

MINUTES

The Town of Manteo Board of Commissioners held their May 7th, 2008 Recessed Session May 14, 2008 at 4:00 pm at the Manteo Town Hall meeting room

The following members were present:

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

The following member(s) were absent:

Also present at the meeting were:

- Town Manager Kermit Skinner
- Assistant Town Manager/Planner- Shannon Twiddy
- Town Clerk-Becky Breiholz
- Department Heads: Erin Trebisacci; Steve Jozik;
- James McCleave; Nathan Pharr; Johnny Boniface;
- Carl Jordan, Chief Vance Haskett

Mayor Daniels called the recessed meeting to order at 3:00 p.m. at Roanoke Island Festival Park at which time Scott Stroh gave the Board a tour of the facility and what they plan on doing to update the park.

The Board returned to the Town Hall and Mayor Daniels reconvened the meeting. The Mayor would like to amend the agenda to remove Items D & E add budget amendment #7E miscellaneous housekeeping items; Resolution 2008-04 and Closed Session NCGS 143.318.11 (a) 6 personnel.

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

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

OLD BUSINESS

SUBJECT: Department Head Reports-these were given to the Board at their regular meeting for review and will be on file for one year. Mayor Daniels asked each department head to go over their report. Dockmaster Carl Jordan gave the Board an update on the waterfront docks; Chief Haskett went over his report. Commissioner Etheridge commented that he has heard that there is drinking and drugs at the skate park. Mr. McCleave asked the Board if they had any

questions for him. The Board talked about a sink hole on Croatan and Mr. Pharr commented that Croatan has pretty heavy sedimentation. Mr. Pharr summarized his report, there were no NOV's, did a spot flush, had DENR at the plant this morning and overall they were pleased with the inspection and they will be installing the waterfront boat pump out station. The Bowsertown Lift station will start up next week on May 21st; the preliminary feed line on the chlorine feeder will be on line next week and the bar screen and grit machine operating. Mrs. Trebisacci commented that the State dropped the clean marina position and as soon as the program gets started again they will be following up with it. The cost of the pump out station was discussed. Mr. Jozik, IT Department gave the Board his report. Finance Officer Shannon Twiddy gave the Board a brief overview of the draft budget that was given to them and she has not proposed a tax rate increase, the Town of Kill Devil Hills and Duck plan on raising their taxes which means that the Town will receive less money in shared revenues. The draft budget has been completed and presented to the Board this evening; the NCGS require that the budget be presented to the Board at an open meeting which will be today. The Board will have time to review the budget and get any changes to her and a revised draft budget with any changes will be given to the Board at their June 4th meeting. In order to meet general statute advertising requirements the Board will need to set the date for the required public hearing at their June 4th meeting. Mrs. Trebisacci, Planner went over her report and they have been working with Coastal Federation and that we will be pursuing grants for stormwater funding. The Town applied for a 319 grant and should hear back in about a month.

Mayor Daniels allowed Malcolm Fearing an opportunity to speak before the Old Tom survey presentation. We offered him an encroachment agreement in what we believe is our street, which he did not accept that agreement and we move forward today. Mr. Fearing passed around some photos and stated we disagree over Old Tom, he has correspondence dated back over the years with the Manager about Old Tom and have asked to have a sit down and talk about Old Tom. "I don't think there is a disagreement that there is a street there." "I have asked several members of the Board who owns the street and you say you do." "I have asked your attorney, your manager to show me the deed that you have that says you own that street." "I have yet received any type of documentation and I am going to show you some documentation." Mr. Fearing passed around a photo from 1959. He also commented that the Town says this has been a street since the 1930's so he is asking why is there a gas pump in the street? You are saying I did unauthorized work, he had a permit to work on Ortega's, he showed a picture of the concrete that was taken out. Underneath the eaves of the building you are saying is your property; you are saying it is a sidewalk; your Town Attorney has made 4 different opinions about that piece of property. Your attorney is wrong and is saying now that you don't have a deed, but you have a prescriptive easement because you use it. "I am asking publicly again, Dan Khoury is misinforming you and I think Dan Khoury is misinforming you intentionally, he wrote you a letter saying it was my plans to close the street, I stand before you and say that is absolutely incorrect and simply not true." "I believe you have been given wrong information by your manager and attorney just as you have been given wrong information by Shallowbag Bay; you were given wrong information in March." "In your CAMA report on page 25 it talks about the chloroform levels at the Shallowbag Bay; it talks about direct discharge from the wastewater treatment plant into Shallowbag Bay." "I believe you have a copy of a letter of a resignation tonight from your engineer." "I believe that allegations have been made by your engineer about the operation of the wastewater treatment plant." "I think it was wrong that Kermit advised you that it is just chlorine

going into the Bay, I think he is wrong now about advising you that you have a right to that street.” “I think he is wrong to say no fines are coming, I think there is a \$30,000 fine coming to the Town.” “I will again offer to sit down with you all and talk with my survey over that alleged street.” “I can produce documents that are contrary to what you are being told.” “If you decide to spend \$50,000 to go to court, I have known all of you all my life, if you choose to sue me, sue me.” “That is not what I want, that is not what I asked for and that is not what I can prove to you.” “I am going to read this and ask that it be entered into the public record: “I respectfully request because of the Town’s Engineer resignation and allegations he has made in writing to you and your Board that the Town contact the EPA and North Carolina SBI to conduct an impartial inquiry to determine if any laws may have been violated under the operations of the Manteo Wastewater Treatment Plant.” “The specific laws would be N.C.G.S. 143-215, 143-216.6A, I also request that this matter be turned over for legal review by Daniel Khoury, Town Attorney.” “I would welcome the opportunity to have a man’s talk, eyeball to eyeball and as friends as we should to discuss that alleyway and try to resolve it.”

SUBJECT: Presentation of Old Tom Survey by Seaboard Survey-The Board had previously received preliminary copies of the survey and Bill Owens with Seaboard Survey went over the preliminary survey and they are not offering any legal opinion as to the status of it as a public street. In the 30’s there was a deed for 15 feet that came from the property on the west side of the street, which was Jones at the time and there was 3 feet that came from the east side off of Building Resources property and the property that is now Fearing Realty which was formerly Duchess of Dare. The property that 15 feet came from started at the Leigh Hassell line and came west from Sir Walter Street from County Street and went 105 feet and hit the property that is now Building Resources and the diner that was all one piece, the county, the diner and the Building Resource piece was all one piece. There is a disagreement between the adjoining parties as to where the line is and they filed a document that sets that line and we can’t start measuring from any of the lines on the east side because they are not the original deed line so we have gone to the first line we can find that appears to be an original line and that is the Leigh Hassell/Jones line which is where the Village Tavern used to be and the gas station, Fernando’s and Green Dolphin came out of that piece. If we go to the line of Leigh Hassell Jones and go east towards building resources 105 feet we hit the line shown where Building Resources at Sir Walter Street within about a quarter of an inch, which is good. A survey done in the 70’s for Building Resources and the diner we recreate that west line at those properties that form a straight line. If you go back through the documents there was a deed in the 30’s that gave you 15 feet from the west and 3 feet from the eastside, then there was a court action in the 50’s that affirmed that was a street, that document says from the corner of the courthouse property it was 100 feet, the current deed for the diner calls for 103 feet, in reality it is about 105 feet to the street. In doing that it causes the roof overhang on the east side of Mr. Fearing’s building to encroach into the street line by 7/10 of a foot. He believes they have the location of the street where it was originally deeded, they have found the same irons that were there in 1977, they are in the same place in relation to the sidewalk, and they are in the same relation to the existing points on the green line between John Wilson’s property line and Mr. Fearings restaurant. He will be happy to finalize this, or he can wait if the Town wants to sit down and talk with Mr. Fearing. Consensus of the Board was to prepare a final plat.

SUBJECT: Budget Amendment 7D asbestos removal of Buck's Seafood property to begin the Water Garden complex

MOTION: Commissioner Collins seconded by Commissioner Etheridge to approve budget amendment #7D was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Fry, Burke, Collins and Creef Noes: None. Absent: none.

SUBJECT: Budget Amendment 7E housekeeping items that do not affect the fund balance.

MOTION: Commissioner seconded by Commissioner to approve budget amendment #7E was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Fry, Burke, Collins and Creef Noes: None. Absent: none.

SUBJECT: Cemetery Committee requests this was tabled from last weeks meeting. Chairperson Bettie Blanchard commented that the committee wanted to request to allow for the purchase of a single lot. We have been asked to sell one single lot due to the change in the family dynamics and changes in the demand and we should change to allow for single plot purchases. There are 8 plots in a lot and it is forcing people to buy a lot and not needing all the 8 plots. There is a section in the cemetery that sells single lots but it seems to be an undesirable portion of the cemetery Commissioner Etheridge suggested we contact other cemeteries to see how they do it; he has concerns that selling a single plot is the wrong thing to do. There were several empty plots in lots 150 and 219 that the Board might want to consider to sale as single plots.

MOTION: Commissioner Fry seconded by Commissioner Burke to authorize the sale of a single plot in lots 219 and 150 was approved by the following vote: Ayes: Commissioners Farrow, Etheridge, Fry, Burke, Collins and Creef Noes: None. Absent: none.

Request to allow 1 casket and 1 cremation or 2 cremations be allowed per grave site and request for outer burial urn be required in the new section of the cemetery for cremated remains and encourage them in the old cemetery but leave to the discretion of the family- these items need to be written as a text amendment for the codified ordinance and the Cemetery Board is going to establish a subcommittee that will write up some regulations for the cemetery to be considered by the Board of Commissioners at a later date.

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

Budget Amendment #7A for brick sidewalks- Mrs. Blanchard commented that we received a grant from Meekins Trust \$32,700 for archways and the sidewalk. We received bids and the grant money no longer covered the cost of the sidewalk, so we have asked for those to be re-bid. The Committee is going to have another meeting in June to reapply for money from the Meekins Trust but thinks we should not ask them for additional sidewalk money. We are asking the budget be amended to cover the cost of the sidewalk when those bids come in. We can not really do anything until the sidewalks are in they establish the perimeter and we cannot plan the columbarium or burial gardens until the sidewalks are in. Finance Officer Shannon Twiddy

commented \$32,700 was received in grant funds, \$14,253 was spent on the arch sign, leaving a balance of \$18,447 to be used for sidewalk construction. She was asked to prepare an amendment to fund the difference between the bid of \$39,450 and the \$18,447 currently left in that line item. In order to fund the project she will need an amendment for \$21,003 from the cemetery unrestricted funds. Mrs. Blanchard commented that she does not know if the \$18,000 from the Meekins Trust is not spent on the sidewalk in that calendar year if it reverts back to them. Mrs. Trebisacci commented not sure how long we have until it reverts back to them but it has to be spent for what it was requested for. The Board discussed the cost and construction of the sidewalks. Mrs. Blanchard commented that committee member Edward Mann was working on the sidewalk bids, details and construction along with Building Inspector Johnny Boniface and would like this to be tabled.

Purchase of the Gates property-the cemetery board would like to recommend that the Commissioner's look into the possibility of purchasing it and adding it to the cemetery. Consensus of the Board was they were not interested in pursuing the purchase.

SUBJECT: Repairs and improvements to the WWTP and collection system-Mayor Daniels commented that we are still receiving information from various engineers making recommendations; also representatives with the State's technical assistance toured the plant and will be making recommendations. Mayor Daniels commented that a lot of the recommendations received are small and easy things. A representative with Carotek, Scott Oliver, looked at the grit separator and fixing the bar screen, and he believes he can repair the one we have for \$10,000 which is considerably less than the \$90,000 quoted by Green Engineer. We can get a grit separator for about \$75,000. We were looking at roughly \$250,000 for the new headworks and it looks like we can get that done for about \$85,000 and progress is being made.

SUBJECT: Funding options for WWTP repairs-Finance Office Shannon Twiddy gave the Board a written report on funding options. We are not eligible for a grant because the Town's water and sewer rates are too low and that to be eligible we would have to increase our rates by \$4.00 per month and the last time we had a rate increase was twenty years ago. The Board currently does not have a capital improvement plan or fund in place. Mrs. Twiddy had gone to Raleigh and met with NCDENR and it would be her suggestions to pursue one of two things: the first one would be a state revolving fund loan which is what she applied for at Bowsertown, it has a 20 year amortization the interest rate is 2.4%, roughly on a million dollars the debt service would be approximately \$100,000 a year; we are currently going to pay starting in November \$65,000 on the Bowsertown lift station. In order to qualify for state revolving fund loan we have to have a full blown Environmental Assessment done, a preliminary engineering report done on the repairs that need to be made as well as the application and all has to be done before September 1st, which is the next funding cycle. Mrs. Twiddy commented it is possible it can be funded through federal loans fund but it would be no more than \$400,000 and you have every community in the State competing based on how you fall on the priority emergency list. We have contracted several weeks ago with Green Engineering to prepare the waste water need survey, which had to be done in order to be on the priority list. The next option would require a congressional dispensation where a congressman in DC says you will give these people money out of his discretionary funds and will still require the reports mentioned earlier. We have already filed a Clean Water Trust Fund Grant. Phase I for \$800,000 is to fund needed repairs that

were identified in the nutrient reduction study. If those funds come through that is a grant which requires a 20% match, we have submitted that application and it will be awarded in August or September. Mrs. Twiddy commented she will continue to seek funding sources but at this point we need to have a contract with someone to do the Environmental Protection assessment report and the preliminary engineering reports because she can not do any loan applications without those two documents. Mrs. Twiddy also commented with preliminary projections to pay the debt service that we will incur this year to pay the first payment of \$65,000 and the debt service on another million we will need to generate approximately \$165,000 and it would take a 15% water and sewer rate increase to just pay the debt service.

SUBJECT: Privilege Licenses text amendment to Article II, Section 14-this was tabled from last week's meeting as the Board wanted to look at the fees schedule that was set a few years ago by the Commissioners.

MOTION: Commissioner Farrow seconded by Commissioner Creef to reinstate privilege license as it is currently being administrated was approved by the following vote: Ayes: Commissioners Farrow, Fry, Burke, Collins and Creef Noes: None. Absent: none. Excused: Commissioner Etheridge.

PROJECT REPORTS:

SUBJECT: Public Relations/Special Events- Martha Wickre gave the Board an update and presented a power point presentation of the Bideford group that was here. She gave an update on upcoming events.

SUBJECT: Manteo Water Garden Park- Mrs. Trebisacci reported that she was in Raleigh seeking funding and hopefully she will hear something back in the next month or so. They are preparing the property for demolition.

SUBJECT: Report Grants:

- (a) CAMA Grant for waterfront pump out station-the pump has arrived and hopefully Mr. Pharr will be able to install it next week.

SUBJECT: Haven Creek Lane paving project- is funded, under contract and we are in the process scheduling a preconstruction meeting; and in the process of notifying the adjacent property owners there are some right of way conflicts that they need to move their property in our right of way.

SUBJECT: CVS Light/Russell Twiford Road- the fixture has arrived and the power company expects installation next week or so. We are also working with Dominion for them to have a fixture available that will meet our ordinance.

SUBJECT: Budget Amendment #7E-housekeeping items and does not affect fund balance.

MOTION: Commissioner Collins seconded by Commissioner Creef to approve budget amendment #7E was approved by the following vote: Ayes: Commissioners Farrow, Fry, Burke, Collins and Creef Noes: None. Absent: none. Excused: Commissioner Etheridge.

SUBJECT: Resolution 2008-04-this is a local bill that allows police department and public works to operate ATV in Town where the speed limit is below 35 mph. It only covers municipal vehicles for municipal business. Mr. Skinner has spoken with our representative Tim Spears and he would be happy to add the Town to the House bill.

MOTION: Commissioner Farrow seconded by Commissioner Burke to approve Resolution 2008-04 was approved by the following vote: Ayes: Commissioners Farrow, Fry, Burke, Collins and Creef Noes: None. Absent: none. Excused: Commissioner Etheridge.

Mayor Daniels commented that he met with Town Attorney to discuss the terms of the lease for Magnolia Market and outlined some of things the Board would like to include in the lease and we will ask for another RFP. Some of things we have included are a three year lease, the rent, tenant responsibilities and ask for a submittal date of July 1, 2008.

Commissioner Fry commented about the letter received from the Nags Head mayor which referred to some things about waste water treatment and specifically pinpointed him about something he said, which is not half true. He was the one that said Shallowbag Bay is not polluted; "I think it is the cleanest it has ever been in my 50 years of being here." We have one individual who seems to think it is and that the waste water treatment plant is problem. "I simply said that if it were polluted that not only the wastewater treatment plant, but stormwater runoff, the beach septic tanks, I refer to the beach as Nags Heads, also said Colington, Mother Vineyard, marinas, many different things and one individual told the Mayor of Nags Head that Shallowbag Bay was polluted because of Nags Head septic tank." "A beach newspaper also said I said Shallowbag Bay was polluted because of Nags Head septic tanks, for the record was not here when that meeting was held."

MOTION: Commissioner Collins seconded by Commissioner Burke to excuse was H.A. Creef approved by the following vote: Ayes: Commissioners Farrow, Fry, Burke, Collins and Noes: None. Absent: none. Excused: Commissioner Etheridge and Creef.

MOTION: Commissioner Farrow seconded by Commissioner Collins to enter into closed session NCGS 143.318.11 (a) 6 Personnel was approved by the following vote: Ayes: Commissioners Farrow, Fry, Burke, Collins Noes: None. Absent: Excused: Commissioner Etheridge and Creef.

Personnel

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

After coming out of closed session the Board resumed a brief discussion about Magnolia Market and the Commissioners would like a letter to be sent to those that had previously bid on the lease and give them to opportunity to re-bid with the new guidelines.

MOTION: Commissioner Collins seconded by Commissioner Fry to recess until 8:00 am Friday, May 16th at 7:15 pm was approved by the following vote: Ayes: Commissioners Farrow, Fry, Burke, Collins. Noes: None. Absent: none. Excused: Commissioner Etheridge and Creef.

Adopted this 14th, day of May 2008

ATTEST:

Mayor Jamie Daniels

Town Clerk Becky Breiholz