

MINUTES

The Town of Manteo Board of Commissioners held their Regular session July 3, 2002 in the Manteo Town Hall meeting room, 407 Budleigh Street, Manteo, NC 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, Jr.
- Assistant Town Manager/Finance- Shannon Twiddy
- Town Clerk-Becky Breiholz
- Town Attorney-Daniel Khoury
- Police Chief-F. T. D'Ambra

Mayor Tugwell called the Regular meeting to order at 7:30 followed by a moment of silent meditation and the Pledge of Allegiance.

MOTION: Commissioner Collins seconded by Commissioner Etheridge to accept the agenda as presented 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 June 5, 2002. Commissioner Creef commented that on page 6 there was a mistake in the motion on the vote Commissioner Creech's name was included in the motion, which is an error.

MOTION: Commissioner Farrow seconded by Commissioner Creef to approve the regular minutes of June 5, 2002 as corrected removing the name of Commissioner Creech 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 June 19, 2002

MOTION: Commissioner Farrow seconded by Commissioner Collins to approve the workshop minutes of June 19th 2002, as presented was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wilson, Wescott, and Creef. Noes: None. Absent: None

(PUBLIC COMMENT)

NONE

(COMMISSIONER'S AGENDA)

SUBJECT: Discussion and consideration of proposed text amendment to Section 46-111 Prohibited in certain specified places Town of Manteo Codified ordinances. Commissioner Farrow read the text amendment and wanted to change item #6 the footage from 25 feet to 15 feet but after discussing this with the Chief of Police F. T. D'Ambra he discovered that there is a state statute G.S. 20-162 and this would have to be taken to the state to allow for the Town to be exempt. Commissioner Farrow also commented that there are still a lot of yellow line markings that can be painted over that are not under the state statute and that was his intention. Commissioner Wilson remarked that he would also like to address item 11 in this ordinance and not being able to park on the left hand side of the street.

MOTION: Commissioner Farrow seconded by Commissioner Collins to leave the ordinance as is with no changes. Commissioner Farrow withdrew his motion and Commissioner Collins withdrew her second.

MOTION: Commissioner Farrow seconded by Commissioner Wilson to have the Town Attorney petition the General Assembly for a local bill to exempt the Town from the 25 foot requirement was approved Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None. Absent: None

SUBJECT: Discussion and consideration of request for funds for the New World Festival of the Arts. Commissioner Collins would like Mr. Green to address the Board. Mr. Green commented that they receive a \$6000 grant and have not had to request any money from the town, except when they needed a new banner. The last two years they have run a shuttle service and have raised money for this service but have had to use the arts council money to pay the difference. This year they are sending out a letter to businesses that might benefit from the art show for donations to help fund the bus, and he is asking the town to fund one day for \$719.00 for the bus shuttle. Discussion took place on where the funds would come from since this was not included in the budget.

MOTION: Commissioner Collins seconded by Commissioner Wescott to grant the request of \$719.00 for the New World Festival of the Arts Commissioner Collins amended motion seconded by Commissioner Wilson to grant the \$719.00 and have staff write the budget amendment # to be placed in the Governing Body contribution line item was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None. Absent: None

SUBJECT: Discussion and consideration of Proposed text amendment to the Codified Ordinance Article II Section 6-35 (c) Commissioner Farrow read the proposed amended ordinance which will be made a part of these minutes. Town Attorney commented that a provision should be included that it will be a violation of the ordinance and also an additional violation if they don't clean it up. Chief commented that to enforce this ordinance they will need to see the violation take place, or have a complaint and they be willing to testify before they can legally write the citation

MOTION: Commissioner Farrow seconded by Commissioner Wescott to accept this amendment as presented Commissioner Farrow withdraw his motion and Commissioner Wescott withdrew his second.

MOTION: Commissioner Farrow seconded by Commissioner Creef to have the Town attorney draft a text amendment to Article II Section 6-35 and present to the Board at the workshop session as an action item was approved by the following vote: Commissioners Farrow, Wescott, Wilson, Collins, Etheridge and Creef. Noes: None. Absent: None.

SUBJECT: Request from Paul Charron to address BOC regarding water and sewer service impact fees. Paul Charron commented that he and his wife own the Full Moon Café in Manteo and recently moved their restaurant from one side of the street to the other side. He stated they were assessed sewage impact fees. He also stated that he had received a letter in October 1998 stating he was permitted for up to 44 seats and that someone from the Town would be coming to his establishment to conduct a seat count, and he thought he could carry those 44 permitted seats across the street at the new location. When they moved the restaurant across the street they had to pay the impact not the landlord, they paid the engineer to find out what the impact would be and the landlord will receive the credit not him and commented that the landlord Commissioner H. A. Creef benefited from that \$12,000. He commented that the ordinance does not take into account that a tenant is going to move to another location and when they move they are not allowed the credit. Mr. Charron was hoping that the Board could take this into account and revise the ordinance. Mayor Tugwell commented that it is not impact fee, it is a connection fee and the ordinance was crafted to prevent any one to take a sewer allocation from one property to another and that they would remain with the property. Finance Officer Shannon Twiddy commented that it is called a user fee. Ms. Twiddy read the letter that Mr. Charron was referring to from October 1998 which she read to the Board as follows: "Your establishment, per Dare County Health Department Environmental Health section is permitted for up to 44 seats as of October 14, 1998 and in the next 45 day period a Town Representative will coming to your establishment to conduct a seat count. This seat count will be used to set a base number of seats for future counts, which will take place annually during the last weeks of July and the first weeks of August. If your seating increases after this upcoming seat counting, you should inform the Town of the number of increased seating. Seating expansions will be assessed at 40 gallons per seat times \$8.00 per gallon." Also attached to the letter was a copy of the restaurant seat policy. Commissioner Wescott asked if Mr. Charron received a credit for seats that were in his ice cream shop that was in that location before he moved his restaurant there and Mr. Charron commented that he could have received a credit for the seats that were in the ice cream shop but because the ice cream shop shares the same building with two other tenants, the original sewer hook up fee had been paid as three separate retail shops and by the time he hired the engineer to look into

how much of the one third of the hookup fee was and how much was allocated to him the charge for the engineer would have been more than the money he would have gotten back, so even though the ice cream shop when they moved out and had seating for up to thirty people because it was an ice cream shop/retail shop and not a restaurant those seats didn't matter. Ms. Twiddy commented that in accordance with 50-140 it is up to applicant who chooses to develop or get a building permit that they fill out the sewer connection form, and the form makes the applicant identify what the proposed use is and it up to the applicant to supply staff with a sealed engineered calculation of the existing use. Had the applicant supplied us with an engineer's seal he would have received a credit toward future expansion but in this case the documentation was requested but not supplied so he was charged the full amount. Commissioner Wilson commented that he thought the fees were astronomical and that he thinks it is wrong to charge a tenant a fee and credit it to a landlord and he thinks that fees need to be looked at. Commissioner Creef also thought the fees need to be reviewed.

(TOWN MANAGER'S AGENDA)

SUBJECT: Town Manager Report and Department Head reports which will be made a part of these minutes. Commissioner Wescott discussed the closing of parking lot today so vendors could set up and commented that it seems a little premature to closing the parking lots and commented that the Board should review the policy for parking lot closings with the special events committee. Commissioner Collins agrees with Commissioner Wescott that it was a little extreme to close the parking lots a day before the 4th of July celebration.

SUBJECT: Discussion and consideration of Resolution 2002-12 declaring surplus property for auction

MOTION: Commissioner Wescott seconded by Commissioner Farrow to approve Resolution 2002-12 declaring surplus property and auction was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None. Absent: None

(TOWN ATTORNEY'S AGENDA)

SUBJECT: Report on pending projects-Town Attorney Daniel Khoury gave the Board the following reports on several projects in progress.

Deeds of Easement-for cemetery for the brick fence have been submitted to the property owners involved for their signature.

A letter has been drafted for a water works agreement with Board Of Education for the location of the water tank.

A demand letter has been sent to Chris Pipkin who was previously employed by the Town as a police officer for reimbursement since he did not fulfill his contract.

Purchase of property Cartwright Park-title work revealed a problem but they have taken care of that and now he is trying to determine what the entity is and who has authority to execute the deed on that property.

There being no further business to come before the Board or other persons to be heard a motion by Commissioner Farrow seconded by Commissioner Etheridge meeting was adjourned at 9:15 and approved by the following vote: Ayes: Commissioner Creech, Wescott, Farrow, Etheridge, Collins, and Creef. Noes: None. Absent: None.

This the 3rd day of July 2002

Mayor Lee Tugwell

ATTEST:

Town Clerk Becky Breiholz