

## MINUTES

The Town of Manteo Board of Commissioners held their Regular session in the Manteo Town Hall meeting room, June 18, 2003 at 7:00 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/Asst. Town Mgr. Shannon Twiddy  
Town Clerk-Becky Breiholz

Mayor Tugwell called the Regular meeting to order at 7: 10 pm-

**SUBJECT:** Adoption of agenda as amended to add Public Comments Commissioner Wilson asked to amend the agenda to allow the Grenville/Gilbert Street neighbors to speak about the text amendment passed at the BOC June 4 meeting to allow boat building in B2 area and possibly take action if the Board finds it necessary.

**MOTION:** Commissioner Wilson seconded by Commissioner Creef to approve the agenda as to action items and to allow the Grenville/Gilbert Street neighbors to speak about the text amendment passed at the BOC June 4 meeting to allow boat building in B2 area and possibly take action if the Board finds it necessary was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wescott, Wilson and Creef. Noes: None. Absent: None

### PUBLIC COMMENTS-

Steve Howell-121 Gilbert Street-commented that he does not feel they received adequate notification of the Public Hearing and would like to have had a chance to respond to the amendment the board passed for boat building. He has a letter from the neighbors asking for a moratorium on boat building and do not think it is appropriate business for their neighborhood and would like the Board to reconsider this.

Sybil Ross 102 Grenville Street commented they are asking for moratorium to give them opportunity to come together to discuss this.

Jed Dixon 118 Grenville-commented he has no problem with a boat shed, but he is concerned about the what this will do to the property values of the neighborhood.

Billy Maxwell-103 Gilbert Street, commented he bought B2 commercial property and almost everyone there is operating a business, and asked the Board how do you distinguish from one business to another and what is good for one person should be good for another. "Mr. Howell refers to it as our neighborhood and what I am doing to our neighborhood, well if it is our neighborhood and it is a neighborhood and everybody is going to get together as a group and consider it a neighborhood then should not be any businesses operated out of there period." Someone needs to distinguish what is B2 and what is commercial and what is not, "I don't want any problems with my neighbors, never wanted any problems with my neighbors, but I bought commercial property, obviously I'm going to be railroaded out of town over this whole situation." "These people are upset and why should they be upset at me when I bought commercial property to do what I bought the property for eight years ago, everybody has known that when I moved in over there I was working in Buddy Cannady's shop and everyone over there has had no misconceptions of what my intentions were, but now that I am getting ready to do it I'm a bad guy." "I really feel as though I'm being dealt unfairly." "Everyone is operating a business on that street, from upholstery to commercial fishing, to crabbing; to laundries with plenty of chemicals underneath of their house." "Lets either make it all residential as it is talked about or then it is B2 commercial, and if I'm going to put the buffers up and do what I'm supposed to do, I have to go from here back to the Planning Board back to you guys again, it is an enormous circle and amount of time for 4 months of work in the winter time when everyone has their windows rolled up, doors shut and no one is out in the yard to listen to it." "Help me to define his per se neighborhood and everybody that is on Grenville Street and Gilbert Street that's operation a business out of their home, what is the difference between one business and another."

Mayor Tugwell gave a brief overview of the facts-zoning classification for that area is B2, there are certain permitted uses in B2 and B2 is the least restricted zoning we have. Several meetings ago Commissioner Farrow brought this up for a text amendment to clarify language in B2 to add boat building. The present zoning administrator was not clear that Boat building as a permitted use. In order to change anything in zoning it takes a public hearing which was advertised to amend the ordinance to allow boat building a permitted use, the board voted to allow boat building as a conditional use which means it is not permitted use and that the Board can place reasonable conditions on the business. Mayor Tugwell commented that the Board could consider a moratorium but another change to the zoning ordinance would require another Public Hearing.

Steve Howell asked that the Board consider changing there 10 day notification and 10 days is just not enough, at least 30 days.

Commissioner Wilson commented that there has been no application submitted and every adjacent property owner does get notified when the application for a permit has been submitted.

Sybil Ross commented that it was pointed out to her by staff and others that there are residential zoning that do allow in home businesses and will allow for continued use of the crab sheddors and water related activities. "If you go down the street there is no businesses per se they are homes with businesses in them" "We are asking for an opportunity to reassess the neighborhood for where it is today not where it was twenty years ago. A moratorium does not require a public hearing the County does it all the time." "We simply ask for a two month moratorium and see if

there is a better way to go for our neighborhood.” “We are not talking about someone building a little boat, we are talking about a big boat, and this is a whole different situation.” “I talked with people at OSHA, the EPA and putting hulls in the water and doing sanding and things like that on the water is highly illegal, and the fact that nobody paid any attention to it because there were trees up there before Billy took them down on his lot and what was going on over two canals down the road, this is not someone building a shad boat in the back yard, if that all it was we wouldn't be here.” “The reality is that there is zoning currently on the books that would allow that neighborhood to continue to exist as it is today and it wouldn't bother anybody who is currently in any kind of business there, except for commercial, industrial, fiberglass boat building.”

Commissioner Collins-commented that since this has come up she rode by the property and also rode by Buddy Cannady's place and if it is going to be anything like his, “I wouldn't want it in my neighborhood either.”

Commissioner Wilson-thanked the Mayor for allowing open discussion on this issue and commented that there is hurt and anger on both sides, there is certainly points well made on both sides and concerns that are legitimate on both sides, and as a conditional use it will allow the Planning Board to place conditions on an operation to protect the health, safety and welfare of people that live around it. Commissioner Wilson commented that since so many are concerned and requested a moratorium for two months and since Billy Maxwell is not ready to build a boat, “I do not see anything wrong with waiting two months, notifying all the property owners, I believe it is called Bay view subdivision, so that everybody can have an opportunity to comment, and lets see if we can't find that middle ground.” Commissioner Wilson also commented what we are trying to do is facilitate what is in the best interest of the community. Mayor Tugwell commented to have a moratorium would affect the zoning ordinance and he thought we needed to have a Public Hearing. Town Manager Kermit Skinner commented that during the process of the moratorium for the big box development, the Institute of Government was contacted and he thinks the case cited was Vulcan Materials vs. Iredell County, where the County put a moratorium on mining operations and Vulcan sued and prevailed because it was an amendment to the zoning ordinance and did not go through N.C. statutory requirements for Public Hearings for zoning text amendment. Mr. Skinner stated that at that time Rich Drucker and David Owens of the Institute of Government opinion was that any moratorium that had the affect of limiting something that already existed in the zoning ordinance required the state statutory requirement of a Public Hearing. Commissioner Wilson asked Mr. Maxwell if he was going to put in his application within the next thirty days, can we hold it thirty days until we work this out. Billy Maxwell responded that “he would like to make the request that he will leave it alone and in reference to where Buddy's at and what we are doing there, how about I will leave it alone, find another place down in Wanchese, how about if we leave Buddy alone, he has had enough going on this year, is that agreeable with my neighbors?” Commissioner Wilson commented that his thought was if Billy was not going to put an application in for that time period then we can just notify all the property owners, try to work together to find a resolution. Mr. Maxwell commented he would prefer not to waste anymore of the Board's time and will let it go. Commissioner Wilson asked Mr. Maxwell if he would hold off for a month and Mr. Maxwell responded “sure.” Commissioner Wilson stated that “I believe my motion is no longer needed

and withdraw it.” Commissioner Collins withdrew her second. Commissioner Wilson asked that staff notify all property owners in the Bay view subdivision to find a way to live together.

**MOTION:** Commissioner Wilson seconded by Commissioner Collins to have a moratorium for 60 days, notify all property owners in the subdivision and take up at workshop next month to find some common ground Commissioner Wilson withdrew his motion and Commissioner Collins withdrew her second.

**SUBJECT:** Public Hearing to receive public comment on Proposed Budget for FY 2003-04

**MOTION:** Commissioner Wilson seconded by Commissioner Collins to enter into a Public Hearing was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Wescott, Wilson and Creef. Noes: None. Absent: None

NO COMMENTS

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

**SUBJECT:** Report from Cemetery Board. Betty Mann with the Cemetery Board commented that Commissioner Farrow, Roy Riddick and herself met on June 6<sup>th</sup> and gave the BOC a report. The brick fence is installed and looks very nice and have bricks left over to put in columns. Ms. Mann commented that the Cemetery Board would like the all the trees cut down on the property of the new cemetery and all the stumps be removed and get it fixed ready to plot the graves. When the BOC discussed placing a water tower on that property, they did a plotting and they just have a question on one of the sides about the size of the lot because it is at an angle and she thought Mr. Skinner was to check on that. Then they want to have the plots done in lots of four, eight and single lots and then hire Lawrence at the funeral home to put all the markers and plan them out so they could sell them and when he got through with that we would like to be able to sell lots in the new cemetery. With the new cemetery we made a motion to have nothing but the ground markers that have the little vase in the middle, the upkeep is so much easier and that no trees will be planted out there. They would also like to have it when they sell a cemetery lot that we collect the perpetual fee amount in the selling of the lots. The Cemetery Board also would like to have all the guidelines when you buy the cemetery lot such as the restrictions; the fee has been paid for lawn care and have an internment slip and sign it before the grave is dug. They would also like Essex Street put back and rename it Cemetery Lane it has always been a cemetery lane. Ms. Mann commented that there are enough bricks left over to be able to put columns up at the new cemetery and possibly fence it in later. The Board discussed making sure enough room was left for cars to pull off on the side of the road for funerals. Commissioner Etheridge commented that you can't get much of a epitaph on a flat stone. Commissioner Wilson commented he is very supportive of the cemetery and we would still have to collect the internment fee for the old cemetery. Commissioner Wilson commented he thought we still had the right to require the funeral home to collect it. Ms. Twiddy commented that in her research she could find no such agreement. Commissioner Wilson would like the Town Attorney to find out if we have the rights to legally require the funeral home collect the internment fee. Staff to

get cost to cut the trees, remove stumps, cost to plat the lots and cost to mark the lots and a recommendation on how much we will sell the lots for. Commissioner Wilson asked that the Cemetery Board reconsider having flat markers because over time they tend to be covered up with grass. Ms. Mann commented that these are just suggestions for the Board of Commissioners to review. Commissioner Collins commented that there should be a size limit on the tombstones. Commissioner Wescott commented that he thought there is a ditch and concrete pipe that runs along that property and they need to be certain it is not there before they go digging graves. Commissioner Wilson commented that we can take a backhoe right across the cemetery and find it and add this to the price of the stump removal. Commissioner Wilson requested that this be put on July agenda with dollar figures for action. Ms. Twiddy asked if the Board could place on the July agenda as an action item the changing of the street name from Exeter to Cemetery Lane since it will affect the Powell Bill map.

**\*SUBJECT:** Discussion and consideration of proposed changes to Section 50-140 User Fees. A request from Roanoke Island Business Association regarding Section 50-140 of the Town of Manteo Utility ordinances was discussed at the Boards June 4<sup>th</sup> meeting. Section 50-140 requires that a fee of \$8.00 per gallon for the design flow demand, measured in gallons per day of the expanded use be charged. Commissioner Creef commented that he averaged it out and it looks like 15 gallons per chair which looks fair. Pat Morrissey representing RIBA commented that 15 gallons would be acceptable to the members. Mayor Tugwell commented the Town adopted DENR guidelines and has a problem with restaurants and if we are going to revisit this it needs to be fair for all and look at the entire schedule. Commissioner Farrow has a question with the 15 gallons and two of the three in B1 are over 15 and before I can go along with this I would like it to be 20 g.p.d. Commissioner Wilson would like to add to the motion that a study be done by Black and Veach to do a fee study on water and wastewater rates. Town Manager Kermit Skinner asked Commissioner Creef if he wanted that 15 gallon limit to apply to inside and outside the corporate limits on annexed properties, Commissioner Creef if sewer service is provided. Commissioner Wilson-outside is doubled anyway so that would continue.

**MOTION:** Commissioner Creef seconded by Commissioner Etheridge to change Section 50-140 user fees involving the impact for restaurants as gauged by per chair to put the gallons per chair by our actual study at 15 gallons at \$8.00 a gallon, Mayor Tugwell to clarify your motion you are saying you want to continue to accept the guidelines in DENR with all the uses, however you would like to exclude the restaurants from that use and charge the rate of 15 gallons per seat. Commissioner Creef as our own yardstick of the average of what is being used, Mayor Tugwell asked “you are asking for a motion to exempt restaurants from our DENR guidelines in Section 140 and replace for restaurant 15 gallons per seat,” Commissioner Wilson commented “I don’t think that is a fair characterization, he is not exempting anything he is asking that the 15 gallons per day replace the current number because we have a study that indicates that 15 gallons is more than the average use in the Town. **MOTION to amend the motion** by Commissioner Farrow seconded by Commissioner Wescott to amend the motion to amend the language to 20 gallons per seat was **not** approved by the following vote: Ayes: Commissioner Wescott, Farrow Noes: Commissioner Creef, Collins, Etheridge, Wilson. Absent: None. Commissioner Wilson offered an **alternative motion** that we approve the 15 gallons, and get an estimate from Black and Veach in Charlotte who have done a comprehensive review of a number water and wastewater rates, fees and charges for other communities in N.C. so that we can actually evaluate the entire

chart and come up with a fair number for all of them, in addition to making this change tonight we should have a professional study done of all our fees, water and wastewater rates fees and charges that are appropriate for the Town across the board which was seconded by Commissioner Collins. Commissioner Creef agreed to change his motion to include the language from Commissioner Wilson to get a price and presentation done by Black and Veach, the **MOTION** reads: Commissioner Creef seconded by Commissioner Etheridge to change Section 50-140 user fees involving the impact for restaurants as gauged by per chair to put the gallons per chair to 15 gallons at \$8.00 per gallon and have a study done by Black and Veach on Town fees was approved by the following vote: Ayes: Commissioner Wilson, Creef, Collins, Etheridge, and Farrow Noes: Commissioner Wescott. Absent: None.

Break at 8:45

**SUBJECT:** Discussion of limiting the number of commercial dumpsters on each parcel of land and to establish a maximum number of times that each dumpster is dumped and establish a fee every time a dumpster is dumped over the limit. Commissioner Farrow commented that the residents are subsidizing the commercial dumpster and find a scale to make it fairer to the public. Commissioner Wescott businesses pay more taxes. Commissioner Wilson commented someone was dumping stuff in his dumpsters and he did not know who he was, so how do you make it fair. Commissioner Farrow commented that businesses make money from the customer to pay their taxes and a property owner does not. Commissioner Wilson suggested we ask Black and Veach if they have any experience with impact fees for trash dumping. Commissioner Wescott commented that people from out of town using dumpsters and dumpsters without lids the cardboard inside gets wet and makes the weight of dumping go up. The Board discussed raising fees vs. raising taxes. Staff is to find out if Black and Veach have experience in impact fees for trash dumping and have it included in the study. Share revenues were discussed and the question was asked what our share would be for liquor by the drink. Mayor Tugwell commented since we have mixed beverage sales at Pirates Cove forced upon us by the General Assembly why we do not get our fair share of the revenue. Commissioner Wilson suggested that we have our Town Attorney write a letter to the Attorney General to find out why. Staff had previously written to the ABC Board and the Attorney General and no one has ever replied. Commissioner Wilson commented having the Town Attorney send a demand letter to our County ABC Board. Mayor Tugwell came back to the original discussion of impact fees and commented since we are having a study done of the water and wastewater fees that we ask that they study the impact fees for police and garbage trucks.

**SUBJECT:** Discussion and consideration of Proposed Budget for FY 2003-04 The Board discussed dues and subscriptions and decided to leave the amount budgeted and to make it a Policy that when the Town receives a bill for dues and subscriptions fees that they come to the BOC for approval before they are paid and for travel and training, to supply the Board with a list every two weeks of who is going where if leaving the office for a whole day.

**MOTION:** Commissioner Collins seconded by Commissioner Wilson to approve budget ordinance for FY 2003-04 with two amendments to Section 6 Policy Statements that before dues and subscriptions are paid get approval from the BOC; and for travel and training the Board be supplied with a list every two weeks of who is going where if employee is going to be gone for a

whole day was approved by the following vote: Ayes: Commissioners Etheridge, Wilson, Creef, Farrow, Collins, Wescott. Noes: None. Absent: None

#### INFORMAL BOARD DISCUSSION

Commissioner Farrow Lot on Sir Walter R Street looks good and shaped up and asked if James and his crew have done anything to the playground at Cartwright Park to bring it up to the same standards as the downtown playground-Town Manager Kermit Skinner would find out.

Commissioner Wilson-commented that yesterday in Raleigh before joint session and senate and house Darryl Collins made a presentation and was given the order of the Long Leaf Pine and suggested that the Mayor on behalf of the Board send a letter of congratulations to Darryl. Also, the Board of Education tomorrow at 3 p.m. is going to have a meeting to discuss the Manteo Elementary School and encourages the Board to attend to support for Schools in our Town to be equal to the Beach schools and suggested that a member of staff, Kermit, Fred or Shannon attend.

Mayor Tugwell-would like staff to investigate the purchase of property next door and find out if the owner is interested in selling and the price, then get an appraisal and if we need to go another route get an appraisal.

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

This the 18<sup>th</sup> day of June 2003

ATTEST:

\_\_\_\_\_  
Mayor Lee Tugwell

\_\_\_\_\_  
Town Clerk Becky Breiholz