

MINUTES

The Town of Manteo Board of Commissioners held their June 3, 2009 Recessed Session June 17, 2009 at 4:00 pm at the Manteo Town Hall meeting room.

The following members were present:

- Mayor Jamie Daniels
- Commissioner H.A. Creef, Jr.
- Commissioner Darrell Collins
- Commissioner Christine Walker
- Commissioner Hannon Fry
- Commissioner David Farrow
- Commissioner Richie Burke

The following member(s) were absent:

Also present at the meeting were: Town Manager Kermit Skinner; Finance Officer Shannon Twiddy; Town Clerk-Becky Breiholz; Department Heads

Mayor Daniels called the recessed meeting to order at 4:05 pm would like to amend the agenda adding a consent agenda for items that are state mandated and need to be approved by July 1.

Employee Recognition-Harvey Rawls with the Public Works Department was given a plaque in recognition of his 10 years serve to the Town of Manteo. Harvey was unable to be present for his award and it was accepted by Rodney Murray with the Public Works Department.

MOTION: Commissioner Farrow seconded by Commissioner Walker to amend the agenda was approved by the following vote: Ayes: Commissioners Collins, Fry, Burke, Farrow, Walker, and Creef Noes: None. Absent: none

Department Head Reports- were given to the Board at their regular meeting for review and will be on file for one year. Steve Jozik went over his report and asked the Board to approve a resolution to oppose the state bill 1252 and Senate 1004 which will make it harder for municipalities to provide broadband to its citizens. Police Chief Haskett went over his report; our speeding citations have increased due to complaints by citizens. Carl Jordan dock master went over his report and commented that they have been busy. Erin Trebisacci went over her report; the bathroom for Magnolia Market is almost complete under budget, nothing to report on the Fisherman's Wharf. Josh O'Brien representing water and sewer for Nathan Pharr and currently we have a situation at the Bowsertown lift station where a pump fell off the cable as it was being lifted out for repairs and hit the wet well and our standby pumps should be getting hooked up. Public Works-Rodney Murray went over James McCleave report.

MOTION: Commissioner Collins seconded by Commissioner Fry to approve the consent agenda was approved by the following vote: Ayes: Commissioners Collins, Fry, Burke, Farrow, Walker, and Creef Noes: None. Absent: none

SUBJECT: Budget amendment #18 to record revenues and expenditures for NCDOT Rain garden grant.

MOTION: Commissioner Collins seconded by Commissioner Fry to _____ was approved by the following vote: Ayes: Commissioners Collins, Fry, Burke, Farrow, Walker, and Creef Noes: None. Absent: none

SUBJECT: Adoption of Resolution for Hazard Mitigation Plan with Dare County-this was given to the BOC at their regular June 3rd meeting and the Town is required to adopt a Hazard Mitigation Plan every 5 years.

MOTION: Commissioner Collins seconded by Commissioner Fry to _____ was approved by the following vote: Ayes: Commissioners Collins, Fry, Burke, Farrow, Walker, and Creef Noes: None. Absent: none

SUBJECT: Consideration of Town of Manteo water shortage reduction plan-This is also state mandated and staff did not know about this until two weeks ago. The water and sewer department used the same language from others that purchase water from Dare County and clearly would be held to the same standards that Dare County would implement should an emergency of this nature arise.

MOTION: Commissioner Collins seconded by Commissioner Fry to _____ was approved by the following vote: Ayes: Commissioners Collins, Fry, Burke, Farrow, Walker, and Creef Noes: None. Absent: none

SUBJECT: Approval of the audit contract

MOTION: Commissioner Collins seconded by Commissioner Fry to _____ was approved by the following vote: Ayes: Commissioners Collins, Fry, Burke, Farrow, Walker, and Creef Noes: None. Absent: none

Presentation from Malcolm Fearing-The Town is in a lawsuit with Mr. Fearing regarding the ownership of Old Tom Street. Mr. Fearing thanked the Board for allowing him to speak and knows the Board will not address any of his questions. He would like to show the Board information he has found and possibly the Board can share this with our attorney and maybe come to a resolution without going to court. Mr. Fearing passed around some photographs; one shows the old gas station with the alleyway; the property was purchased in 1930 by Belva Daniels and her husband. He showed where the gas pumps used to be and informed the Board he could show them where he thinks the pumps were on the property today. Mr. Fearing commented that he would give the Board any copies of anything he has. Mr. Fearing commented that there was an agreement made between the property owners and it is not a deed but an agreement. "Belva took 15 feet of her property, her daddy put in 3 feet of property to service the property and it clearly says it is an agreement, not a deed." "If someone will show me a deed I will apologize to you all." Mr. Fearing commented that the Town Attorney wrote 4 opinions and every one of them say in a way that "we own the property," and what your attorney is saying "is you have a prescriptive right." Mr. Fearing commented you are trying to take that property, by a prescriptive easement which means the Town has used it against the owners will. Mr. Fearing received a stop work order when they were doing landscaping in the alleyway which said "work

in right of way questionable.” Mr. Fearing commented he got a building permit but received a letter from the Planner that said “I was doing this work without a permit.” Mr. Fearing stated he asked to be provided with the permit and was told we did not have a standard permit application to work in a right of way. Mr. Fearing commented that he had the State of N.C. forest people come and age the trees and he has proof from the Park Service that the Budleigh Street tree and the Sir Walter tree are 28 years old and no way could you have walked through those trees. Mr. Fearing read from the minutes of December 1978 and March 1978; and Mr. Fearing also read minutes from June 1977 show where the street of Old Tom was closed and been closed since 1977. As of May 19, over \$32,000 of taxpayers funds have been spent on this. If you have a deed to it “I respect the battle but the Town does not have a deed to the property.” Mr. Fearing informed the Board of the Powell bill funding laws and those funds may have been spent illegally which could create problems for the Town. Mr. Fearing commented that instead of lawyers he would like to explore the opportunity to talk. This can cost the taxpayers another \$150,000-\$200,000 and for what and is it necessary. Mr. Fearing asked the Board if they wanted to resolve this by talking with him and if the Town wants to pursue this then he suggests they go to court immediately to save each other some money. Mr. Fearing also would like for Commissioner Creef to recuse himself since they are in a lawsuit on another matter.

SUBJECT: PUBLIC HEARING FY Budget 2009-2010

MOTION: Commissioner Walker seconded by Commissioner Creef to enter into a public hearing was approved by the following vote: Ayes: Commissioners Collins, Fry, Burke, Farrow, Walker, and Creef Noes: None. Absent: none

No comments

MOTION: Commissioner Walker seconded by Commissioner Creef to exit the public hearing was approved by the following vote: Ayes: Commissioners Collins, Fry, Burke, Farrow, Walker, and Creef Noes: None. Absent: none

SUBJECT: Consideration and adopting of the Budget for FY 2009-2010

MOTION: Commissioner Collins seconded by Commissioner Burke to approve the FY 2009-10 budget was approved by the following vote: Ayes: Commissioners Collins, Fry, Burke, Farrow, Walker, and Creef Noes: None. Absent: none

SUBJECT: Reading and setting a public hearing for hauler License Ordinance. As part of the solid waste agreement that was approved we are required to adopt an ordinance requiring haulers in our respective entities to deliver their waste to Republic through the Dare County transfer station. The agreement requires that this ordinance be adopted by July 1 which is not possible as it must have two readings before each Board. Republic has agreed to extend the date until September 1. In addition once all have adopted the ordinance our tipping fee will be reduced.

MOTION: Commissioner Fry seconded by Commissioner Walker to schedule a public hearing for July 1, 2009 was approved by the following vote: Ayes: Commissioners Collins, Fry, Burke, Farrow, Walker, and Creef Noes: None. Absent: none

COMMISSIONERS/STAFF CONCERNS

Commissioner Walker asked about the skateboard park and some graffiti and Mr. Skinner commented that Public Works James McCleave has painted over the graffiti. Mr. Skinner commented there was actually some very talented art work at the skate park and we are working with the artists and hopefully get some of the better art work restored. The graffiti has been reported as a crime and if we can get evidence we will charge them with a crime.

Commissioner Fry commented about affordable housing in Dare County and a project the County wanted to do 32 units of affordable housing apartments in Manteo. Mr. Skinner has already contacted Mr. Poe with the Community Development Corp and asked if they would be interested in the Town supplying water and sewer to that project and Mr. Poe will have to get with his Board of Directors. In the preliminary sketch review the density did not meet what the Town requires; it was discussed that it would have to meet our density and ordinance requirements. Mr. Skinner commented that will be part of the discussion. Mr. Skinner is to contact Mr. Poe tomorrow to follow up on this. The Board would like Mr. Poe to come to their July workshop.

Mayor Daniels commented on several things Mr. Fearing brought up about permits working in the right of way and there is no permit to tear up a street. Mr. Skinner commented there is no permit to grant someone a permanent encumbrance of a right of way. Mayor Daniels also commented that we made Mr. Fearing an offer to allow him to keep the landscaping but to keep the area open and he did not accept it. Commissioner Creef commented that the agreement said a gift they gave to the Town and the Town has spent money on maintenance.

MOTION: Commissioner Farrow seconded by Commissioner Creef to enter into a closed session NCGS 143.318.11(a) 3 lawsuit Town of Manteo vs. Fearing by the following vote: Ayes: Commissioners Collins, Fry, Burke, Farrow, Walker, and Creef Noes: None. Absent: none

MOTION: Commissioner Creef seconded by Commissioner Walker to exit the closed session was approved by the following vote: Ayes: Commissioners Collins, Fry, Burke, Farrow, Walker, and Creef Noes: None. Absent: none

MOTION: Commissioner Creef seconded by Commissioner Fry to adjourn at 5:30 pm was approved by the following vote: Ayes: Commissioners Collins, Fry, Burke, Farrow, Walker, and Creef Noes: None. Absent: none.

This the 17th day of June 2009

ATTEST:

Mayor Jamie Daniels

Town Clerk Becky Breiholz