

MINUTES

The Town of Manteo Board of Commissioners held their May 3, adjourned/recessed session in the Manteo Town Hall meeting room, May 10, 2006 at 4:00 PM

The following members were present:

- Mayor John Wilson
- Commissioner Edward Etheridge (late)
- Commissioner H.A. Creef, Jr.
- Commissioner Hannon Fry
- Commissioner Darrell Collins
- Commissioner Lee Tugwell
- Commissioner David Farrow

The following member(s) were absent:

Also present at the meeting were:

- Town Manager Kermit Skinner
- Town Attorney Daniel Houry
- Town Clerk –Becky Breiholz
- Finance Officer-Shannon Twiddy
- Planner Erin Burke
- Public Works James McCleas
- IT Steve Jozik
- W/S Superintendent Nathan Pharr
- Police Chief- F.T. D’Ambra

Mayor Wilson called the Adjourned/recessed May 3rd, 2006 meeting back to order at 4:05 pm

SUBJECT: Department Head reports-these were given to the Board at their regular March meeting for review and will be on file for one year. Commissioner Tugwell asked if we were up to date on our waste water violations and how much we have paid and Ms. Twiddy commented about \$6,000 and some of those fines were for reporting errors.

MOTION: Commissioner Tugwell seconded by Commissioner Farrow to amend the agenda to include a closed session NCGS 143.318.11 (a) 5 for acquisition of property was approved by the following vote: Ayes: Commissioners Tugwell, Creef, Farrow, Collins and Fry. Noes: none. Absent: Etheridge

SUBJECT: Engineers report on water and sewer-The Board was given a handout from Green Engineering that we received via email and will be made a part of these meetings. The Board had questions about the capacity of our system and Water Superintendent Nathan Pharr commented that it is permitted for 600,000 and hard to lock down because of the flow in the summer because of the visitors and we are to treat every drop that is produced. Ms. Twiddy commented that staff is getting a color coded map together to show how many existing structures in the town and to include the vacant lots also.

SUBJECT: Update on wireless with Charter- Mr. Skinner has been in contact with Bryant Brooks of NC Dominion Power and he is reopening the case for the attachment of the wireless to their power poles and he needs to work with the design engineer with the Power Company and asked that the Town delay any action for 60 days and Mr. Skinner is recommending that the

Town wait. The Board would like Mr. Brooks to attend next month's meeting for an update. IT Administrator Steve Jozik commented that there are some other Power Companies that do have these wireless components on their poles and he will contact them and forward that information on to Mr. Brooks. We will be giving out the laptops to the graduating fifth graders who are residents of the Town under our IBM/Vital Source School program that was developed for the Town.

Commissioner Fry brought some information regarding the sale of seafood and that will be passed along to the Special Events Committee.

Commissioner Etheridge arrived at 4:30 pm

SUBJECT: Discussion of the draft budget- Commissioner Tugwell asked about the revenue projections comparing to last year. Ms. Twiddy is confident the projections for this year will be met. She also commented that if any municipalities raise their taxes it could have an affect on our revenue shares for next year. Commissioner Tugwell asked about hiring new employees and the Water and Sewer Department has requested a new employee to help do in house projects instead of contracting them out. Commissioner Tugwell asked about salaries and it was raised 5% COLA and recommending 5% be set aside for a merit pay/pay for performance; we are not asking for those funds to be expended until we have a plan in place and approved by the Board. Commissioner Tugwell asked about the capital outlay for a vehicle and was told that the cost would be split between planning and all administration positions. Replacement of the residential trash truck was discussed and Mr. McClease commented he would like to surplus it if he gets a new one. The Board discussed travel and training and the breakdown of the cost for employees to be out of the office. Police travel and training was discussed and Chief D'Ambra commented that most of their traveling and training is mandated by the state. Pay scales were discussed and that there are no mechanisms for an employee to move up in pay after receiving a certification or certain education criteria. The Mayor would like to know what state agency is mandating each of the training sessions. Commissioner Creef asked about the computers in the police cars and Mr. Jozik informed the Board that these are older models and repairing them is becoming more difficult. He is also trying to establish a schedule to replace desk top computers. The Board would like Mr. Jozik to compare with the State Police, Dare County Sheriffs and Nags Head Police their computer costs and report back to the Board. The Police Department's travel and training and Information Technology were discussed at length. Firing Range dues were discussed and the increase in the fees. Commissioner Tugwell asked about the water and sewer balance and Ms. Twiddy commented that \$388,475 is being used from the water and sewer budget to balance the general fund. The Board will discuss the water and sewer budget at another time.

A break at 5:45 pm

PUBLIC HEARING-to receive comments on Text Amendment Article XXI Nonconforming situations.

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

Town Planner Ms. Burke gave the Board a brief introduction on what brought us here. On September 14, 2005 the Town adopted a new zoning ordinance, the non conforming situations

section was called into question a number of times and she hopes this clarifies the new zoning ordinance non conforming situations Section 21.1 and the fact that all non conforming situations in the Town are protected and the Town fully supports that. We are required by the General Statutes to adopt a consistency statement for the CAMA Land Use Plan and the Board will need to make a motion to approve the following statement: “the Board reviewed the proposed text amendment to Article XXI Nonconforming situations and to Article I General Provisions, of the Town of Manteo Zoning Ordinance. The Board of Commissioners found these text amendments to be consistent with the 2000 Town of Manteo CAMA Land Use Plan and adopted the text amendment. This statement and the proposed text amendment will be made a part of these minutes.

Doc Sawyer-Manteo and owns R.D. Sawyer Motor Company business on Highway 64. We are here tonight to talk about non conforming buildings. He stated that it was the intent to grand father everything and he takes it to mean everything, and in Section 21.1 (d) it states landscaping, buffers, lighting, signage, curb cuts be brought into compliance, he feels everything means everything. He asked about things that aren't stated in this new ordinance will they be allowed to use original foot print, original materials or required to use different types of material or different type of architecture designs. Also the 180 days in Section 21.7 is too limited and would like it removed altogether; it will be a slow death of the businesses on the highway. He also asked who makes the determination that the property has been abandoned or discontinued. He also commented that the setback of 200 feet is too much and how can the School of Design determine that. He asked that the Board not vote on it tonight and have a discussion on the many aspects of the ordinance that need to be changed.

Christy Spanelli-Burnside and owns Ron and Phil's Body Shop on Highway 64. If a disaster is to hit they understand we can build back that same structure, however they have concerns with the ordinances and one of those is if they have to close their business for some reason they would either have to sale or re-open within 180 days, that is a very short period of time. Also the 200 foot setback will not leave them enough room to operate successfully. If they have to sell their property there cannot be a change of use and this will limit a buyer what business can be on the property. She asks the Board to consider what this ordinance could do to the businesses in the Town and what the ordinances can do to limit the service industry in the community.

Malcolm Fearing-Manteo and thanks the Board for recognizing the need for the change. He agreed with the last 20 year plan and he personally does not want to see Roanoke Island turned in to a vacation resort. He sees this as a working community and he thinks this ordinance that was passed attacks the heart of the business community. He wants to talk about existing uses prior to the passing of this ordinance and they can't do that under the existing ordinance, and all they are allowed to do is a single family resident and does not think that is the intent. He urges the Board to re-read this which only deals with non conforming situations and if the Board decides to have an informal meeting he would like to participate.

Luther Daniels-Manteo and he would like to commend the Board for trying to help the situation and thinks they are on the right path.

Ms. Burke gave a brief report on some of the concerns that were raised and stated that Section 21.1 (d) says where practical, we are not trying to create hardship. The other concern she heard about was the 180 days which is a half of year which the board felt that was adequate time for them to find someone to operate that business.

Town Attorney Daniel Khoury commented on Section 21.1 and thinks the language is pretty clear that they could be built the way they existed as they had it before not by our design guidelines.

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

SUBJECT: Discussion and consideration of Text Amendment Article XXI Non conforming situations. Commissioner Tugwell asked what specific language was changed and Ms. Burke commented that she distributed it to the Board and asked what changed and Ms. Burke commented almost all of it. To get some specifics Commissioner Tugwell asked if Mr. Pugh's auto center metal building burned down he could build it back the way it was and Ms. Burke commented that yes, and if Mr. Sawyer's non-conforming lights blew down he could put them back and Ms. Burke commented that she was not sure of the height of his poles but they are the light fixtures they would like to see in the rest of the Town. Town Attorney Daniel Khoury stated that it will still be subject to CAMA and FEMA regulations we can't grandfather that. Commissioner Tugwell asked assuming CAMA and FEMA would allow the lights and they were non conforming prior to the issuance of the new zoning ordinance and his building blew down could his building go back at current setbacks and densities, can his sign go back, his lights go back and his use go back? Ms Burke commented everything can go back but the lights if they are non conforming; Planning Chair Bill Parker commented yes his lights can go back and no they are not grand fathered. Mayor Wilson commented that everything out there that comes under conditional use is determined to be okay to be rebuilt as is, with the one exception which is 21.1 (d) which says where practicable. Town Attorney Daniel Khoury commented that if there is a change of ownership they will be grand fathered it runs with the land. The change of use was discussed and it was asked if a change of use is done do they have conform to the new rules. It was stated that as long as it is a permitted conditional use you can change from non conforming use to any permitted conditional use. Mayor Wilson commented that a change of use is not dealt with in this chapter but you can change those uses to any allowable use but you couldn't change it to another non conforming use. If you willing tear down the building then it has to be brought into conformity. Also discussed was Section 21.1 (d) where practicable, landscaping; buffers, lighting, signage and curb cuts are brought into compliance. Commissioner Farrow commented that since everyone here is concerned about the length of time, he would like that changed. Consensus of the Board was to extend to 12 months (365 days). The Board discussed Section 21.7 (a) regarding abandonment and discontinuance of non conforming situations for 180 days, it was brought up that it is not abandoned if you are actively trying to sell the property. Commissioner Farrow commented that the length of time seems to be an issue and he would like to change it to 12 months (365 days). Consensus of the Board was to extend the time to twelve months, and the Board agrees that the occupant should be notified in writing of the beginning of 365 days. Town Attorney Daniel Khoury commented that we should notify them of the 365 day rule but should not take on the obligation of when the time starts. Ms. Burke suggested when the water is disconnected they could notify them by that. The Board would like the Planning Department to establish a policy of notification.

MOTION: Commissioner Creef seconded by Commissioner Farrow to approve the consistency statement for the land use plan which states: the Board reviewed the proposed text amendment to Article XXI Nonconforming situations and to Article I General Provisions, of the Town of Manteo Zoning Ordinance. The Board of Commissioners found these text amendments to be consistent with the 2000 Town of Manteo CAMA Land Use Plan and adopted the text amendment. This statement and the proposed text amendment will be made a part of these minutes was approved by the following vote: Ayes: Commissioners Tugwell, Etheridge, Creef, Farrow, Collins and Fry. Noes: none. Absent: none

MOTION: Commissioner Farrow seconded by Commissioner Creef to approve text amendment Article XXI Non conforming situations as amended changing from 180 days to 365 days was approved by the following vote: Ayes: Commissioners Tugwell, Etheridge, Creef, Farrow, Collins and Fry. Noes: none. Absent: none

Commissioner Tugwell would like the Board to considering setting a public hearing to reduce the front yard setback on US 64/264 from 50 feet to 20 feet. The Planning Board will look into this and bring back a report to the Board. Mayor Wilson commented that we have made an agreement with Roanoke Island Commission not to change the rules that affect one another without working with the other body.

A 5 minute recess at 6:55

The Board was given a draft transportation plan and asked to review it and the stakeholders will meet in July and asked to change or adopt it. The Board was given an update on the utility project and that we have received a key to do the changes to Helen Baum's property.

MOTION: Commissioner Tugwell seconded by Commissioner Creef to enter into a closed session was approved by the following vote: Ayes: Commissioners Tugwell, Etheridge, Creef, Farrow, Collins and Fry. Noes: none. Absent: none

Acquisition of property NCGS 143.318.11 (a) 5 Commissioner Collins excused himself because of a potential conflict since his wife is the real estate agent for this parcel. **MOTION:** Commissioner Tugwell seconded by Commissioner Farrow to excuse Commissioner Collins was approved by Commissioners Fry, Farrow, Creef, Etheridge and Tugwell.

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

No Action taken. The Board would like to meet again on May 22nd

MOTION: Commissioner Creef seconded by Commissioner Fry the meeting was recessed until May 22 for a budget workshop at 4:00 pm and was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Creef, Fry, Tugwell. Noes: None. Absent: none. Excused: Commissioner Collins

This 10th day of May 2006

John Wilson IV, Mayor

ATTEST:

Town Clerk Becky Breiholz