

MINUTES

The Town of Manteo Board of Commissioners held their Regular session in the Manteo Town Hall meeting room, November 5, 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
- Finance Officer- Shannon Twiddy
- Town Attorney-Daniel Khoury
- Planner Fred Featherstone
- Police Chief-F. T. D'Ambra
- Acting Secretary-Evelyn Rollason

Mayor Tugwell called the Regular meeting to order at 7:35 p.m. followed by a moment of silent meditation and the Pledge of Allegiance.

SUBJECT: Amend agenda. Mayor Tugwell proposed some changes to the agenda: Item #9 will be a closed session consultation with attorney; item #10 will be discussion and consideration of budget amendment for Roanoke Marshes Light; Town Managers agenda will become item #11 and Attorney report will be #12; informal board discussion will be #13 and so forth.

MOTION: Commissioner Collins seconded by Commissioner Creef 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 October 1, 2003

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

SUBJECT: Approval of Minutes workshop Session October 15, 2003. Commissioner Wilson commented that he and Commissioner Farrow had some corrections to the minutes of this meeting, which was a transcript that was prepared by the Clerk but has not been distributed to all the Board members and asked if this could be postponed until the workshop meeting so that the corrections can be distributed. Consensus of the Board to present the October 15th minutes at the workshop session.

SUBJECT: Discussion and consideration of Jack Burrus Lot #2 site plans. The Planning and Zoning Board reviewed the site plan at their October 14th, 2003 meeting and recommend approval with the following conditions: A) perpetual easements and legal documents and conditional uses (12

hotel rooms and 1 apartment in building A and 3 apartments in building to be recorded as required by the Town Attorney; B) no additional parking spaces other than those on the site plan are added without further Planning Board review and approval (to eliminate confusion between an existing parking easement and the approved site plan) Chairman Parker commented that it is a conditional use because it is a group development with the two buildings and also a mixed use. Chairman Parker also commented that some of the neighbors attended the Planning Board meeting with some concerns which most of were a misunderstanding. The buffers and the easements were discussed with the neighbors and how both parties; Jack Burrus and Shallowbag Bay Club had worked together to make sure those buffers are in place and be maintained into perpetuity assuring the neighbors that they would be protected. Chairman Parker further stated that all they ask in conjunction with the attorney's request is to give him the ability to make sure that those conditions and easements get recorded. Commissioner Wilson asked the Town Attorney Daniel Khoury if the conditions are going to be recorded and he responded "yes prior to the issuance of a building permit," Commissioner Wilson also asked "so they will run with the land for the next owner as well, is that correct? Mr. Khoury responded that is correct.

MOTION: Commissioner Wilson seconded by Commissioner Etheridge to adopt the Town Planner's recommendations and Planning Boards conditions with the added condition C. that it be reviewed by the Town Attorney and have his approval prior to issuance of the permits was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wescott, Wilson and Creef. Noes: None. Absent: None

SUBJECT: Report on sidewalk construction- Mr. Featherstone, Planner tried to contact Derek Hatchell of Hatchell Concrete and Derek was out of town so he contacted Jerry Jennings with NCDOT who gave him some rough estimates. After the Board packages were distributed Mr. Featherstone received a fax from Derek with price quotes and there is a lot of difference. Mayor Tugwell asked if the Board ever actually adopted a sidewalk standard. Mr. Featherstone commented the Board adopted exposed aggregate and 5 feet wide, which may have only been for B1. Commissioner Wilson asked if we knew if the policy for sidewalks is exposed aggregate, 5 feet wide everywhere or in B1, because the area we are discussing is 4 feet wide and concrete and he wonders if we have enough right-of-way which means we would have to ask for easements from property owners. Mayor Tugwell commented he does not know what ADA requires. Commissioner Wilson commented that if we are going to put sidewalks on Bideford and Simon Streets staff needs to prepare a report on how wide it needs to be; what the specific policy is if any that applies to the neighborhood and the right of ways; is it going to fit or will they need easements before the Board can act. Consensus of Board is for Mr. Featherstone to refine his estimates, find out widths and restrictions if it needs to be 5 foot wide, find out availability of Powell Bill funds; and how much right of way NCDOT has. Mr. Featherstone commented he thought he could get someone with NCDOT to help him determine how much right of way they have. Mr. Featherstone will try and have the report back by November mid-month meeting.

SUBJECT: Discussion and consideration of Budget amendment #4. At the request of Mayor Tugwell staff was asked to prepare a budget amendment transferring the funds allocated for relocating the weather tower to the cemetery funds, to the capitol outlay fencing line item.

MOTION: Commissioner Collins seconded by Commissioner Creef to approve budget amendment #4 was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wescott, Wilson and Creef. Noes: None. Absent: None

SUBJECT: Discussion and Consideration of Board of Adjustment Members. The Board had asked staff to contact each member to see who would be willing to serve and commit to this Board. Town Clerk Becky Breiholz has received responses from 3 Regular Board Members and 1 Alternate Member who are willing to serve on the Board and they are: Members Michael McOwen, Carl Jordan, Darryl Collins and Alternate member Melvin Jackson. John Bo Ross also responded that he would like to continue on the Board, but his response was received after the Board packages went out. Commissioner Wilson commented that there is a policy for the Planning Board that if they miss two consecutive meetings they are replaced and asked if this was the same policy for the Board of Adjustment. Town Manager Kermit Skinner commented he thought that was just for the Planning Board. Commissioner Wilson commented perhaps we need to implement the same policy for this one. Mayor Tugwell commented that it has been suggested that anyone that wishes to continue on this Board attend the workshop that will be presented by Town Attorney Daniel Khoury. Another thing to consider is that some of the members' terms will be up and the Board of Commissioners usually discuss re-appointments at the organizational meeting in December. Commissioner Wilson commented that the Board of Adjustment is already short one alternate member and that Edward Mann has expressed an interest in serving. Commissioner Wescott commented that Talmadge Jones has expressed an interest also. Consensus of the Board was to delay action until the December organizational meeting.

SUBJECT: Discussion and consideration of dues and subscriptions. The Board had requested that payment for dues and subscriptions be brought to them before payment is approved. There are two dues and subscriptions due and they are International Institute of Municipal Clerks and National League of Cities.

MOTION: Commissioner Collins seconded by Commissioner Farrow to pay the dues to International Institute of Municipal Clerks was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wilson, Wescott, and Creef. Noes: None. Absent: None.

MOTION: Commissioner Wilson seconded by Commissioner Creef to **not** rejoin the National League of Cities 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 34-32 Unauthorized use of receptacles and Section 34-1 Definitions. Commissioner Wescott had asked that the Board do something about people dumping their trash into others dumpsters. Town Attorney Daniel Khoury has prepared an ordinance to address the issue. The Board will need to decide on a dollar amount for the penalty. Mr. Khoury commented that when he went through the text the Town did not have a definition for a properly designated receptacle which he wrote, and then ordinance is exactly the way it was before other than what he italicized in Section h (*unauthorized use of receptacles; duty of owner, occupant to remove refuse from adjacent right of way*) and he added Section 4 the civil penalty provision and left blank for the Board to determine the penalty. Commissioner Wescott had a problem with Section 34-1 Definitions property designated receptacle, which states in part trash cans shall be of a durable grade of galvanized metal; "we issued everyone a trash can that is suitable to be dumped with the truck this is obsolete, we don't want them to put them in those kind of containers anymore". Mayor Tugwell commented that he thought we had the definition in another section and Mr. Khoury commented he thought so to but could not find it so used the old one. Mr. Khoury commented we need a definition then for what we are using, he also commented that he has reservations about this ordinance since he does not know how they are going to enforce it. Commissioner Creef commented he has a dumpster and "you don't enforce it, you don't even know

who does it and there are certain portions in the ordinance that the owner is responsible if something is put in his dumpster and then has to pay the expense of removing it.” The Board discussed the fine amount and came up with \$75.00. Commissioner Farrow commented why can’t we put some type of sign on the dumpsters stating we would prosecute which might scare people from using the dumpster if caught and Mr. Skinner commented that he gotten a proposal on a sign but needs some specifics such as what the fine will be and be able to cite the particular statute.

MOTION: Commissioner Wescott seconded by Commissioner Creef to table until the Town Attorney investigate further was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wilson, Wescott, and Creef. Noes: None. Absent: None

MOTION: Commissioner Collins seconded by Commissioner Farrow to enter into closed session consultation with attorney NCGS 143.318.11 (a) 3 was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wilson, Wescott, and Creef. Noes: None. Absent: None

SUBJECT: Discussion of Roanoke Marshes Light Construction and change orders. Board discussed the performance from the architect and contractor and possible remedies. The Board discussed the contract and change orders.

MOTION: Commissioner Farrow seconded by Commissioner Collins to exit the closed session consultation was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wilson, Wescott, and Creef. Noes: None. Absent: None

SUBJECT: Budget amendment # 5 to take \$25,000 out of fund balance and place in Roanoke Marshes Light Construction account to handle past and potential change orders.

MOTION: Commissioner Wilson seconded by Commissioner Farrow to authorize budget amendment #5 was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wilson, and Creef. Noes: Commissioner Wescott. Absent: None

SUBJECT: Town Manager Report and Department Head reports which will be made a part of these minutes. Town Manager Mr. Skinner commented that a new report has been added from the IT department.

SUBJECT: Update on research for discharging sewer at the Sewer Plant. This was discussed at the Board’s October 15, 2003 workshop meeting with regards to Commissioner Westcott’s contract for sewer disposal he has with the Town. Commissioner Farrow had asked staff to research the cost and methods others Towns charge for dumping sewer waste. Town Manager Kermit Skinner commented that he met with Town Attorney Daniel Khoury and they agree that prior to modifying the rate structure that they need to investigate the protocols, so they have asked Leo Green, engineer of the plant, to help develop protocol and procedure for the dumping. Mr. Skinner does not have anything for the Board tonight but will have that information at the mid month meeting.

(TOWN ATTORNEY’S AGENDA)

SUBJECT: Report on pending projects-Town Attorney Daniel Khoury commented that he has drafted a lease agreement for a portion of the lab at the waste water treatment plant and it will be discussed at the mid-month meeting.

INFORMAL BOARD DISCUSSION

Commissioner Wilson commented that he has a draft of the 20 year master plan update from the N.C. School of Design and he has also received the Guide for Development from Randy Hester which he handed out to the Board members and asked them to review them. He asked that discussion of the documents be placed on the November Workshop agenda and would like to invite the Planning Board and Steering Committee to the meeting.

Commissioner Creef-commented “that our Building Inspector, Fred Featherstone has excelled and is now the President of the N.C. Association of Zoning Officials and thinks the Board should write him a letter of congratulations.”

Commissioner Etheridge commented on the grant that Mr. Featherstone applied for and received and also that Chief D’Ambra has been awarded a grant and thinks both deserve a letter of commendation or congratulations.

There being no further business to come before the Board or other persons to be heard a motion by Commissioner Collins seconded by Commissioner Etheridge meeting was adjourned at 10:15 p.m. and approved by the following vote: Ayes: Commissioner Wilson, Wescott, Farrow, Etheridge, Collins, and Creef. Noes: None. Absent: None.

This the 5th day of November 2003.

Mayor John Wilson, IV

ATTEST:

Town Clerk Becky Breiholz