

## MINUTES

The Town of Manteo Board of Commissioners held their Regular session in the Manteo Town Hall meeting room, April 5, 2006 at 7:30 p.m.

The following members were present: Mayor-John Wilson, IV  
Commissioner Lee Tugwell  
Commissioner David Farrow  
Commissioner Edward Etheridge  
Commissioner H.A. Creef, Jr.  
Commissioner Hannon Fry  
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 Burke  
Planning Board Chair Bill Parker

Mayor Wilson called the Regular meeting to order at 7:30 p.m. followed by the Pledge of Allegiance

**SUBJECT:** Adoption of agenda as presented or amended- Mayor Wilson would like to add a closed session NC 143.318.11 (a) 3 consult with attorney.

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

**SUBJECT:** Consent Agenda-Commissioner Creef would like to remove item 4C EAP grant for discussion

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

**MOTION:** Commissioner Etheridge seconded by Commissioner Farrow to approve the minutes of March 1, 2006 was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Tugwell, Collins, Fry and Creef. Noes: None Absent: None

**MOTION:** Commissioner Etheridge seconded by Commissioner Farrow to approve the minutes of March 8, 2006 was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Tugwell, Collins, Fry and Creef. Noes: None. Absent: None

**MOTION:** Commissioner Etheridge seconded by Commissioner Farrow to approve of Government Access Channel budget was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Tugwell, Collins, Fry and Creef. Noes: None. Absent: None

**MOTION:** Commissioner Etheridge seconded by Commissioner Farrow to approve dues and subscription \$50.00 for the Eastern Carolina Safety was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Tugwell, Collins, Fry and Creef. Noes: None. Absent: None

**MOTION:** Commissioner Etheridge seconded by Commissioner Farrow to approve budget transfer #1 was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Tugwell, Collins, Fry and Creef. Noes: None. Absent: None

**MOTION:** Commissioner Etheridge seconded by Commissioner Farrow to approve Clerk Week April 30-May 6, 2006 Proclamation was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Tugwell, Collins, Fry and Creef. Noes: None. Absent: None

**MOTION:** Commissioner Etheridge seconded by Commissioner Farrow to approve correction of omission of the establishment of the Board of Adjustment to the Codified Ordinance was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Tugwell, Collins, Fry and Creef. Noes: None. Absent: None

Commissioner Creef had questions about the EAP grant and would like it placed on the workshop agenda for next week for discussion.

**PUBLIC COMMENTS** –Manager Kermit Skinner asked anyone wishing to speak to the Board to please come forward at this time.

Jerry Riscavage Pirates Way-Wanted the Board to recognize the fact that the Town was going to lose some of its sparkle with the closing of the Christmas shop.

**SUBJECT:** Presentation from Special Events-Commissioner Farrow-Edward Green and Amanda Montabon who are on the Special Events Committee and they have an idea for an open air market and would like it to be a Town sponsored event. They plan to have vendors that will sell baked goods, fruits, vegetables and seafood. It would also be a good place for non profit groups to raise money for their groups. She handed out a presentation to the Board and they are asking for permission to use Creef Davis Park running June 10<sup>th</sup> through the end of September every Saturday. Mr. Green asked about the charge for taxes and any special permits required by the Town and Mr. Skinner commented there is existing language in the codified ordinance about itinerant merchants and as far as the tax charge he commented that it would have to be researched, he thinks the vendor is responsible for their own tax reporting. He commented that historically the Town charges a privilege license tax but maybe that could be something worked out. The space they would need at the park was discussed because the Maritime Museum has their junior sailing program there and weddings are held there and Mr. Green commented they would not need a lot of space. Mr. Skinner commented that they would need to coordinate that with Barry Wicker with the sailing program. Mr. Green also asked if the Town's insurance would cover this event. Finance Officer. Ms. Twiddy told them she would have to research this with our insurance carrier and she thought they would have to pay per event. Commissioner Creef was asked if this was an appropriate use for the park since his family donated the park to the Town and Commissioner Creef stated that it states in the agreement that it can not be used for a business for profit and he does not think this is the case and thinks it is an appropriate use. Commissioner Tugwell asked if the downtown merchants have been approached about this and wants to make sure there is no conflict since they are here year round and the idea of selling goods might be in conflict with them and he thinks there is a profit motive. They will contact RIBA and get their feedback and then come back to the Board either at the workshop next week or next month.

**SUBJECT:** Presentation by Michelle Droszcz, NC Federation on Phragmites in coastal wetlands. She works for the North Carolina Reserve and NCNERR and they protect coastal habitats for the purpose of long term coastal research and education. Ms. Droszcz gave a power point presentation to the Board. Phragmites is an exotic invasive plant and grows up to 12 feet tall and they grow fast and spread easily to the wetlands. Wetlands provide food and shelter to animals, fish and shellfish and filter pollution from storm water and capture sediment, stores flood waters and stabilizes shore land. Phragmites growth make it difficult for habitat, lose diversity, changes landscape and it is difficult to restore a native marsh. The Town has a project going to get rid of the Phragmites on the waterfront and Mayor Wilson asked if we should spray. Ms. Droszcz told the Board about different types of spray that could be used and the best time to spray is around September. She will talk with our Public Works Director James McCleave about what the Town is using to kill the grass.

(TOWN MANAGER AGENDA)

**SUBJECT:** Report on the Fire Wise Program by Dare County Fire Marshal Doug Remally and Kelly VanDruten with the US Fish and Wildlife Service. Ms. VanDruten gave a power point presentation on the National Fire Wise Communities Program. Fire Wise Communities vision is with adequate planning and cooperation among varying interests, wildfires can occur without disastrous loss of life, property and resources. The key is that residents can take action to increase their homes of chances of surviving a wildfire. Dare County is currently a designated risk. Dare County has established a Dare County Fire wise Council and have set goals and this presentation tonight was to let the Board know that they were there.

**SUBJECT:** Planner-Site Plan review Atlantic Flooring-Planner Erin Burke commented the addition proposed for the structure is 810 square feet of storage space. The proposed addition meets the setback requirements, and the removal of some of the paved surfaces brings the lot coverage down to compliance. The site currently has two curb cuts onto US HWY 64 and one access onto Viccar's Lane. The Planning and Zoning Board recommends approval with the following conditions:

1. The curb cut on US HWY 64 shall be closed.
2. The buffering along the highway shall be improved to meet the Zoning Ordinance.
3. The removal of all concrete shall be completed before a Certificate of Occupancy will be issued.
4. Calculations for Sewer Usage are provided to the Planner prior to review by the Board of Commissioners and this has been done and it will be 0 additional usage.

Commissioner Tugwell had questions regarding the reason it was before this Board typically the Planning Board reviews commercial sites plan. Ms. Burke commented that the process is it goes to the Planning Board for recommendation to the BOC and it is a conditional use with the conditions stated above. He had questions about it being a non conforming property and Ms. Burke commented that as long as they are not increasing their non conformity they can do this. The opaque buffer was discussed and Mayor Wilson commented that when a commercial property abuts a residential property that the commercial property has to have an opaque buffer. Planner Burke is to determine if one is needed and if so it needs to be added as a condition, and the motion needs to be amended to include this condition

**MOTION:** Commissioner Creef seconded by Commissioner Etheridge to approve the site plan for Atlantic Flooring with the conditions above **MOTION AMENDED** by Commissioner Creef and seconded by Commissioner Etheridge to include an opaque buffer was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Tugwell, Fry, Collins and Creef. Noes: None. Absent: None.

**SUBJECT:** Planner Site Plan review for Pea Island Cook House-The Board of Commissioners sent this plan to be reviewed by the Planning and Zoning Board. The site plan shows the proposed location of the Pea Island Cook House and of a replica of the Pea Island Life Saving Stations. This site plan will be completed in two phases, first the Cook House will be restored and second a replica of the Lifesaving Station will be reconstruction. The exterior of the Cook House will be restored to Department of Interior Standards and will be used as an interpretive center for African American history on Roanoke Island. The Lifesaving Station will be an exterior reconstruction. The attached photo best shows the proposed look of both facilities. Staff has also attached the Memorandum of Agreement between the Town and East Carolina Pathway to Freedom Coalition The Planning and Zoning Board recommends approval

**MOTION:** Commissioner Etheridge seconded by Commissioner Collins to approve the site plan for Pea Island Cook House was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Tugwell, Collins, Fry and Creef. Noes: none. Absent: None.

**SUBJECT:** The Planning and Zoning Board reviewed the language in Article XXI of the zoning ordinance-nonconforming properties at their February meeting and discussed the language at their March meeting. The changes in the language make it very clear that if loss or damage is a result of a natural disaster the structure may be built back regardless of the nonconformities. The Town ordinances however, do not supersede the state and federal regulations regarding nonconformities. The existing language on pages 171 through 177 of the Zoning Ordinance, in addition to the language regarding Article XXI there is another section that needs to be amended Section 1.11 was not specifically discussed by the board but it was included in the language for their review. This section references the non conforming situations Article. Currently this section is unclear in its intent and the new language is much easier to understand. The existing language can be found on page 18 of the zoning ordinance. The Planning Board recommends approval to the BOC to set a public hearing for the discussion and adoption of the amendments to Article XXI. Staff recommends approval to the BOC to set a public hearing for the discussion and adoption of the amendments to section 1.11: Use Occupancy and construction. Commissioner Tugwell asked about what is a natural disaster and if it was one declared by the President. Discussion took place on what was a natural disaster and it states destruction caused by anything other than your own making. Staff was asked to send a copy of the proposed new text amendment to all water customers and Mayor Wilson will draft a cover letter.

**MOTION:** Commissioner Etheridge seconded by Commissioner Tugwell to approve the scheduling of a Public Hearing for May 10th, 2006 at 6:00 pm after the workshop for Article XXI was approved by the following vote: Ayes: Commissioners Farrow, Tugwell, Collins, Etheridge, Fry and Creef. Noes: none. Absent: None.

**SUBJECT:** Consideration of request for reimbursement from Dare County Board of Education. At the May 5, 2005 meeting of the Board of Commissioners the secondary access to the new Manteo Middle School was approved. In an effort to offset the cost of this roadway, the Board agreed to refund the site review fee in the amount of \$34,500.00 Staff has received a letter on March 27, 2006 requesting these funds. Staff recommends approval, all conditions placed on this project have been met.

**MOTION:** Commissioner Tugwell seconded by Commissioner Etheridge to refund the DC Board of Education \$34,500.00 was approved by the following vote: Ayes: Commissioners Farrow, Tugwell, Etheridge, Collins, Fry and Creef. Noes: None. Absent: None.

**SUBJECT:** Request from Roanoke Island Business Association (RIBA) for First Friday funding. Mike Lay is here representing RIBA. They are asking for \$4,000 funding this year and stated because they would like to try to attract and have flexibility to do what they want to do. Commissioner Tugwell asked if this would be done the same as last year with a reimbursement request and was told yes and that the funds would be restricted to entertainment.

**MOTION:** Commissioner Etheridge seconded by Commissioner Collins to approve First Friday funding request with the conditions that funds be distributed by reimbursement request, for entertainment only, and not to exceed \$4,000 was approved by the following vote: Ayes: Commissioners Farrow, Collins, Etheridge, Tugwell, Fry and Creef. Noes: one. Absent: None.

**SUBJECT:** Discussion of the American Society of Composers, Authors and Publishers Copyright law. Many local governments put on special events and in the course of these events they usually play or use music from other people's work which is protected by copyright law. If you use someone's musical property without permission the law provides that a court can assess damages. The ASCAP has teamed up with the International Municipal Lawyers Association to develop a license agreement for local governments. This simple license will provide coverage for almost all non dramatic performances presented on both government owned and at functions and events hosted by the government. Based on the Town's population an agreement would cost the Town \$280.00 a year. Technically anytime the Town has a function and copyright music is played we are legally bound to pay those royalties. Commissioner Etheridge commented that he did not agree with this and that the Town should not participate.

**MOTION:** Commissioner Etheridge seconded by Commissioner Tugwell to not make payment of \$280.00 was approved by the following vote: Ayes: Commissioners Farrow, Collins, Etheridge, Tugwell, Fry and Creef. Noes: none. Absent: None

**SUBJECT:** Planner site plan review Pirates Cove Pavilion-The applicant submitted similar plans that did not proceed to the approval stage. The pavilion is designed so there are no restroom facilities. There are some enclosed spaces that will have to abide by FEMA specifications. The pavilion will have parking provided and is designed to allow parking underneath when the tournament is not in progress. Since the review by the Planning Board staff has met with the developer and he has expressed the possible need to have a finished floor. There are some engineering questions as to the best way to anchor the pilings for the pavilion. The finished floor would take almost as much concrete as it would to concrete around each piling. It was however presented to the Planning Board as an unfinished floor and their recommendation reflects that. The Planning Board recommends approval with the following condition: That the pavilion will remain an open structure with an unfinished floor and any changes to the structure will require the applicant to resubmit the plans. The Board discussed allowing them to have a concrete floor and they will let a concrete floor be placed at the discretion of the developer. The Board discussed amending the master plan and it was thought that the Town's ordinance was to notify the adjacent property owners of any amendments to the master plan. Ms. Burke commented that the adjacent property owner is the developer.

**MOTION:** Commissioner Tugwell seconded by Commissioner Farrow to amend the master plan for Pirates Cove allowing an open air pavilion was approved by the following vote: Ayes: Commissioners Farrow, Collins, Tugwell, Fry, Etheridge and Creef. Noes: None. Absent: None

**MOTION:** Commissioner Tugwell seconded by Commissioner Etheridge to approve the Pirates Cove site plan as an open air pavilion with the conditions it remain an open air structure and

with or without a concrete floor at the discretion of the developer and any subsequent changes or use of the structure it needs to come back to the Planning Board was approved by the following vote: Ayes: Commissioners Farrow, Collins, Tugwell, Etheridge, Tugwell, Fry and Creef. Noes: none. Absent: None.

A 5 minute recess was taken at 9:15 p m

(OLD BUSINESS)

**SUBJECT:** Report Cemetery Project-Mayor Wilson gave the Board an update of what the new cemetery board is doing and making a lot of headway. He gave the Board some information about wall niches.

**SUBJECT:** Report Lucy's Corner/4 Corners and report on Cook House Pea Island –waiting for a complete set of plans to begin restoration. Steve Smith a sculpture has expressed an interest of doing a life size sculpture of Richard Etheridge.

**SUBJECT:** Report Regional transportation Plan-the plan should be here sometime this month. Way Finding-waiting on estimates from NDOT

**SUBJECT:** Report Engineer-a report was handed out the Board FYI.

**SUBJECT:** Report Wireless internet- no headway made as yet VEPCO/NC Power they are still denying Charter to place their booster equipment on their poles. Mayor Wilson gave the Board a proposal for the Town to install 6 x 6 posts for these Wi-Fi devices and these poles would go adjacent to VEPCO/NC poles with cable wires running down the existing pole and up the new pole with the locations shown on engineering plans provided by Charter Communication. Mayor Wilson would like the Town Attorney to research our franchise agreement and find out from the Utilities Commission if we have the right to place 41 poles in Town and Pirates Cove. Commissioner Farrow would like to notify the Power Company regarding our intentions. Mayor Wilson commented that he thought in the 1957 Franchise contract there is a paragraph that talked about the utility moving the poles if they are in the way of a Town project at the utilities expense and we might be able to use that again.

**MOTION:** Commissioner Tugwell seconded by Commissioner Farrow to approve the project of the Town placing their own poles for Charter and authorize the Town Manager to proceed with the project after the Town Attorney finds out if we can do the project was approved by the following vote: Ayes: Commissioners Farrow, Collins, Tugwell, Fry, Etheridge and Creef. Noes: None. Absent: None

**SUBJECT:** Report on grants: Clean Water Trust Fund Stormwater Grant-Boat Ramp Enhancement grant-There was some mis-communication on this grant, it has been re-applied for but it is now on track.

## **COMMISSIONER'S AGENDA**

Commissioner Creef commented that he asked about Item #4C EAP grant that was removed from the consent agenda and that after the first year there would be a yearly charge and he would still like to have this on the workshop agenda.

Commissioner Collins-Ordinance violation that is occurring on Haven Creek Lane and the existing condition where something is obstructing a right of way. Ms. Burke commented that the Building Inspector sent out certified letters of violation. Mayor Wilson asked since it is on the right away do we not have police powers and Ms. Burke is to check that with the police department about obstruction of a right away.

Commissioner Tugwell-commented on a letter the Town received from NCDOT about the school traffic congestion at the new Manteo Middle School and glad that we had made arrangements for them to have a back entrance. Mayor Wilson gave an overview of the history of this project and we could not come to an agreement with the school board about the traffic at Mother Vineyard intersection, there is a second entrance but it is not paved. They evidently realize they have a problem and gone to NCDOT and NCDOT recommended they utilize the second entrance. The Town had agreed to let the school determine the flow of traffic the first year and we would evaluate it at the end of the school year and this Board would determine the traffic flow and in light of this letter the Town will have Ms. Burke to discuss this with the Planning Board.

Commissioner Farrow had concerns about the traffic on Highway 64 and that the Town needs to start connecting the back roads for other ways through town.

Commissioner Etheridge would like the Town to designate a shelter for hurricanes. Mayor Wilson commented that FEMA does not allow us to have shelters in areas that are required to be evacuated.

Mayor Wilson-commented that there seems to be a conflict about Belva's bench and he would like a written opinion from the Town Attorney can Belva Weeks sit on her bench across from the elementary school.

**MOTION:** Commissioner Farrow seconded by Commissioner Creef to have a written opinion from the Town Attorney on whether Belva Weeks can sit on her bench across from the elementary school was approved by the following vote: Ayes: Commissioners Farrow, Collins, Tugwell, Fry, Etheridge and Creef. Noes: None. Absent: None

Twining of our Sister City-Youghal Ireland; they will be here on July 4<sup>th</sup>. Consensus of the Board was to host a reception for them with the Town paying for the food and Mayor Wilson will furnish the drinks. Mayor Wilson asked the Board if they wanted him to send a letter to the businesses asking for 4<sup>th</sup> of July donations and consensus of the Board was for him to write a letter. April is child abuse prevention month and Mayor Wilson has signed a proclamation to that effect.

Mayor Wilson made a statement in response to a quote in the minutes of March 1<sup>st</sup> 2006 page 5, in which there is a reference to Cypress Cove and compliance with the affordable housing ordinance under protest. He would like the public record to reflect his following statement: "Cypress Cove is a voluntary annexation project which the owners petitioned the Town for annexation and agreed to comply with the laws of the Town in their application. The Affordable Housing Ordinance was adopted by this Board on May 12, 2004 and their application was made by the owners on June 29, 2005. They had full knowledge of the ordinance when they applied for annexation and agreed to follow the laws of the Town. One of the owners of the development is a sitting member of this Board and debated the issue on several occasions. Another owner, Mr. John Robbins discussed the affordable housing requirement with me on several occasions. The final plat has not been recorded. If

the owners have changed their minds and no longer wish to voluntarily comply with the laws of this Town, I believe there is a simple remedy, they have the opportunity now to request de-annexation and be freed of their obligation to comply with the laws of the Town”.

**MOTION:** Commissioner Farrow seconded by Commissioner Creef to enter into closed session NCGS 143.318. to consult with Town Attorney was approved by the following vote: Ayes: Commissioners Farrow, Collins, Tugwell, Fry, Etheridge and Creef. Noes: None. Absent: None

Consult with Town Attorney regarding threat of a lawsuit.

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

**MOTION:** Commissioner Farrow seconded by Commissioner Creef to exit the closed session to consult with attorney was approved by the following vote: Ayes: Commissioners Farrow, Collins, Tugwell, Fry, Etheridge and Creef. Noes: None. Absent: None

NO ACTION TAKEN

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 10:30 pm until Wednesday, April 12, 2006 at 4:00 p.m. and approved by the following vote: Ayes: Commissioner Fry, Collins, Farrow, Etheridge, and Creef. Noes: None. Absent: None. Excused: Commissioner Tugwell.

This the 5th day of April, 2006

\_\_\_\_\_  
Mayor John Wilson

ATTEST:

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Town Clerk Becky Breiholz