

MINUTES

The Town of Manteo Board of Commissioners held their Regular session in the Manteo Town Hall meeting room, July 7, 2004 at 7:30 p.m.

The following members were present:

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

The following member(s) were absent:

Also present at the meeting were:

- Town Manager-Kermit Skinner
- Finance Officer- Shannon Twiddy
- Town Clerk-Becky Breiholz
- Attorney Daniel Khoury

Mayor Wilson called the meeting to order at 7:30 P.M. followed by the Pledge of Allegiance. Mayor Wilson welcomed the Boy Scouts who were attending the meeting working on their merit badges and Chairman of the County Commissioners Warren Judge and two Members from Dare County Board of Education Nick Nuzzi and Dr. Walter Holton.

SUBJECT: Adoption of Agenda as presented or amended.

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

SUBJECT: Adoption of the items on the Consent Agenda Commissioner Creef would like to remove from Item D2 dues and subscriptions for N.C. Association of Municipal Clerks Deputy Town Clerk.

MOTION: Commissioner Creef seconded by Commissioner Farrow to approve the Consent Agenda deleting Deputy Town Clerk from D2 dues and subscriptions was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Belli, Tugwell, and Creef. Noes: None. Absent: None

MOTION: Commissioner Creef seconded by Commissioner Farrow to approve the minutes of the regular meeting June 2, 2004 was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Belli, Tugwell and Creef. Noes: None. Absent: None

MOTION: Commissioner Creef seconded by Commissioner Farrow to approve the minutes of the recessed meeting of June 9, 2004 was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Belli, Tugwell and Creef. Noes: None. Absent: None

MOTION: Commissioner Creef seconded by Commissioner Farrow to approve Resolution 2004-08 Opposing increase in Land Use Transfer Tax was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Belli, Tugwell and Creef. Noes: None. Absent: None

MOTION: Commissioner Creef seconded by Commissioner Farrow to approve the dues and subscription for Water System Membership Dues approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Belli, Tugwell and Creef. Noes: None. Absent: None

MOTION: Commissioner Creef seconded by Commissioner Farrow to approve the dues and subscription to the N.C. Association of Municipal Clerks for the Town Clerk only was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Collins, Belli, Tugwell and Creef. Noes: None. Absent: None

PUBLIC COMMENTS -

Town Manager Kermit Skinner asked that anyone that wanted to speak on anything on the agenda that is not associated with the Dare County Board of Education come forward now. There were none. Town Manager Kermit Skinner briefly gave an overview and put into perspective about the confusion on the subject of the new Manteo Middle School. "The Town of Manteo like the rest of Dare County assumed that the new middle school was on schedule and proceeding without any problems until the Town was contacted by the local press inquiring about the Town's refusal to allow the Board of Education to connect to our sewer system, the Town had not been approached by the BOE and no request had been made and the Town had not taken any position on supplying water and sewer to the site. Mayor Wilson requested a meeting with representatives from the BOE and Dare County Board of Commissioners and at that meeting the Board of Education indicated that they did need and requested to be allowed to connect to the Town's waste water treatment system. During the meeting a number of planning issues including transportation were discussed. Any project requesting connection to Manteo's water and sewer system by statute must go through the same planning process as any other project, this was the case with the Justice Center, the NCDOT Welcome Center and the current improvements to Manteo Elementary school. Part of the planning review is to look at current and future potential traffic problems. It was in that regard at the meeting that suggestion was made to establish a circulation rights of ways for future potential connectivity, these rights of ways would be held in abeyance to be used only if needed over the coming decades. The Town of Manteo could not and did not make the opening of any streets a requirement of any Town services and the Town would not be interested in acquiring property interests or the financial responsibility for any street improvements outside of the Town's corporate limits. Any conditions associated with the extension of water and sewer service to the new Middle School would have to be approved by the Manteo Planning Board and Board of Commissioners as well as appropriate Dare County Boards. The Town has stated that any water and sewer lines serving the new middle school be sized so that only the school is able to connect. The Town would like to assist the BOE with it water and sewer problems and is statutorily prohibited from extending water and sewer service to any residential or commercial users north of our current Town limits.

Linda Brown 953 First Street, wants island to keep the small town atmosphere and she represents about 100 neighbors from Roanoke Park Extended who do not want streets in their neighborhoods opened up to use as entries and exits for the new Manteo Middle School, they do not want their neighborhood sliced up opening up dead end streets. They were told that there would only be one

way in and one way out. Manteo Middle School is not creating a new traffic problem it has already been there and already established. Ms. Brown invited the Board to come to walk their streets. She also has a petition signed by 100 residents who do not want the traffic in the neighborhood. She suggested putting a road down the south side of the school going from US 64 to Scarborough Town Road.

Mayor Wilson commended Ms. Brown for speaking on behalf of the neighborhood and agreed with her suggestion.

Linda Dunn, 926 Second Street and adjacent neighbor to new school - they were told that the main entrance would be on the highway and they do not want to open up their neighborhood for more traffic and slicing and dicing the community.

Kay Askew lives on Hwy. 64, the traffic has changed considerably. The new bridge has made a big impact on Hwy. 64 north end. Her concern is the children in the neighborhood and those that are driving. She commented there is someone directing traffic at the schools now and would like to have someone directing the traffic at the new school and why do we have to open up any other roads.

Cindy Full 950 First Street -the children play at the end of the street and if you open up the streets the residents will have to worry about backing out of their driveways and does not want the opening up of roads.

Mr. Henderson-and he agrees with what everyone has said.

Dr. Walter Holton-a School Board member and resident of Roanoke Island. How can we pull it together to get the school built? He does not disagree with anything he has heard and doing the right thing for the homeowner around that site. Dr. Holton commented that this Board has not tried to create problems and the School Board has made some mistakes and there has been a problem in communication to get things together. He wants to convince his board to do whatever will work for Manteo BOC and the residents of the area to get the school built. He personally does not see any reason why if it is the desire of this Board that Washington Street can't go in and out both ways, he sees no reason why we have to have First Street or any other street connect. He will fight with them to open up some disconnects if that will make a better traffic plan, but someone has to tell us what to do. Dr. Holton would like a letter of intent from the Town of Manteo Board of Commissioners on the sewer. He believes they can go in and out from Washington but is not sure what they want them to do but we need to get rid of the animosity.

Mayor Wilson went to the map on the wall and explained to the audience what happened at the meeting with Board of Education and County Commissioner a couple of weeks ago. When the Town learned that they had a problem not being allowed to have their own waste water treatment on site, the only solution to allow the school to be built on that property would be to connect to Manteo's waste water treatment plant. This Board has passed a policy that the Town does not wish to annex any further north than the existing town limits, because we want our waste water treatment plant to last until it's paid for. The Town and County are in the middle of a regional transportation study and we all recognize that Hwy 64 is becoming increasingly busy, we built a bridge which took a lot of traffic off of 64, but we still have thousands of lots on the north end that will probably be developed over time and at some point the traffic on 64 will increase again. Someday we will be faced with the decision of a 5 lane bypass or are we going to find a way to keep our two lane road, keep our corridor and keep our trees. As we have begun the transportation study it appears that the only long term

solution if we don't want a five lane road is going to be through connection of streets and neighborhoods on the west side of Hwy. 64, so people who live there have a way to get to Town without having to be on Hwy. 64. Mayor Wilson commented that we did not at any time say we use First Street to get to the school, we did say we thought Washington Street should come in one way and out the other and we think that would help and there would be a choice. We asked that the Board of Education give us an easement so that in 5, 10, 20 years in the future there is a need for connection a right of way will be available. There are other alternatives, come in or out from the main highway or come in or out from Scarborough Town Road. It is not the intention of the Town to disturb the neighborhood. The study of the intersection that was done talks about 20 and 30 minute delays, which is a concern and if there is a way to prevent a back they should look at it.

Malcolm Fearing –Sunnyside RI resident, supported the new middle school and he has no authority and represents no one. This Board has been most concerned and supportive about the schools safety. Mr. Fearing shares the concern of the audience He asked that road connectivity is thought through.

Commissioner Tugwell commented that he was under the impression we were here tonight to just direct clerk to investigation the petition and set the public hearing. He feels that there should be two ways in and out of the school. We cannot act on this tonight

Commissioner Farrow-glad Mayor explained to the audience what was discussed at the joint meeting and agrees with Commissioner Tugwell that we need more than one way in and out, but does not think it should come off First, Second or Third Street. He suggested that if it could be worked out to go down Scarborough Town Street to the school; there is a piece of property that will need to be bought to do this and hopefully they can come to a simple solution.

Commissioner Belli-will be keeping an open mind and does not think there are any easy answers and even though it is out of the Town limits it will affect the Town.

Commissioner Collins thanked everyone coming out to speak and it was not this Board's intention to put a hardship on anyone and will work with everyone to find the best solution.

Commissioner Etheridge – these will be kids that will not be old enough to own automobiles and maybe some of them can walk and can't understand all the concern about the traffic and does not believe it is going to be that much of a traffic problem.

Commissioner Creef- He was told that there are six school buses that will be involved with this school, and would like to have the entrance from 64 to connect on through to Scarborough Town Road.

Commissioner Tugwell-does not want to say which road needs to be open and would like one of the conditions be that the School Board and County will provide a secondary means of ingress/egress before a certificate of occupancy is issued.

Mayor Wilson moved items 6B, C and D on the agenda before 6A.

(NEW BUSINESS)

SUBJECT: Resolution 2004-09 Directing clerk to investigate annexation petition received from the Board of Education for the new middle school on the north end of the island.

MOTION: Commissioner Tugwell seconded by Commissioner Farrow to approve Resolution 2004-09 directing clerk to investigate the petition was approved by the following vote: Ayes: Commissioners Etheridge, Collins, Belli, Tugwell, Farrow and Creef. Noes: None. Absent: None

SUBJECT: Certificate of Sufficiency report. Town Clerk Becky Breiholz investigated the petition and affirmed that the metes and bounds description were correct.

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

SUBJECT: Resolution 2004-10 setting Public Hearing date for annexation petition request Friday July 23, at 5:00 p.m. The P&Z board will meet next Tuesday to review the site plan, storm water runoff plan, lighting plan review and their recommendations will come to the BOC

MOTION: Commissioner Creef seconded by Commissioner Collins to approve Resolution 2004-10 was approved by the following vote: Ayes: Commissioners Etheridge, Collins, Belli, Creef, Tugwell and Farrow Noes: None. Absent: None

Took 5 min recess at 8:30 pm

SUBJECT: Presentation by Detective James Burroughs on the F-Cop program. Detective Burroughs gave the Board a brief overview of this program and stated all the investigations go through him and he either assists or takes over the case. He works with other County agencies on cases and gave examples of cases such as child abuse and sex crimes and is on 24 hour call for cases. Detective Burroughs gave the Board an overview of the various programs that the Town's community police is involved in. The Town of Manteo participated in Project Live-safer and is pleased that the Manteo Department is getting its own monitor to track Alzheimer's patients. He is involved in Juvenile Crime Prevention Program and explained to the Board how the program works. He introduced Ms. Linda Watts with Juvenile Courts and gave the Board an overview of the restitution program that goes with the Juvenile Crime Prevention Program.

SUBJECT: Mayor Wilson moved item 9B up for Commissioner Farrow which was a request by Mr. Luther Daniels to speak to Board. Mr. Daniels thanked the Board for their stand on liquor by the drink, affordable housing, schools and other projects good for the Town. Mr. Daniels talked to the Board about taxes and everything he wants to talk about has to do with taxes. He related some stories to the Board to show what he was talking about. He talked about sewer outfall. He discussed services being provided that the Town's residents are paying for and only a few are receiving the benefits. The Town has a gold mine in the sewer plant but does not want the Town to give it away. He talked about the sewer plant, replacing of lines and the fact that the lines are too small. He talked about the schools and extending sewer service to them.

(TOWN MANAGER AGENDA)

SUBJECT: Request from Freddy Ortega owner of Magnolia Grill who leases at the Magnolia Market which is leased from the Town by Susan Fearing. Mr. Ortega is paying the water bill for the public restrooms. Commissioner Tugwell read from the lease and commented it is a landlord tenant issue and we do not give anyone else concessions. The intent is for the public to be able to use those restrooms. Town Attorney Daniel Khoury commented it is a landlord tenant issue about the expense, the lease agreement the Town has with Susan Fearing does allow for subletting and subletting does not require the Town's consent. There is a provision in the lease about assignment and assignment is subletting the whole lease which would require consent and approval of this Board. Subletting is renting out portions of Magnolia Grill which they are doing. However, even in the right to sublet the tenant (Susan Fearing) is not relieved of her obligations under the lease. So the obligations that the tenant has in this lease to maintain two public bathrooms remain an obligation of Susan Fearing regardless of what she does in her subletting with the other tenants, and if the Board finds cause they are not being maintained properly or open to the public is grounds for default and can be addressed by the Board, but it does not give relief to the tenant that she may be passing off some of these obligations in respect to the restrooms. The Board can require her to maintain them, but how she maintains them in subleases he thinks is within her rights to delegate. Mayor Wilson asked the Town Attorney to review the lease and that he is displeased with the fact that they have passed the obligation on to a tenant. Mr. Ortega did state that the Fearing's do pay a certain percentage of the bill and he does not know how the bill got put into his name.

SUBJECT: Town Manager report with Department Head reports will be on file for one year. The bulk of his reports are about on going projects which can be discussed under Old Business. If the Board is interested in pursuing a grant from the NC Clean Water Trust Fund for a waste water outfall grant, he will instruct Mr. Green to proceed with the application. Mayor Wilson asked that the Town Manager speak to James McClease Public Works to look into causing the removal of the pine trees in front of the Bowsertown plant that were damaged by the fire and putting any fill dirt not to fill above the neighbor but up to the neighbor.

SUBJECT: Report Town Attorney-pending projects. 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. He asked the Board to review it; this will also require a public hearing.

MOTION: Commissioner Tugwell seconded by Commissioner Creef to schedule a PH for text amendment 9.06 conditional use permit amendment for July 23, 2004 at 5:00 pm was approved by the following vote: Ayes: Commissioners Etheridge, Collins, Belli, Tugwell, Farrow and Creef. Noes: None. Absent: None

SUBJECT: The next item that Town Attorney has been working on is adding text to the Town's Cemetery ordinance Division 3. The Board had previously discussed ways to collect the interment fees from the funeral home. Mr. Khoury presented text to add to Section 2-223 (a) Any person desiring to arrange a burial at the Town cemetery must first obtain a permit from the Clerk's office prior to commencing funeral services or interment or commencing any form of preparation for funeral services or interment. Application for the permit must be accompanied by a \$100.00 fee. The permit shall contain the name of the person for which a burial plot is being obtained and the name of

the person making the application, and the name of the funeral home or burial service if any, and (b) If the person obtaining the permit is regularly engaged in the business of providing funeral or burial related services, that person holds the primary responsibility for obtaining the permit and paying the fee. In the event that a person fails to obtain a permit prior to burial that person is subject to a \$200 penalty. The Board would like this responsibility to fall on the funeral home for payment and asked that Mr. Khoury rewrite for them to review at their meeting on July 14, 2004 as an action item.

SUBJECT: The Town received a letter from Chesley Midgett, Jr. owner of Chesley Mall requesting that the Board consider establishing a fire lane on his property in accordance with the Town's codified ordinance Section 46-120 fire lanes on privately owned property. Town Attorney Daniel Khoury has made some changes to the ordinance to accommodate this request and accomplishes what the Board wants to do, we have specific statutory authority. Mr. Khoury commented that fire lanes can be designated upon recommendation of the fire chief pursuant to those specific powers and by a finding of this Board that the parking of motor vehicles is likely to interfere with the operation of the fire company and once approved by the Board it will be added to the Town Code. Discussion on who will paint the lines and it was concluded that it infers that it is the owner's responsibility. Commissioner Tugwell commented that the Board members need to be willing to stand behind the Police Department when someone is given a ticket. The Board discussed under Item #5 List of Privately Owned designated fire lanes within the Town: (a) Chesley Mall to change the wording Chesley Mall and the area from Trade mart south to Bowsertown Road. The Board asked that Town Manager send certified letters to owners at Chesley Mall about the Fire lane giving them 30 days from receipt of letter to conform to the ordinance and to instruct the Chief to give one warning ticket before actually ticketing someone.

MOTION: Commissioner Tugwell seconded by Commissioner Farrow to approve amendment to Section 46-120 fire lane ordinance as amended was approved by the following vote: Ayes: Commissioners Etheridge, Collins, Belli, Tugwell, Farrow and Creef. Noes: None. Absent: None

SUBJECT: The next item the Town Attorney had was an amendment to add Section 46-122 an ordinance to restrict parking of commercial vehicles in areas zoned residential. After some discussion the Board would like this item placed on their workshop agenda for further discussion.

SUBJECT: 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. He asked the Board to review it; this will also require a public hearing.

MOTION: Commissioner Tugwell seconded by Commissioner Belli to schedule PH for Friday July 23, at 5PM for text amendment Article X Penalty was approved by the following vote: Ayes: Commissioners Etheridge, Collins, Belli, Tugwell, Farrow and Creef. Noes: None. Absent: None

(OLD BUSINESS)

SUBJECT: Report Washington Davis Creef Boat House. The construction is moving along.

SUBJECT: Conditional use Permit Dare County Board of Education Manteo School Modulars was tabled until next Wednesday.

SUBJECT: Report Lighthouse Project-nearing an end, doing punch list. It was suggested considering dedicating the Lighthouse and Boat house at the same time in September.

SUBJECT: Report Cemetery Project- okay

SUBJECT: Report Sidewalks-moving

SUBJECT: Report Midway intersection; roundabout vs. flyover; speed limit. The Regional Transportation Committee are meeting the second Wednesday of every month and Commissioner Farrow is representing the Board.

SUBJECT: Report Dredging- pending, some dredging is scheduled for the winter.

SUBJECT: Report Facility Fee Study- pending

SUBJECT: Report Special Events- Commissioner Collins commented that the 4th of July went well and has a new chairman of the committee which is Heather Maxwell. It was asked that next on the flyers to remove the wording No Alcoholic Beverages.

SUBJECT: Cartwright Park-Town Manager is working on the plaques; Public Works has cut the bushes. Commissioner Collins commented that in the ruins of the church the grounds need to be done, and the flower beds need cleaning out. The Playground should probably have more sand.

SUBJECT: Report Pending Grants: CAMA Waterfront Boardwalk Replacement-

SUBJECT: Manteo Waterfront Shoreline Replacement of Rip Rap \$95,000;

SUBJECT: Manteo Sanitary Sewer Evaluation I&I Study \$40,000.

SUBJECT: Clean Water Trust Fund Grant application-still meeting on this.

COMMISSIONERS' AGENDA

Mayor Wilson asked that Commissioner Collins speak with the Events committee to make some decision about Christmas decorations. Commissioner Collins commented that they would rather have decorations that have lights; this will be discussed at the workshop session.

Commissioner Collins-The Freedman Colony has established two underground railroads here and they are doing another application for Shallowbag Bay at the Manteo waterfront to declare the water front as part of the Underground Railroad and would like this Board to write a letter of support as becoming a part of the National Underground Railroad network. Town Manager asked to prepare the letter.

Commissioner Tugwell-things that have been requested to do and has not received any reports: status of NC Power Franchise agreement; NCDOT yard property; affordable housing ordinance sent to other units of government and Town Manager responded yes; collect on training agreements; siding on Town Hall has it been replaced; cost of legal research for school; Water & Sewer Status: Was to receive an update from the Water and Sewer Superintendent and still has not received his updates on: I&I study, cost saving quarterly billing, Bowsertown Lift Station, remote meters. Police

Department: Time sheets, workman comp waiver for out side employment, Justice Academy to come back and do another study, have they been contacted. He was told that the Justice Academy has notified the Town verbally that because of budget constraints they no longer do that. Commissioner Larry Belli has scheduled a meeting with the Chief and then would like to meet with the Mayor and Town Manager; Markings on car.

Commissioner Farrow stated that the ditches needed to be cleaned. Commissioner Farrow would also like a self closing gate placed at the Tot lot.

Mr. Luther Daniels commented the dredging project and about the outfall pipeline that is there. Mayor Wilson asked Commissioner Tugwell to make sure John Sutherland is aware that the pipe is there and make it the responsibility of the person dredging if there are any damages.

A motion by Commissioner Tugwell seconded by Commissioner Belli the meeting was RECESSED at 10:30 pm until Wednesday, July 14, 2004 at 3:00 for a Workshop Session at the Manteo Town Hall and approved by the following vote: Ayes: Commissioner Tugwell, Belli, Farrow, Etheridge, Collins, and Creef. Noes: None. Absent: None

This the 7th day of July 2004.

Mayor John Wilson

ATTEST:

Town Clerk Becky Breiholz