

MINUTES

The Town of Manteo Board of Commissioners held their Regular session in the Manteo Town Hall meeting room, January 2nd, 2008 at 7:30 p.m.

The following members were present: Mayor Jamie Daniels
Commissioner David Farrow
Commissioner Edward Etheridge
Commissioner H.A. Creef, Jr.
Commissioner Hannon Fry
Commissioner Richie Burke
Commissioner Darrell Collins

The following member(s) were absent: None

Also present at the meeting were: Town Manager-Kermit Skinner
Finance Officer- Shannon Twiddy
Town Clerk-Becky Breiholz
Town Attorney-Daniel Khoury
Planner Erin Trebisacci

Mayor Daniels called the Regular meeting to order at 7:30 p.m. with a moment of silence followed by the Pledge of Allegiance.

SUBJECT: Adoption of Agenda as presented or amended-Mayor Daniels asked that Item C from Town Manager's agenda be removed discussion of Roanoke Island Festival Park Improvements.

MOTION: Commissioner Creef seconded by Commissioner Etheridge to adopt the agenda as amended was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Burke, Fry, Collins and Creef. Noes: None. Absent: None

SUBJECT: Adoption of the items on the Consent Agenda

MOTION: Commissioner Etheridge seconded by Commissioner Collins to adopt the consent agenda as presented was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Burke, Fry, Collins and Creef. Noes: None. Absent: None

SUBJECT: Approval of minutes Regular Meeting December 5th, 2007

MOTION: Commissioner Etheridge seconded by Commissioner Collins to approve the minutes of December 5, 2007 as presented was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Creef, Fry, Collins and Burke Noes: None. Absent: None.

SUBJECT: Approval of minutes recessed and closed Meetings of December 12, 2007

MOTION: Commissioner Etheridge seconded by Commissioner Collins to approve the regular workshop minutes and closed minutes of December 12, 2007 as presented was approved by the following vote: Ayes: Commissioners Farrow, Creef, Etheridge, Burke, Collins and Fry Noes: None. Absent: none

PUBLIC COMMENTS

Sybil Ross-Grenville Street understands that the Town is considering proposals for Magnolia Market and one thing that is hurtful is the number of businesses that are closing during the winter and it is her hope that they will consider making it mandatory that whatever goes in there stays open all year.

Jerry Ryscavage-Pirates Way and is following up on the information that was shared awhile ago about the wireless that was to be installed in the Town and he spoke with our IT person about what it meant for those at Pirates Cove and our IT person indicated to him that there was going to be some installations labeled as hot spots throughout the town one of which would be at Pirates Cove. He asked what the range was and was told it was about 100 – 200 yard radius and he wants to know if the range can be enlarged. Our IT person told him he would contact Charter. He wants to approach the Homeowners Association and if it is possible and feasible to enlarge the range of the hot spot and ask the Homeowners Association to pick up the differential cost for the range to be widened. He wants to know if the council has any objection to allowing this to occur provided that they pay the cost for the differential.

John Robbins-Puddle Lane and owns property in Cypress Cove and would like to speak under Water Park Garden.

Lisa Penosky lives outside Manteo but owns Puparazzi downtown and wants to speak about Magnolia Market situation and when the restaurant is closed it hurts the businesses because that restaurant is a draw to the area and hopes the Board will consider someone who will keep the restaurant open during the winter. It is probably not feasible to keep those units open at the market that do not have heat.

(TOWN MANAGER AGENDA)

SUBJECT: Discussion and setting a public hearing for proposed text amendment to Section 12-10 Change of Use. This has come before the Board because there has been some confusion in interpreting this ordinance as to why certain items do not come before the Board of Commissioners and this will eliminate that confusion and will require a zoning permit to be issued by the Board of Commissioners. A question was asked about (b) the last sentence and how confusing it is and it needs to be made clearer. Commissioner Creef commented it should go to the Planning and Zoning Board for clarification. Consensus of the Board was to send back

to the Planning Board the text amendment for them to clarify item (b) in the zoning ordinance keeping the 180 days just making the sentence clearer and simpler.

SUBJECT: Discussion and consideration of engineering contract for Haven Creek Lane paving. Mr. Skinner commented that Haven Creek Lane is off Sir Walter Raleigh and he thinks is the last unpaved right of way in the Town of Manteo and appears on the Powell Bill map and currently has water and utilities but has never been approved and is basically a right of way that has had gravel put on it from owners from time to time. The parcel has been subdivided and 2 lots have building permits; one is pending and the Town owns the 4th lot. This contract is a precursor to getting it paved; the street has no grade and will require engineering for stormwater purposes, the contract is with Albemarle Engineering for \$5400.00 for professional services only, not for the actual paving and Mr. Skinner has a rough cost estimate of the paving as being \$37,000 from Barnhill. Commissioner Farrow asked how far does it go and Mr. Skinner commented it goes to the rear of the junk yard that is back there. Mr. Skinner can show the Board a plat of the property next week at the workshop meeting; the Board would like another price on the engineering. Commissioner Collins commented that this is important so that we can get our water garden started back there. Mr. Skinner commented the Board bought this piece to place a water garden for storm water runoff. Commissioner Farrow commented he was the main instigator to get that property and the main thing that was in his mind was to expand the tot lot and water gardens came up afterwards. Mr. Skinner commented that the paving and drainage work can be done with Powell bill money; we do not have a legal obligation to pave it but over the years the Town has wanted all roads to be hard surfaced. Commissioner Farrow commented that years ago the Town committed to pave all the roads in the Town and the other non paved road is near Stuart Westcott's home and we should consider paving that road also. The Board would like to review the plat before they make a decision.

SUBJECT: Discussion of applying for a grant Clean Water Trust Fund to fund recommendations identified in the Nutrient Reduction study. Mr. Skinner commented that under old business we have been monitoring nutrient reduction study that the Town received a grant for which Mrs. Twiddy will update the Board. The essence of the grant was to give the Town money to fund a study to look at ways to reduce the nutrients in our waste water treatment plants effluent; Mr. Skinner pointed out that we are under very strict permit parameters and we meet those parameters but we are seeking to go above and beyond what state and federal government requires. We are looking at submitting another grant to the Clean Water Management Trust Fund for the implementation phase of the recommendations in that study. Mr. Skinner went over briefly what will be in the grant; reworking of the head-works at the waste water treatment plant, they remove the bigger solids that get into the waste water; replace the bar stream; replace the grit concentrator; replace the conveyor and dumpster pad; install a new disinfection system using ultra violet to enhance the chlorine system; doing a new ph system; rework the caustic feed system and the telemetry in all our lift stations to be able to go on a computer and find out what performance level the pumps are working at. We also will look at converting a portion overboard discharge into land application; we do not own enough land but looking at reactivating our redistribution fields and diverting 125,000 gallons to land

application. Staff just found out about the grant a couple of weeks ago and hopes to have the formal grant application for them at their workshop meeting next Wednesday and staff will need the Board's permission to apply for the grant. Consensus for this to be placed on the workshop agenda.

NEW BUSINESS

SUBJECT: Request from the Board of Adjustment to hire outside attorney. The Board of Adjustment Chair Bo Ross stated that it was brought to his attention that on special occasions the Board may find the need to employ the services of an attorney having no affiliation with the Town of Manteo and they are requesting the approval of this request with an expenditure not to exceed \$1,000 for the next fiscal year. Town Attorney Daniel Khoury commented from time to time Towns get in lawsuits with their Board of Adjustment the reason being the Town may have a policy or ordinance and person may appear before the Board of Adjustment and request a variance from a certain ordinance and the Town's position might not be one that the variance is allowed for and the Board of Adjustment might allow it and the Town has a choice of actually suing their Board of Adjustment to reverse the decision. The Board of Adjustment is an independent body, quasi judicial and it would be a good idea to have a separate attorney from time to time, particularly during adverse situations where the Town's interest may be competing with the applicant or with the position of the Board of Adjustment. Larger cities as a have an independent attorney for the Board of Adjustment and other towns Board of Adjustment will hire their own attorney as needed. Commissioner Etheridge commented he looks at the Board of Adjustment that sits down and tries to use common sense to solve problems and does not see a practical need unless they can sit down and decide amongst themselves if they need an attorney. Mayor Daniels commented he believes that is what they are asking to have it available in case they need an attorney. Chairman Bo Ross commented he does not recall a situation that the Board of Adjustment could not handle, but in light of the recent events if the Town takes a certain position the Board of Adjustment being independent needs someone that they can get counsel from; they don't anticipate using this for everything but would like to have this in place if there is ever a need.

MOTION: Commissioner Farrow seconded by Commissioner Fry to budget \$1000 for the Board of Adjustment for an attorney if they need one was approved by the following vote:
Ayes: Commissioners Farrow, Fry, Burke, Collins and Creef. Noes: Commissioner Etheridge.
Absent: None

OLD BUSINESS:

Report Public Relations/Special Events- Martha Wickre gave the Board an update for the month of December. Thanked the Town and Special Events committee for the tree lighting and parade. She reported that the Town has been awarded a grant from the Outer Banks Tourist Bureau for \$7500 for the Pea Island Cookhouse for signs and display cases; she is wrapping up the quarterly newsletter and she would like to get a group picture after the meeting. Mrs. Wickre

gave a report on the accident that happened during the parade, where a little girl's foot was run over by the float she was riding on and there were no broken bones and no serious injury and the committee will approach the safety concerns for next year. Commissioner Etheridge commented that he does not ever recall an accident happening during a parade.

Report Collins Park- Commissioner Collins commented that what is left now is the trim work and the committee is looking to form a partnership with the National Park Service so one of the committee members can do the trim work; the committee has also requested that the Public Works do the paint work after the trim is done; they appointed ex-Mayor John Wilson as a member of the committee and they are looking for a spring opening of April or May of this year.

Report Cemetery Committee-Commissioner Farrow nothing to report. The cemetery software was discussed and the older portion of the cemetery will need to be manually walked at the cemetery.

Report Crosswalk and bulb outs-will be discussed at the Planning Boards January agenda. Mr. Skinner commented that he has not heard anything from NCDOT about the bulb outs.

Report Manteo Water Garden Park-

John Robins resides on Puddle Lane and owns property at Cypress Cove; Mr. Robbins commented, "I am not against the North Carolina Coastal Federation or the water gardens," he does not support the way it was approved or the way it was defended wasting taxpayers dollars. Mr. Robbins also stated in a meeting with Mayor Daniels and Town Manager Kermit Skinner they agreed the plan should be reviewed by the Board of Commissioners; he further stated the Town has hired Poyner and Spruill law firm to defend its actions. Mr. Robbins commented that Town continues to waste taxpayer money defending an approval and site plan that violates the Town of Manteo Zoning codes. He commended the Town for changing the ordinance but also stated "but changing the ordinance to justify an earlier action that was done in violation of the ordinance is like changing the rules of the ballgame once the game has already started." Mr. Robbins wanted to know who is in charge in the Town of Manteo, Town Attorney Daniel Khoury says he is the gate keeper for the Board of Adjustment and later the Board of Adjustment holds a special meeting and they can find no regulation that provides him the authority to act as gatekeeper. He also commented that he made an appeal to the Board of Adjustment regarding the Coastal Federation and it stays all proceedings and the Board of Adjustment has still not met and Zoning Administrator Erin Trebisacci instructed the building inspector Johnny Boniface to issue a building permit. Regarding hiring an attorney as consul he asked the Town Manager and the Town Clerk and they were not aware of the hiring of Poyner and Spruill. He requested information from the Zoning Administrator in November and has still not received the information. He was also told before the holidays that Wyatt Booth is going to handle these matters for the Town, yet when he calls Mayor Daniels and Zoning Administrator Erin Trebisacci they both say that "Daniel Khoury instructed them not to do this" and "let me call Daniel to check on this." If he has excused himself from these matters

why is he still providing legal guidance to the Town and why is the Town enlisting the services of three different attorneys and two law firms. Mr. Robbins asked “you revoke the NCCF site plan and thus save taxpayers money. “I am willing to drop everything related to the water garden park at this time, I don’t want the Town to use dollars to defend an action they recognize as incomplete and he has been told that the Coastal Federation is going to re-submit a new site plan and all this can go away and does not understand why the Town continues to block him from going to the Board of Adjustment.” “All I want is for this plan to meet the ordinance.” Mayor Daniels asked Planner Trebisacci for her report on the water garden park. Mrs. Trebisacci commented that they meet with representatives with the Coastal Federation on December 7th to discuss some additional items for that location and is in her department head report.

Report Grants:

Clean Water trust Fund Grant Nutrient Reduction-this will be done at the workshop Wednesday.

CAMA grant for waterfront pump out station- Town received notice that we will receive a grant in the amount of \$9,415 and hope to have the contract either February or March for the Board’s consideration.

COMMISSIONERS’ AGENDA

Commissioner Creef asked if anything had been done about the truck noise behind Chesley Mall, Planner Trebisacci commented she, Mr. Skinner and Commissioner Fry met with Jackie Midgett owner and they discussed it with her and they are in the process of re-moving their trucks from the area and she might come to the board to request a zoning amendment.

Commissioner Fry asked about the Queen Elizabeth lift station and Town Manager Kermit Skinner commented it is very old and the water and sewer department have been patching it and that they have a meeting with the engineer next week about retrofitting it.

Commissioner Farrow-the solar light that was put up at the CVS entrance on the College of the Albemarle road is not serving its purpose; there is not enough light and he wants a street light put there; someone said the property owners said we could put a street light there and “we need to put up a street light if not for anybody but me”. Commissioner Farrow wants the Town Manager to look into it. Mr. Skinner commented that the problem is currently the fixtures that NC Power has do not meet the lighting ordinance and providing we have a right of way they will put it up but it does not meet our ordinance. Commissioner Farrow commented that it should not be a reason why we can’t get a light up there because it does not meet the town lighting ordinance, it is his understanding the lighting ordinance we have now is to put in new lights to replace old ones, we never had any there to start with why don’t we take one of those old ones and put up there, this isn’t B1 where everything has to be perfect, there is not a light there now, see if we can’t get one like the College of the Albemarle. Mr. Skinner commented

that with a street light you get them from NC Power and they install it, if we put our own fixture out there we have the responsibility for it but it gets a little more complicated in that we would have to set a meter they would not allow us to tie onto their system without a meter, it is doable but it would be easier if they have a fixture that met our lighting ordinance. Commissioner Farrow commented we are having problems getting those light fixtures and "it is the pleasure of this Board member to put up a light; someone will get hurt there." We had asked CVS but they never responded. Town Planner to contact CVS to see if something could be done.

Commissioner Etheridge commented on the letter that John Robbins handed out and it clears his mind of things going on that we are not aware of. He also commented on the wireless at Pirates Cove and this will be discussed at the workshop meeting. He also brought up Magnolia Market and thinks keeping it open year round would be a good idea and possibly making it a condition of the lease.

Commissioner Collins-thanked John Robbins for offering us a way out.

TOWN ATTORNEY'S AGENDA

MAYOR'S AGENDA

Mayor Daniels would like to discuss water tap fees at the workshop agenda.

There being no further business to come before the Board or other persons to be heard a motion by Commissioner Etheridge seconded by Commissioner Fry the meeting was recessed 8:45 pm until Wednesday, January 9th, 2008 at 4:00 p.m. and approved by the following vote: Ayes: Commissioner Fry, Burke, Farrow, Etheridge, Collins and Creef. Noes: None. Absent: None.

This the 2nd day of January 2008

Jamie Daniels, Mayor

ATTEST:

Town Clerk Becky Breiholz