

MINUTES

The Town of Manteo Board of Commissioners held their July 7, 2004 adjourned/recessed/ session in the Manteo Town Hall meeting room July 23rd, at 5:00 PM

The following members were present:

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

The following member(s) were absent:

Also present at the meeting were:

- Town Manager Kermit Skinner
- Town Clerk –Becky Breiholz
- Planner Fred Featherstone

Mayor Wilson called the Adjourned/recessed July 7, 2004 meeting back to order at 5:00 pm

SUBJECT: PUBLIC HEARING- to receive comments regarding the annexation petition request and extension of utilities from Dare County Board of Education for the new Manteo Middle School.

MOTION: Commissioner Tugwell seconded by Commissioner Collins to enter into a public hearing was approved by the following vote: Ayes: Commissioners Tugwell, Farrow, Etheridge, Collins, Belli and Creef. Noes: Absent: None

COMMENTS

Mayor Wilson thanked those who came and asked them to keep their comments to two or three minutes

Linda Brown resident of First Street does not want her street to be opened up for through traffic. She trusts that the BOE would protect their property. Her solution is the original plan one way in and one way out. We need to think long term not short term and does not want a 36 foot easement dedicated to the Town for future connectivity.

Seth Henderson-Appreciates this Board for hearing the residents of the neighborhood. He likes what the school board did on their original findings and thinks that they should stay with plan they were about and agreed to. Agrees with Linda, we don't need easements for connectivity.

Wayne Dunn-Lived on Second Street for twenty years and attended most of the meetings concerning this annexation and the concern expressed for the traffic and wants to know why isn't Washington Street enough connectivity and would like item #10 scratched from the conditions.

William Bush-Washington Street-appreciates every ones efforts and they bought the house because of the neighborhood and is not against the school just the traffic and opening up Washington Street.

Pam Pekrun Creef's Ridge Road-our neighborhood has ordinances where our houses have to be built of brick and go by certain plans to build our neighborhood. Dare County Commissioner's agreed to have a buffer and fenced in area, we have a quiet neighborhood and do not want that changed and does not understand why the original plan will not work.

Bobby Owens-commends the BOE for building the new school and also knows the dilemma that the Town of Manteo has and he is probably the only resident of Manteo that is talking for the non-residents of Manteo. These streets do not need to be opened and the citizens should not be held hostage for waste water treatment.

Linda Dunn-lives on Second Street-thanked the Board for holding this meeting and beg them to not open up those streets and ruin the quality of life.

Dr. Walter Holton-asked for more than two or three minutes and is here representing a number of people and his Board for all the children of Dare County. We started this site more than 18 months ago and developed the best plan we thought that we could develop that would protect the neighbors and utilize the best site for a school on an island and did not anticipate any problems as far as sewer. We took the plans to the County, DOT, and the Corridor Commission and got approval, it was the best plan that we could present, we agreed to a buffer and that was very important and never anticipated that they would not be allowed their own treatment plant. We know we will have to control school traffic during school hours on Hwy. 64 and we intend to do that, we do not feel that there will be a significant impact on traffic by that school. The School Board is responsible for schools not roads, and putting a road through the school and it is going to create safety hazards in that area. What we are giving up is our integrity these people trusted us to do what we said we would do and does not think it is their responsibility to connect the back roads and he feels that they can get out of that area safely with the original plan and asked the Commissioners to do that today. They have met again with another engineer who has talked to the State and explained that there may be a problem getting sewer from Manteo and he believes we can get a plan approved and a hydrologist will be here tomorrow. If we can a system approved for that area and go with the original plan already approved, and they have been assured by the state that if they make a few adjustments they can get that done, they will try to go that way. Dr. Holton would like someone to make a motion to approve the original plan, they will work hard to keep traffic moving and if you don't approve this and we can't get a system on there and we have to come back to the Board and the wrong compromise will end up having to be made.

Tom Maher a member of the Board of Education. They have spent considerable amount of time trying to figure out how to make this work and the BOE has a concern of safety if the back roads are opened.

Faith ? lives on First Street and is opposed to what they want to do; they already have a lot of speeders on that road.

Karen Basham-lives on First Street not against the schools but against the traffic and is opposed to opening up these roads and no way this road can handle the traffic. We need to find another way.

Malcolm Fearing- of Sunnyside, the neighborhoods have come and asked this Board to not connect the streets in the area of the new school. This plan has been through a lot of review, by the County,

State and Corridor Commission and pleads with the Board to sell them the sewage and approve the plan already approved by the other agencies.

Jill ?? First Street-these things should have been worked out before now and our street is not equipped to handle this traffic.

Carol Lassiter First Street-appreciates all the people that have turned out tonight and appreciates all the comments.

Amy Scaper we need to address the issue of safety for the children in this neighborhood and we already have a speeding problem

Valerie Wright-lives on First Street please consider what the people are saying and consider the safety of the children.

Kenny Pekrun-Creef Ridge Road and is opposed to opening any of those roads to traffic. The plan they already have is a good plan.

MOTION: Commissioner Tugwell seconded by Commissioner Farrow to exit the public hearing was approved by the following vote: Ayes: Commissioners Tugwell, Farrow, Etheridge, Collins, Belli and Creef. Noes: None Absent: None

SUBJECT: PUBLIC HEARING-Proposed text amendment to Section 9.06 Application of conditional use permit.

MOTION: Commissioner Collins seconded by Commissioner Tugwell to enter into a public hearing was approved by the following vote: Ayes: Commissioners Tugwell, Farrow, Etheridge, Collins, Belli and Creef. Noes: None Absent: None

COMMENTS: None

MOTION: Commissioner Tugwell seconded by Commissioner Farrow to exit the public hearing was approved by the following vote: Ayes: Commissioners Tugwell, Farrow, Etheridge, Collins, Belli and Creef. Noes: None Absent: None

SUBJECT: Public Hearing on proposed text amendment to Article X Penalty Section 10

MOTION: Commissioner Farrow seconded by Commissioner Creef to enter into a public hearing was approved by the following vote: Ayes: Commissioners Tugwell, Farrow, Etheridge, Collins, Belli and Creef. Noes: None Absent: None

COMMENTS: None

MOTION: Commissioner Collins seconded by Commissioner Belli to exit public hearing was approved by the following vote: Ayes: Commissioners Tugwell, Farrow, Etheridge, Collins, Belli and Creef. Noes: None Absent: None

SUBJECT: Discussion and consideration of annexation request and utility extension request from Dare County Board of Education for new Manteo Middle School. Mayor Wilson addressed some concerns-Manteo never wished itself in the position tonight dealing with neighborhoods

outside corporate limits. There has never been any requirement on our part that First Street be opened, we have had several meetings with the County and Board of Education' "we agree with many of you." Our planning board reviewed the site plan as it has to do if the property wishes to be in the Town; based on our rules they came up with a set of recommended conditions and in meetings since then this Board had dropped any consideration of requiring easements to connect the streets. They required a second access go out the back of the school and not through any of the neighborhoods and that recommendation has been softened and lets the school board make the decision where that second access shall be placed, based on our belief that two accesses to the school are absolutely essential for public safety, fire trucks, ambulances and alternate ways in and out of the school. There was a traffic study that was done and paid for by the school which talks about 20-30 minutes delay when that school opens up, and rear end collisions coming from the north. This Board has a very serious concern about traffic on Hwy. 64 without having the highway become a 5 lane road. We are not requiring that any of the streets be opened nor are we saying their needs to be a road, we made it so clear the two accesses we require are not roads, but driveways to have two ways to get in and out of the school. The School Board should honor the trust the residents have in them and any commitments to the neighborhood. "There is another way, a way to have a driveway into the school from 64 and into the school from the road behind it and can be done legally with the money saved from having to build a wastewater treatment facility on the property that we understand that the state says you can't build and why you are asking to be annexed." Mayor Wilson raised one question, and is concerned about the possibility of the school being able to build a wastewater treatment facility and "we don't know today whether you can, because you have asked the Board to accept your annexation today, and if we accept the annexation you can't have a wastewater treatment facility, the state law doesn't allow municipal public system and private system within that municipality and would like that issue addressed before they make a decision."

Commissioner Tugwell-had a couple questions about the first proposal received from the school board and them having three accesses. He asked "our condition does not dictate that they open up Washington or First Street" and was told it does not.

Commissioner Creef-Can't recall Manteo ever being called as holding a group hostage and not very appreciated here, "we have always worked with Dare County and others." Personally you have to run the whole length of the school yard, by putting a drive through the school it will have a fence around it so why can't a gate be put up to keep people from running back and forth." He would like connectivity for the future.

Commissioner Farrow would like to see this move along quickly and does not want to hold it up. This has been checked out by so many other boards and approved as it was but feels like there should be another exit and entrance. He doesn't recall the Board requiring the Justice Center to have two ways in and two ways out when it came before this Board and wishes that it had been done.

Mayor Wilson-to clarify for the record for those who have not been to any of the other meetings-The first Plan the Manteo Commissioner's saw was two ways in and out from 64 and a one way exit on Washington and those were the only connections shown, we talked about connecting streets and a number of solutions to connectivity of streets to dispersing the traffic, but by the time we finished the last work session we encouraged the BOE to not connect any streets in the neighborhood but to go from the primary road 64 to the secondary road Driftwood and allow the

50 foot buffer to do the best it can to protect the neighborhoods, so the first plan only showed exit on Washington and the next plan the school board brought in showed two way on First Street and one way on Washington.

Commissioner Etheridge-trying to visualize the traffic at the present middle school, one way in for the school buses and an entrance down by the tennis courts and does not really see that much traffic congestion when school is in and can not understand why so much concern at the new school, there won't be a whole lot of new people and can't be any worse.

MOTION BY Commissioner Etheridge to approve the original site plan that the school board presented to this board which shows two ways in on 64 and one exit on Washington Street seconded by Commissioner Collins. Mayor Wilson stated the **motion is out of order** because the action tonight is to accept the annexation petition. Commissioner Etheridge made another **motion** that we approve the annexation request from the Dare County School Board, there was lengthy discussion on condition 4 (these conditions will be made a part of these minutes) this motion was never seconded. Money saved by the School Board was discussed and by not building their own treatment plant those funds could be used to place a driveway by acquiring the property at the back of the school to connect to Driftwood. Cost of a paved road discussed and Commissioner Tugwell estimated about \$65,000 and what we are trying to resolve is whether it is going to be just 64 or 64 and the back way of Driftwood and he asked what the School Boards major objection is to coming out the back way toward Driftwood; he has heard it was safety and money concerns. Mr. Nuzzi with the Board of Education commented that they have a filed deed at the courthouse where it will be impossible to break that easement and insures that 50 foot buffer all the way around and the only way we can come out is Washington Street which is filed at the courthouse, number 2 is that it is not that much savings it would cost them a minimum \$200,000 to buy the piece of property and that road would probably cost \$350,000 if they are to do a correct road if they thought they could do it. They do not want to be put in that position because it has a couple of problems number 1 they have a filed recorded easement that protects any ingress and egress other than Washington Street and 64, we cannot undo that without going back to the County Commissioners which would be a minimum of 120 days of delay and the other thing is our job stops today and any delay they have will cost them. Mr. Winebarger commented that they were advised that the job will not be interrupted. Mr. Nuzzi asked that the Board consider the original site plan due to the filed easement. Dr. Holton commented that there will not be two systems and they are looking to be annexed today. Commissioner Tugwell commented he is a proponent of two ways of ingress and egress if it can be reasonable. Mayor Wilson commented that he is afraid that the testimony given in the last few minutes is going to make it impossible for this Board to take any action tonight. Mayor Wilson also commented that there is good news and bad news; the good news is that Mr. Winebarger says the school construction will not be stopped, Mr. Nuzzi said that covenants have been recorded at the courthouse on the deed and the Institute of Government told him that if covenants were recorded on the deed after the application and prior to tonight that is a substantial change in the petition and we cannot act on a petition that has had a substantial change, so if the covenants had not been filed at the time the petition was brought to the Town and has since been filed we cannot act on that tonight because it is a substantive change and the general statute will not allow us to act on the annexation request if there has been change to the boundaries or the deed. Mayor Wilson commented that there should be a joint meeting to see if they can make more headway. Dare County Chairman Judge would like a recess to confer with other members and he knows

that the County Manager made the decision not to delay the construction expecting action tonight.

Mayor Wilson called a 10 minute recess at 6:40 p.m.

Called back to order at 7:55 Mayor Wilson suggested action be delay until the BOC next regularly scheduled meeting for August 4th, and try to have a workshop with both Boards between now and then.

Commissioner Belli-thinks it is important that the neighborhoods don't have the additional traffic; all the other schools have two entrances even if it is gated and is probably the logical thing to do. He does have concerns about the school board trying to plan both ways whether they want to have their own system or go with us and they need to decide that before we move forward. He also has concerns about the surface water run-off and the surface water runoff and wants a guarantee that the run-off stays on the property. He would also like to know how we are going to maintain the stipulations in the permit.

Commissioner Collins-After listening to all the people I definitely would not want any of those streets opening up the neighborhood but also agrees that we need two ways in and out. They should have known they couldn't change anything before they got annexed, and will support them getting annexed and getting the sewer.

Commissioner Creef commented about the Town holding the school hostage does not believe that is true and said we will provide sewer to them, but there is suggestions made by our Planning Board and the School Board should take those into consideration and is in favor of annexing them.

Mayor Wilson commented that with changes made in the deed we are unable to take action on advice of council. Town Manager brought up the fact that if the Board acts against the advice of counsel and if the Town is sued our insurance will not cover cost of the law suit. Commissioner Farrow does not think it is fair to the one resident on Washington Street, and suggested a gated access to the back of Driftwood. Mr. Nuzzi asked for a commitment for the sewer

MOTION: Commissioner Etheridge seconded by Commissioner Farrow to accept the annexation petition as presented and to change clause #4 to which the approved site plan as previously approved by the Dare County Board of Commissioners was **NOT** approved by the following vote: Ayes: Commissioners Etheridge and Farrow Noes: Commissioner Creef , Collins, Tugwell, Belli. Absent: None

SUBJECT: Discussion and consideration of text amendment Section 9.06 Application for conditional use permit. Town Attorney Daniel Khoury reviewed Section 9.06 Application for conditional use permit and strengthened the process by which the code compliance officer should issue a letter of warning and thereafter a citation. He also integrated with this section a form notice of code violation and then notice of the civil citation.

MOTION: Commissioner Tugwell seconded by Commissioner Collins to was approved by the following vote: Ayes: Commissioners Tugwell, Farrow, Etheridge, Collins, Belli and Creef. Noes: Absent: None

SUBJECT: Discussion and consideration of text amendment Article X Penalty Section 10. Town Attorney Daniel Khoury reviewed and strengthened the Town's Penalties ordinance Article X, stating they are not consistent and do not integrate the process by which the code compliance officer should issue a letter of warning and thereafter a citation.

MOTION: Commissioner Farrow seconded by Commissioner Belli to approve text amendment Article X Penalty Section 10 was approved by the following vote: Ayes: Commissioners Tugwell, Farrow, Etheridge, Collins, Belli and Creef. Noes: Absent: None

Discussion went back to the School Boards request and Commissioner Tugwell would like to do this when council is present, and if the school board requests the Board can call a special or emergency meeting but wants council present. Commissioner Tugwell would like to see some actual figures on the cost of a road to Driftwood.

MOTION: Commissioner Tugwell seconded by Commissioner Farrow to table until August 4th, unless a request is made by School for a special or emergency meeting with council present was approved by the following vote: Ayes: Commissioners Tugwell, Farrow, Etheridge, Collins, Belli and Creef. Noes: None. Absent: None.

Town Manager Kermit Skinner commented that at a Board meeting of the Friends of the NC Maritime History Museum they agreed to give \$10,000 for the up-fit of the Creef Davis Boathouse and at the Roanoke Island Commission the Friends of Elizabeth II voted to give Town \$28,000 so we could complete the porch addition to the boathouse. The bad news is there is a slight increase in the price of the porch the price is now \$30,383 which is \$2,383 more than a few months ago. Mayor Wilson commented that we have more than that left in contingency so the Town Manager will need authorization to enter into a contract with the construction company to finish the alternate bid of \$30,383.16 acknowledging that \$28,000 of it is a grant from Friends of Elizabeth II.

MOTION: Commissioner Tugwell seconded by Commissioner Farrow to authorize the Town Manager to enter into contract with contractor for the porch addition was approved by the following vote: Ayes: Commissioners Tugwell, Farrow, Etheridge, Collins, Belli and Creef. Noes: None. Absent: None.

A motion by Commissioner Tugwell seconded by Commissioner Collins the meeting was adjourned at 7:30 p.m. was approved by the following vote: Ayes: Commissioner Collins, Farrow, Tugwell, Belli and Etheridge and Creef. Noes: None. Absent: None.

This 23rd day of July 2004

ATTEST:

Mayor John Wilson, IV

Town Clerk Becky Breiholz