town divided by the gallons they use over a period of a year, whatever we believe is fair than that is an average or something close to that should be sufficient to make this part of the

ordinance fair, and make an amendment to the ordinance to charge these people what is actually being used. If someone else has a problem with the chart we should do the same thing for them. Malcolm Fearing spoke and raised the issue of fairness when a tenant rents a building and pays the fees for water and sewer and then moves down the street the fees paid stay with the property and it is not fair to the tenant, and would like the Board to review this also. Mr. Fearing would also like them to review the DENR book because there is a mechanism in the book that allows them to review and adjust. Commissioner Wescott commented about the fact that if the business increases the times they serve food it will increase the usage and impact the system and they need to pay for it. Commissioner Wilson suggested updating the study that was done last November and put it on the workshop agenda to take some kind of action on it. Mayor Tugwell commented that the ordinance should be crafted so that anyone if they can show proof that theirs is less than what they paid for needs to be able to go through the same appeal process. Commissioner Wilson stated or we can simply amend the ordinance to take care of the restaurants because that is who has complained, and whose business we have lost and whose study we have completed and now know the answer, we can continue to pursue the impact fees for the Town of Manteo so that when someone builds they pay the impact fees up front and don't try and collect it 4 or 5 different ways, and that you pay one real accurate defensible impact fee, and then we can do away with some of the issues the Board argues about whether or not they are fair.

**MOTION:** Commissioner Wilson seconded by Commissioner Farrow to update the study and revisit this at the June workshop meeting in two weeks as an action item was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Wilson, and Wescott, Noes: Creef and Collins None. Absent: None

(TOWN MANAGER'S AGENDA)

**SUBJECT:** Town Manager Report which will be made a part of these minutes and Department Head monthly reports.

(FINANCE OFFICER AGENDA)

**SUBJECT:** Approval of Budget Amendment #32 repairs to Police Department Heating and Air System. This was approved by the Board of Commissioners to have staff prepare a budget amendment for the low bid of \$3800 from David Armstrong.

**MOTION:** Commissioner Wilson seconded by Commissioner Collins to approve budget amendment #32 with correction to reflect the correct contractor was approved by the following vote: Ayes: Commissioners Etheridge, Wilson, Creef, Farrow, Collins, Wescott. Noes: None. Absent: None

**SUBJECT:** Discussion and consideration of water and sewer accounts be in the Property Owners name. Evelyn Rollason, Deputy Finance Officer presented the board with a proposed text amendment that would require water accounts be in the name of the property owner. The amendment would add (e) to Section 50-39 Water accounts and deposits shall be in the name of the property owner. The property owner shall be responsible for payment of all bills incurred in

connection with the service furnished. Ms. Rollason contacted nearby municipalities and Dare County and personnel from these agencies indicate a substantial decrease in un-collectable accounts. This amendment would help to possibly decrease un-collectable water accounts and considerable amount of time with paperwork allowing staff to devote time to legitimate customer service issues. Commissioner Wilson commented it is unfair to expect the owner of the property be responsible for a tenant

**MOTION:** Commissioner Wilson seconded by Commissioner Collins to reject this proposal was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wilson, and Creef. Noes: Commissioner Wescott. Absent: None.

**SUBJECT:** Discussion and consideration of privilege license for Itinerant Merchants and Peddlers. The Board of Commissioners had voted at their May meeting to rescind Chapter 14, Businesses from the Ordinances and not charge for privilege license has caused concern in the Finance Department. Ms. Rollason in a memo to the Board stated that Revocation of Article III Peddlers and Itinerant Merchants totally removes the only mechanism for regulating peddlers and itinerant. Unless it is the Board's desire to have them unregulated, Article III needs to be resurrected somewhere else in the codified ordinances. In Ms. Rollason's opinion the simplest thing to do would be rescind Article I and Article II of Chapter 14 leaving Article III in place. The may also want to consider amending Article III to establish a fee for peddlers and itinerant merchants, currently the fee schedule is separate from Chapter 14.

**MOTION:** Commissioner Collins seconded by Commissioner Wilson to reinstate Chapter 14 Article III was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wilson, Wescott, and Creef. Noes: None

**SUBJECT:** Discussion of scheduling a public hearing for the budget.

**MOTION:** Commissioner Farrow seconded by Commissioner Collins to schedule a public hearing for the budget for FY 2003-04 for June 18, 2003 was approved by the following votes: Ayes: Commissioners Farrow, Etheridge, Collins, Wilson, Wescott, and Creef. Noes: None. Absent: None.

(COMMISSIONER'S AGENDA)

**SUBJECT:** Discussion and consideration of re-establishing privilege license fees. Commissioner Farrow stated that at the BOC last meeting the Board voted to do away with privilege license fees. He commented these fees have been in effect many years and last year the Town took in over \$10,000 and it is estimated to be around \$15,000 this year and he does not believe it has any affect on anyone. Commissioner Wilson commented he could support it if we kept the rates the same as last years, because there are many we can't charge anything and he finds it unfair. Commissioner Creef commented he would like have the fees back but as last years rate.

**MOTION:** Commissioner Farrow seconded by Commissioner Etheridge to reinstate the privilege license fees as staff recommended with proposed rates for this budget year was

approved by the following vote: Ayes: Commissioners Farrow, Etheridge, and Wescott, Noes: Commissioner Creef Collins Wilson None. Absent Mayor broke the tie by voting AYE.

(TOWN ATTORNEY'S AGENDA)

**SUBJECT:** Report on pending projects-none

#### INFORMAL BOARD DISCUSSION

Commissioner Wilson: commented the College of Design will be here at the Town Hall Thursday and Friday putting together a report of their recommendations and they will also discuss the best way to proceed with rewriting the zoning ordinance.

Commissioner Farrow asked how we stand on the light and bell for the Marshes Light. Commissioner Farrow gave Town Manager Kermit Skinner the name of Mr. Bruce Roberts who is one of the head people of the lighthouse society for this area. It might help to get in touch with Plymouth to see what they have done. Commissioner Wilson commented that there are lenses in storage in Coast Guard archives in New London Connecticut and one of our representatives from the Greensboro area Mr. Kobel and Congressman Jones is working with him to keep the Bodie Island frenel lens from leaving and Senator Edwards is supporting that and suggested the Town to ask them to help us get or borrow a frenel lens and a bell from the storage we should have a good chance of getting one.

Commissioner Wescott: commented about the g.p.d. for seating at restaurants discussed earlier and one of the business owners here was looking to expand his restaurant and get an answer tonight so he could get his expansion going and asked if we can authorize a refund if and when the Board changes the fees. Town Attorney, Daniel Khoury commented he does not think we can do that, it would set a bad precedent. Commissioner Wescott also asked about the restoration of the waterfront and Mr. Skinner commented that the grant application has been made but have not heard from them. Commissioner Wescott commented that there are some loose boards and nails sticking up that needs attention and the pilings at the boat ramp have been eaten off by worms and nothing has been done about that and some of those pilings are in bad shape. He also commented that the County has ordered portable restrooms for Dare Days to alleviate use on Public restrooms.

Commissioner Etheridge: Commented that Devon Street needs to be paved and in very bad shape and asked the Town Manager to see what could be done.

Commissioner Wilson asked if there was any word on the 45 mph speed zone at midway, he had heard there was another wreck there this morning and someone clocked the speeds and there was some 72 mph coming across the bridge. Town Attorney Daniel Khoury was to check on the legalities of the Town regulating the speed limit.

Commissioner Farrow- also commented that the playground at Cartwright Park should be brought up to same standards as the playground downtown.

**MOTION:** Commissioner Wilson seconded by Commissioner Farrow to adjourn at 10:20 p.m. was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wilson, Wescott, and Creef. Noes: None. Absent: None.

This the 7<sup>th</sup> day of May 2003

ATTEST:

\_\_\_\_\_  
Mayor Lee Tugwell

\_\_\_\_\_  
Town Clerk Becky Breiholz