

MINUTES

The Town of Manteo Board of Commissioners held their Workshop Session at the Manteo Town Hall meeting room July 17, 2002 at 7:00 p.m.

The following members were present:

- Mayor Lee Tugwell
- Commissioner Dellerva Collins
- Commissioner Edward Etheridge
- Commissioner David Farrow
- Commissioner H.A. Creef, Jr.
- Commissioner Stuart Wescott
- Commissioner John Wilson

The following member(s) were absent:

Also present at the meeting were:

- Town Manager-Kermit Skinner, Jr. (arrived late)
- Assistant Town Manager/Finance Shannon Twiddy
- Police Chief-F. T. D'Ambra

Mayor Tugwell called the workshop meeting to order at 7:05 p.m.

Mayor Tugwell commented that Commissioner Farrow's requested item # 6 be removed as an action item but left as a discussion item which leaves item # 3 as an action item only.

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

Chief F. T. D'Ambra introduced the Town's two new employees Alexis McKimerick as the new police officer and Lewis Hoffman as the Town's new IT person.

SUBJECT: *Discussion and consideration of proposed text amendment Article II Section 6-35. Commissioner Farrow brought this up at the regular board meeting on July 3, 2002 and after discussion Town Attorney, Daniel Khoury was asked to rewrite a draft and have it ready for the workshop agenda as an action item. In Mr. Khoury's draft it eliminates the act of allowing an animal to defecate on property other than the owner to be a violation but provides that in such event, the owner or custodian has the responsibility to immediately remove all feces and be deposited in a sanitary container and not within the Town waters and the proposed penalty will remain the same.

MOTION: Commissioner Farrow seconded by Commissioner Wescott to approve Article II Section 6-35 as presented by the following vote: Ayes: Commissioners Farrow, Collins, Wescott, Wilson and Creef. Noes: Commissioner Etheridge. Absent: None

SUBJECT: Discussion proposed amendment to Section 50-123 of the Codified ordinances. Commissioner Wilson would like the Board to review this section to determine if the board would like to take them up for action at the regular August meeting. Commissioner Wilson

commented that as it is now written it allows property owners as far south as Skyco and beyond or as far north as Mother Vineyard or the airport to request connection to municipal water and sewer service, and over the past couple of years this has become a very controversial issue and he proposes to add item #19 where only properties outside the corporate limits that are located north of the new highway 64 Bypass (the new bridge road) and south of the northern corporate limit line at Harriott Street may be considered for connection to municipal water and sewer service. Commissioner Creef commented the proposed amendment was in keeping with the Land Use Plan. Mayor Tugwell commented that the Board does not have to extend water and sewer and the way the ordinance is written water and sewer extension is at the discretion of the Board. Mayor Tugwell also commented that the Dare County Board of Education is considering a site north of Harriott Street for a new elementary school. Commissioner Wilson commented that #18 allows for extension to all government buildings and would not prevent a school, his concerns are high density and the extension of water and sewer makes the property in Skyco available for high density condominiums. Commissioner Wilson would like this amendment to be placed on the agenda for the August 7th regular meeting. Staff is to write a draft ordinance and the Town Attorney is to review it before the August meeting.

SUBJECT: Discussion of the need to review Section 50-140 of the Codified Ordinances. Commissioner Wilson questioned whether it would be more equitable and just to impose user fees, impact fees, or should rates support the system. In his letter to the Board on this matter he stated impact fees may not be arbitrary. They must be based upon the user actual impact to the wastewater system in combination with the actual cost incurred by the town for the system. User fees may not be arbitrary but they must be equitable and clearly the restaurant owners do not believe the fees are fair. If the town is charging a gallon per chair fee that in fact exceeds the average gallons per chair use in the town's restaurants; the town most likely has a legal problem and shouldn't we ask the water and sewer department to determine the actual average gallons per chair use in our restaurants and then amend the DENR chart to reflect what actually happens in restaurants in our town. Or as many people believe, the town could do away with commercial impact/user fees and increase commercial water and sewer rates as the method of raising the same amount of money needed to maintain the system. The Board would like to have Town Attorney Daniel Khoury review section 50-140 and look for arbitrary language that may have loop holes or could be grounds for a law suit in the future.

SUBJECT: *Discussion and consideration of proposed Resolution 2002-13 supporting Dare County Commissioner Richard Johnson's plan for school facilities. Commissioner Farrow would like the BOC to support this plan. The resolution will be made a part of these minutes. Commissioner Farrow withdrew this as an action item but would like the Board to discuss the possibility of this resolution being placed on the August 7th agenda. Commissioner Collins commented that in her opinion that this is a good plan. Mayor Tugwell would like the Board to consider a resolution supporting the funding be done by a bond issue rather than COPS. It was suggested to invite Commissioner Richard Johnson, the School Board and any interested party to come to the next Board meeting August 7, 2002

SUBJECT: Discussion of the possibility of hiring someone to patrol the waterfront area during summer months as a seasonal employee. This was discussed at the June BOC meeting and the Chief of Police was asked to submit a report to the Board. The Chief envisions a civilian part

time seasonal employee who could work the waterfront area, monitor time parking and be available for visitor information and they could enforce any of the Town's civil citations. This person would wear a uniform similar to a police uniform but would not carry a firearm. This would also be cost effective and he suggests funding the position at \$10.00 per hour for a thirty hour work week from Memorial Day to Labor Day. Consensus of the Board to place this on the August 7th agenda for a budget amendment for \$4800.00 to fund this position.

SUBJECT: Request from Paul Charron to address the BOC regarding water and sewer service impact fees-Commissioner Farrow. Mr. Charron had addressed the board at their July 3, 2002 meeting regarding this issue. Mr. Charron commented that by the Town using DENR fee guidelines restaurants are charged 40 gallons per seat per day at \$8.00 a gallon His restaurant right now per seat in the month of June and May used 10 gallons per seat per day which is a big difference and that the restaurants are paying a larger share than any of the other shops He previously had an ice cream shop in the location where he now has his restaurant and for the month of June his ice cream shop used 12,610 gallons of water, whereas his restaurant used 14,640 gallons for that same time period one year later. He hopes this Board does a study on the DENR fees. Another part of the DENR fees, he discussed was outside seating. He commented that he is being charged for outside seats because he has a waiter go out take the order, say hello to people, and bring the food to them, but he would not have to pay for outside seats if people came inside, said hello, got their order and then seated themselves. The same people use the bathroom, the same people get food cooked in the same kitchen and use the same amount of water but because there is a waiter who goes to the table, he is charged more money. He commented that he received a letter from the Town saying he has increased his seating and the only thing he has done is added wait service and he commented that "a restaurant in effect can come into town open up; set up tables outside and as long as a waiter does not go out to those tables he does not have to pay an impact fee," is the way he understands it and it doesn't seem fair or equitable He commented that in the next couple days he will receive a bill for his outside seats which he has not yet discussed it with the Town. Mayor Tugwell commented that with regard to DENR rates the Board will be looking into the actual use vs. the DENR rate. As for the outside seating the Mayor asked if this was an issue all along and Mr. Charron responded originally when he came in there was some discussion about the outside seats. The Mayor commented that he was in a meeting with Town staff and the Town Attorney and was led to believe there had been correspondence over the interpretation of the outside seats, that the seating policy of the Town had been reviewed by Town Attorney Daniel Khoury who stated that it had been applied consistently and recommended the action that was taken. The Mayor also commented that when Mr. Charron went to obtain an ABC license those seats were included as part of the restaurant. Mr. Charron commented that there are other restaurants that have outside seats and he doesn't think he is being treated the same as other restaurants. The Mayor commented that maybe Mr. Charron and his attorney should speak with our town attorney to interpret the restaurant seating policy Mr. Charron commented that he had three issues that he would like the Board to look at and that was 1) the DENR rates, 2) look at the difference between outside seating and inside seating, and 3) consider his case as a person in the town before the impact fees and then moving across the street to a place he was previously leasing and giving him credit for seats he had across the street. Commissioner Wilson commented that he thinks the answer to the question "has anybody paid for outside seats the answer is probably no," and thinks that fair and equitable and not arbitrary has been ruled on in the courts many times

about user fees. He also commented that he does not know how the Town can defend “if a waiter walks to a table or doesn’t walk to a table has any difference on the impact on the waste water plant.” He commented that we need to be fair and equitable and helpful to the small businesses since they bring in our tax revenue and make our community small town. He also commented that it is unfair the landlord benefits from what the tenant pays and would like to have the Town Attorney respond to how can we defend fair, equitable and not arbitrary with regards to whether or not a waiter walks to a table since the effect is the same. Commissioner Wescott commented that we have a limited commodity and one of the ways you limit the use of that commodity is to charge for it. If people want to use what we have they need to pay for it we should not give it away. Mr. Charron asked that the Board set aside his paying the fees until the research is done and if there is the possibility of making this retroactive and Mayor Tugwell commented that in some cases these can be made retroactive but not always and that he does not think the Board has the authority to set aside the paying of the fees until this is resolved and asked Town Manager Kermit Skinner to set up a meeting with our attorney Daniel Khoury and Mr. Charron about this issue.

INFORMAL BOARD DISCUSSION

Commissioner Wescott-asked about the light house project and was informed that Mr. Cahoon is working with the department of insurance on the approval and will have a report at the August 7th meeting. The decking at the boat ramp has only one or two screws in the boards and he brought it to their attention and they stated they ran out of screws. Mr. Skinner commented that Fred Featherstone was to contact John DeLucia the design engineer about adding more screws but does not yet know what the outcome was.

Commissioner Etheridge-discussed the naming of the bridge and wanted to know if we could get a letter to stop the naming of the bridge Virginia Dare.

Commissioner Wilson commented that the College of Design faculty visited last week and they are planning to prepare a proposal to do planning work for the Town and would like this added to the agenda in August.

MOTION: Commissioner Etheridge seconded by Commissioner Creef to adjourn at 9:10 p.m. was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wescott, Wilson and Creef. Noes: None. Absent: None.

Adopted this 17 day July 2002

ATTEST:

Mayor Lee Tugwell

Town Clerk Becky Breiholz