

MINUTES

The Town of Manteo Board of Commissioners held their Regular session in the Manteo Town Hall meeting room April 3rd, 2002.

The following members were present:

- Mayor Lee Tugwell
- Commissioner Curtis Creech
- Commissioner Dellerva Collins
- Commissioner David Farrow
- Commissioner Edward Etheridge
- Commissioner Stuart Wescott
- Commissioner H.A. Creef, Jr.

The following member(s) were absent: None

Also present at the meeting were:

- Town Manager-Kermit Skinner, Jr.
- Asst. Town Mgr./Finance- Shannon Twiddy
- Town Clerk-Becky Breiholz
- Planner-Fred Featherstone
- Interim Town Attorney-Jeff Malarney
- Police Chief-F. T. D'Ambra

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

SUBJECT: To amend the agenda-Town Clerk Becky Breiholz requested that the minutes of the Regular Session of March 6, 2002 be removed from the agenda due to the fact that the draft minutes that were included in the Board package were not the correct ones.

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

SUBJECT: Approval of Minutes Regular Session March 20, 2002-Commissioner Wescott commented that on page 5 of the minutes Mr. Dunn should be Mr. Gunn.

MOTION: Commissioner Creech seconded by Commissioner Farrow to approve the minutes of March 20th 2002 as corrected was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None. Absent: None

PUBLIC COMMENTS

Dare County Arts Council- Amy Huggins thanked the Board for their financial support in the previous years. Jim Rose who is also on the Dare County Arts Council helps them secure funds for the continuation of this worthwhile project. Mr. Rose first complimented the Manteo Police Department for the excellent job they are doing. Mr. Rose stated that the Dare county Arts

Council is seeking \$1,000 from each municipality in an effort to maintain the quality of programming for 2002-03 in all areas of the art. .

Mayor Tugwell asked if there were any more public comments and since there were none he moved item agenda 7B from the Commissioners agenda up to be discussed.

SUBJECT: Discussion and consideration of request from Dare county Arts Council for funding. Discussion of when the Arts Council adopts their budget and the Board was informed that they adopt their budget at the end of May. Mayor Tugwell commented that during the Town's budget process we normally set aside a line item for contributions and maybe the Board would like to have this item discussed during the Town's budget process for consideration. Consensus of the Board was to discuss this matter at the budget process.

At this time Mayor Tugwell moved the rest of the Commissioners agenda items up and moved the Finance Officer's agenda to Item 8.

SUBJECT: Discussion and consideration of Resolution 2002-07 from Manteo Elementary P.T.A. Commissioner Creech commented that the Manteo Elementary PTA is presenting the Board with a resolution they adopted, but he had Mr. Skinner compose one that is similar to theirs but includes all the schools. Ricki Tillett, President of the Manteo Elementary P.T.A. presented the Board with their resolution and read the resolution which will be made a part of these minutes. She also commented that the MES PTA adopted these resolutions as their position regarding school improvements for MES and Dare County Schools. Commissioner Collins had concerns about the portion of the resolution that asks that the alternative school be removed from the Elementary school site and the building be made available for use by the Manteo Elementary School; she feels that the alternative students are just as important as any of the other children and where would they put them. Commissioner Creech commented that the major concerns are that they have had problems in the past with twelfth grade students on the same campus with kindergarten students. Commissioner Etheridge commented about the phrase "regardless of the projected costs." Ms. Tillett stated that the feeling on that was that whatever the program needs are for that program they did not want to have a capped amount and then find out a year later that you have this need but you only budgeted so much and would have to take the money from some other program. Ms. Tillett also commented that they will also present this resolution to the Dare County Board of Commissioners and Dare County Board of Education.

MOTION: Commissioner Creech seconded by Commissioner Wescott to accept Resolution 2002-07 as presented in the Board package was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None. Absent: None

SUBJECT: Discussion of the Roanoke Marshes Lighthouse Fund Raising Committee-Commissioner Farrow commented that the committee would like to have a resolution to separate the committee from the Town and present the resolution at the workshop session as an action item. He commented that this would allow the Committee the ability to spend some of the funds donated to the Manteo Preservation Trust, Lighthouse Fund in order to make more money. Mayor Tugwell commented that normally we don't put action items on the workshop agenda but if they feel time is of the essence he will allow it. Commissioner Farrow commented that they

feel time is of the essence. Discussion on the procedure of disbanding the committee and Mayor Tugwell commented that he created the committee and appointed the Chair and if the Chair can demonstrate their services are useless then it will be at his discretion to disband the committee. The Town can then adopt a resolution to support the committee as an independent operation.

(TOWN MANAGER'S AGENDA)

SUBJECT: Town Manager Report and Department Head reports which will be made a part of these minutes. Mayor Tugwell had a few comments; he appreciated Finance presenting a calendar for the budget and also commented on the amount of Public Works Solid waste pickup and the difference between residential pickup and commercial pickup. He also commented on the amount of sewer being treated and that the Town is averaging 137,000 gallons of the 600,000 gallons that were allocated.

(FINANCE OFFICER)

SUBJECT: Discussion and consideration of Budget Amendment #14. Underground Utilities Commissioner Creech would like to postpone this agenda item for 30 days; he commented that he is waiting for a report from Utilities Commission Member Bobby Owens and Senator Marc Basnight's office.

MOTION: Commissioner Creech seconded by Commissioner Etheridge to table this item for 30 days was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None. Absent: None

SUBJECT: Consideration and approval of Budget amendment #15-Acquisition of Real property. This would allow the Town to make an offer to purchase and do a pre-audit. Commissioner Creech asked if the Offer to Purchase would be made contingent on the sale of the boat ditch property and Mayor Tugwell commented that it would have to considering the motion of how the funding was set forth. Interim Town Attorney Jeff Malarney commented that it was his understanding that the Town could make an offer to purchase contingent upon the sale of boat ditch property as previously discussed at other meetings.

MOTION: Commissioner Creech seconded by Commissioner Collins to approve Budget amendment #15 was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None. Absent: None

SUBJECT: Consideration and approval of Budget amendment #16 for the repaving of 19 roads that was included in the March 20th, agenda package. Discussion took place on if this was taxpayers money and Ms. Twiddy Finance Officer commented that the money is coming from Powell Bill Funds.

MOTION: Commissioner Collins seconded by Commissioner Creef to accept budget amendment #16 was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None

(OLD BUSINESS)
STATUS REPORTS

SUBJECT: Environmental reports from the Dare County Board of Education for schools located in Manteo, the Board asked for these and are available for any board member or public inspection at the clerk's office in the Town Hall due to the fact that there is voluminous amounts of paper.

SUBJECT: Legality of Roanoke Marshes Lighthouse Committee as an appointed Board by the Commissioners and the raising of funds and spending of funds from the Friends of Elizabeth II account. – Mr. Skinner contacted Mr. Vogt of IOG about this project and the funds. Mr. Vogt informed him that any committee, board empowered by the BOC and any funds received fall under local government budget and fiscal control act which would mean that funds would have to be kept in a bank account that reported to the town or deposited in the Town general fund. Mr. Skinner also discussed with Mr. Vogt about the funds on deposit with the Friends of Elizabeth II and it was Mr. Vogt's recommendation that the Town transfer those funds into Town's general fund and those funds have been earmarked as revenue toward the construction of the lighthouse. Mr. Vogt also commented that any citizen or anybody can make a contribution directly to the Town of Manteo and still get the tax deduction provided that the contribution is not used for political purposes.

MOTION: Commissioner Creech seconded by Commissioner Collins to transfer the funds from the Friends of Elizabeth II to the general fund was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None. Absent: None

SUBJECT: Legality of Lessee making improvements to the Manteo Waterfront Docks-Mr. Malarney commented that this is under advisement that a page was missing from the lease and will have that report by the end of the week or next week. Commissioner Wescott commented that time is of the essence and this item will be placed on the mid month agenda as an action item. Encroaching on Mr. Davis property was discussed and Commissioner Creef commented that it was making it mighty tight putting a 30 feet extension on each end, and commented that Mr. Gunn can put 20 feet extension on the north side and 40 on the south side and it closes up nothing and keep it open on both ends.

SUBJECT: Report regarding available funds in the Cemetery perpetual care fund. Ms. Twiddy commented staff was asked to determine how the \$3500 appropriation came to be, what percentage of that can be used for repairs, maintenance, improvements, etc. and whether or not it was in fact that the requirement of the percentage be kept in a perpetual care fund. The best she can determine is that it appears that in 1995 the figure of \$3500 was chosen as an arbitrary figure and used every year for the maintenance of the cemetery. She commented that \$11,613.11 is available that can be spent on improvements and repairs and is asking the Board if they would like to have a budget amendment prepared to transfer those funds to the general fund for reimbursement of the \$9,800 already spent for the cemetery fence. Discussion on the 80-20 split

took place and Ms. Twiddy commented that she could not find in writing that specifies the 80-20 split, but by going back over the accounting of what has been transferred and appropriated that it was an 80-20 split and that is the way it has been historically applied and she has not found any state statute that requires it to be that way. Eighty percent of the interest earnings were to be utilized for maintenance and improvements and the remaining twenty percent of interest earnings being added to the trust. Consensus of the Board for a budget amendment be prepared for the next meeting for \$9,800 to transfer to the general fund for reimbursement. Ms. Twiddy also commented that during the budget process the Board might like to consider removing the cemetery funds from the General Fund and actually setting it up in a trust account. Discussion of using prison labor to maintain the cemetery and Ms. Twiddy informed the Board that she received a call from the Department of Corrections and they expressed that they have been notified that as of July 1st that service will be cut and no longer available to the Town as part of the Governors budget cuts. Mayor Tugwell suggested that the Cemetery Board review their fees and the possibility of increasing them to enable to move the cemetery fund to a enterprise fund.

SUBJECT: Report on Town of Manteo Books-Town Manager Mr. Skinner commented that there are still 40 regular cover and 13 leather cover books left. East Carolina Bank has been reimbursed in full and Ms. DeFosse is still working on the closeout of that account and hopefully have a full report at the workshop meeting.

SUBJECT: Discussion and consideration of Conditional Use Permits for the Dare County Board of Education 16 Modular Units. Discussion took place on the wind speeds and tie downs of the modular units. Mr. Featherstone commented that he received a fax from Calfee Engineering and they recommend that the 4 units 2 located at the elementary school and 2 at the middle school be tied down on 5 foot centers and he will be contacting Mr. Winebarger to correct this. Discussion took place on the documentation that was requested and received from the Board of Education regarding the environmental tests done and the fact that those documents were available for the Board to review at the Town Hall even though none of the Commissioners have yet reviewed this information.

MOTION: Commissioner Creech seconded by Commissioner Etheridge to approve the conditional use permits from Dare county Board of Education of the 16 modular unit. Commissioner Creech **withdrew his motion**. Commissioner Creech made a **motion** to approve the Conditional Use Permits for the 16 modular units provided the 2 modular's at the elementary and the 2 modulars at the middle school meet the requirements received by Calfee Engineering **Motion died for a lack of second.**

MOTION: Commissioner Creech seconded by Commissioner Farrow to approve the conditional use permits for the 16 modular units with the condition that the 2 units at the elementary and the 2 units at the middle school meet their own engineers requirements for tie downs. Ayes: Commissioner Creech, Farrow, Collins and Wescott. Noes: Commissioner Etheridge and Creef. Absent: None.

A brief recess is taken.

SUBJECT: Discussion and consideration of giving permission for the extension of Tee-Heads at the Manteo Waterfront by Lessee Mr. Hollowell. This item was deferred to the mid month meeting as an action item.

(NEW BUSINESS)

SUBJECT: Discussion and consideration of Proclamation for Clerk Week April 28-May 4th.

MOTION: Commissioner Creech seconded by Commissioner Collins to approve the Proclamation for Clerk Week was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None. Absent: None

SUBJECT: Discussion and consideration of Amendment to the Municipal Retention Schedule. The Department of Cultural Resources has issued a statewide amendment to the Municipal Records Retention and Disposition Schedule.

MOTION: Commissioner Creech seconded by Commissioner Collins to approve the records retention and disposition schedule amendment was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None. Absent: None

SUBJECT: Discussion and consideration of the Rural Planning Organization Resolution and appointment of RPO representative. The Albemarle Commission has been designated as a Rural Planning Organization by the NC Department of Transportation. Funding is provided by the State for the purpose of hiring a transportation planner who will work with the municipalities and counties within Region R prioritizing their short and long-range transportation plans for rural areas.

MOTION: Commissioner Creech seconded by Commissioner Collins to approve the resolution supporting the Municipal Participation in Region R's RPO was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None. Absent: None

MOTION: Commissioner Wescott seconded by Commissioner Farrow to appoint Commissioner Creech as RPO representative was approved by the following votes: Commissioner Wescott, Farrow, Creech, Creef, Etheridge and Collins. Noes: None. Absent: None.

(TOWN ATTORNEY'S AGENDA)

SUBJECT: Report on pending projects-Interim Town Attorney Jeff Malarney reported that he is researching Chief D'Ambra's Diversion program to make sure it will stand up against legal challenge and the other item he is researching is a deed of easement request from Mr. Featherstone which he provided him an answer today that there needs to be a deed of easement for a sidewalk utility outside in front of Centennial Court.

MOTION: Commissioner Collins seconded by Commissioner Creech to enter into closed session to consult with attorney NCGS 143.318.11 (a) Scarborough Square et. Al. vs. Town of Manteo was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None. Absent: None

MOTION: Commissioner Collins seconded by Commissioner Creech to exit closed session was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None. Absent: None

MOTION: Commissioner Creech seconded by Commissioner Collins to **excuse** Commissioner Creef from the closed session Scarborough Square et. Al. vs Town of Manteo since he is a participant in the lawsuit was approved by the following vote: Ayes Commissioner Farrow, Etheridge, Collins, Creech, Wescott and Creef. Noes: None. Absent: None.

Commissioner Creef left the room.

MOTION: Commissioner Creech seconded by Commissioner Collins to enter into closed session NCGS 143.318.11 (a) Scarborough Square et. Al. vs. Town of Manteo was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott. Noes: None. Absent: Commissioner Creef.

CLOSED SESSION-Consult with Town Attorney regarding lawsuit, Scarborough Square, Et. Al. vs. Town of Manteo NCGS 143.318.11 (a) 3.

MOTION: Commissioner Creech seconded by Commissioner Farrow to exit closed session was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott. Noes: None. Absent: Commissioner Creef.

These minutes are sealed by Board policy

Commissioner Creef returned to the room.

MOTION: Commissioner Creech seconded by Commissioner Collins to enter into closed session NCGS 143.318.11 (a) 5 sale of real property was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None. Absent: None

CLOSED SESSION-Consult with Town Attorney sale of real property NCGS 143.318.11 (a) 5

MOTION: Commissioner Creech seconded by Commissioner Collins to exit closed session was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Creech, Wescott, and Creef. Noes: None. Absent: None.

These minutes are sealed by Board policy.

There being no further business to come before the Board or other persons to be heard a motion by Commissioner Creech seconded by Commissioner Collins the meeting was adjourned at 10:25 p.m. and approved by the following vote: Ayes: Commissioner Creech, Wescott, Farrow, Etheridge, Collins, and Creef. Noes: None. Absent: None.

This the 3rd day of April 2002

Mayor Lee Tugwell

ATTEST:

Town Clerk Becky Breiholz