SEP 01 2021

199

MINUTES

The Town of Manteo Board of Commissioners held their Regular September 1, 2021 meeting at 6:30 p.m. at 407 Budleigh Street, Manteo, NC.

The following members were present:

Mayor Bobby Owens
Mayor Pro-Tem Betty Selby
Commissioner Richie Burke
Commissioner Jason Borland
Commissioner Eddie Mann
Commissioner Darrell Collins
Commissioner Christine Walker

The following members were absent:

Also present at the meeting were:

Town Manager James Ayers
Town Attorney Ben Gallop
Information Technology Director Carl Woody
Town Clerk Jamie Whitley
Town Planner Melissa Dickerson

Mayor Bobby Owens called the meeting to order at 6:30 p.m.

Mayor Owens asked for a moment of silence followed by the Pledge of Allegiance.

SUBJECT: Adoption of Agenda as presented or amended

MOTION: A motion was made by Commissioner Mann and seconded by Commissioner Burke to adopt the agenda with an amendment to add "Re-Scheduling of Land Use Plan Amendment Public Hearing" to the agenda as Old Business and was approved by the following vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Mann, Borland, Walker, and Collins. Nays: None. Absent: None. **Motion carried unanimously.**

SUBJECT: Adoption of the items on the Consent Agenda as presented or amended

MOTION: A motion was made by Mayor Pro-Tem Selby and seconded by Commissioner Borland to approve the Consent Agenda with the following items: Regular August 4, 2021 minutes, Ordinance Violation Penalty Payment Time Frame, and Shallowbag Bay Sewer Pump Station Contract Execution and was approved by the following vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Mann, Borland, Walker, and Collins. Nays: None. Absent: None. **Motion carried unanimously.**

SEP 01 2021

200

PRESENTATIONS & REPORTS

SUBJECT: Key Project Updates - Spotlight on Affordable Housing

Mr. Ayers gave a presentation on Affordable Housing. He gave a background on the Who, What When, Where, and Why.

- Who: Housing for local residents, family members, workforce, etc.
- What: Affordable versus Workforce versus Essential Housing
  - Housing Choice Voucher (Up to 50% AMI (Area Medium Income))
  - Low Income Housing Tax Credit Properties (Up to 80% AMI). For Dare County, 80% AMI is $57,750 for a family of four.
  - Workforce Housing (Varies – typically 80-120% of AMI). A Family of four would make up $86,640.
  - Rental versus For-Sale Units
- Where: Town of Manteo (Adjacent Areas?)
- When: The need is now.
- Why: There is a Fundamental need.
  - Individuals, families, community
  - Current and future generations (Brain drain example)
  - Workforce:
    - Businesses, non-profits, governments need staff
    - Consumers (residents, visitors, others) need staff to deliver services
  - Economic growth
  - Community fabric

Mr. Ayers stated that this is a big problem and it is going to take a community effort. He gave examples of short-term approaches and long-term approaches.

- Short-Term Approaches
  - Pilot Project: Town-Owned Project
    - Feasibility Study that was budgeted for this fiscal year and a conceptual planning underway including a wetland delineation, survey work, and conceptual plan alternatives.
    - Development Methods
      - Primary: Public-Private Partnership
      - Back-Up Plan: Town as a Developer
    - Path Forward
      - Alternative 1 – Conceptual Plan
        - Request for Proposals (RFPs) – Flexible
      - Alternative 2 – Full Design
        - Request for Proposals – Single Family v. Multi-Family
  - Dare County Project
    - Bowsertown/California Road
      - Town Role: Access to Town utilities
    - Elizabethan Inn

SEP 01 2021
201

        - Town Role: Access to Town utilities and assistance from Planning, Inspections, Fire Marshal, and Others
    - Wastewater Treatment Plant Study to determine current capacity and Phase II for future expansion of the plant.

- Long-Term Approaches
    - A comprehensive plan is required to be completed by July 2022. We have a head start from the working group. This Comp Plan will inform the Zoning Ordinance.
    - Existing Ordinances:
        - Residential Developments – 5 or more units or lots
        - 20% Affordable
        - Affordability Formula
            - $183,200 home/condo
            - $45,800 lot
        - Density Bonus
        - Affordability Period Restrictions Repealed in 2010
    - Philosophical Issues
        - Role of Government
        - Rental versus Purchase
        - Short-Term Rentals
            - Pros/Cons: Airbnb's
            - Potential Legislation: Can government regulate or not?
        - Quality of Life: Can those who grew up here live here? Can those that work here live here?

Commissioner Burke asked about Cypress Cove and the affordable units there.

Mr. Ayers stated that it was his understanding that five of those lots were designated as affordable but not since they have been sold, they are not required to be affordable anymore. The ordinance was repealed in 2010 that required long-term affordability.

Mayor Pro-Tem Selby asked if the properties were designated as affordable housing.

Mr. Ayers stated that they were identified as affordable housing but it was before his time. He stated that he can provide her with the paperwork that he has.

Commissioner Mann asked what is the current capacity of the Wastewater Treatment Plant.

Mr. Ayers stated that we are operating at 52% based on the last discharge report.

Commissioner Mann asked at what point do we have to expand our treatment plant.

Mr. Ayers stated that the State requires us to develop an expansion plan when we reach 80% and at 90%, we have to take the steps for construction.

Commissioner Collins asked who is doing the study for us.

SEP 01 2021
202

Mr. Ayers stated that it is Green Engineering, who is already doing our Asset Inventory Assessment.

Commissioner Collins asked if we need to put a cap on capacity.

Mr. Ayers stated that if the Board wants to make a different threshold than what the State requires then we will provide the information to the Board so that they may do so if they desire.

Commissioner Borland thanked Mr. Ayers for the Presentation and the information.

The Affordable Housing Ordinance was dated 2004 and has had amendments since then.

Mayor Owens asked so we have been talking about affordable housing for 17 years?

Mr. Ayers replied that the Board has.

Commissioner Borland asked if any decisions need to be made in the meantime besides the pilot project and the Comp Plan?

Mr. Ayers stated that if the Board wants to go ahead and move forward with putting out the RFPs. He stated that with the consensus on the Board he can put those out in the next 30-60 days. The pilot project is meant to be an example of what can be done and we can look at other areas while we are working on this.

Commissioner Burke stated that he spoke with the adjacent property owner and they asked if the Town would be willing to sell a piece of the property to square the land off.

Mr. Ayers stated that he is not sure if that option is on the table. The Town's property is now in town limits and the adjacent property owner lives outside of town limits. He stated that from Dare County GIS, they are currently in a property dispute with the adjacent property owner to the southwest of us. He is happy to discuss and see what information we are getting from the adjacent landowner.

Mayor Pro-Tem Selby stated that the Board needs to go forward with the pilot project. The consensus of the Board was that they agreed with Mayor Pro-Tem Selby.

Mr. Ayers stated that they will be making draft RFPs.

Mayor Owens stated that the Board agrees for Mr. Ayers to move forward slowly and deliberately and the Board will pull him back whenever they need to.

PUBLIC COMMENTS

Members of the public are invited to address the Board of Commissioners on any topic. Public Comment is not intended to require the Board to answer any impromptu questions or to take any

SEP 01 2021
203

action on items brought up during the public comment period. Speakers will address all the comments to the Board as a whole and not one individual Commissioner. Discussions between speakers and members of the audience will not be allowed. Time limits are 3 minutes per person or 5 minutes per group. Please identify yourself and your location so that your statements can be recorded.

Malcolm Fearing: Mr. Fearing cautioned to Board about the wetland delineation for the pilot project. He stated that he would give the Board a name of an individual that is one of the best in the State. He stated that the lot in the diagram is a $50,000 lot and that Board should have a second determination. He stated that his family is attempting to build 16 units in Town. He stated that he is not classifying them as affordable or essential housing. They are small year-round housing. He stated that he is stuck on two ditches. He stated that they want to move the ditch six to eight feet and the ditch parallel to Bowsertown, which he wants to fill. He stated that he cannot make plans to move forward until he gets direction from the Town. He stated that the hang-up is that the ordinance says that you cannot fill a ditch. He stated that it also says that the adjacent property owners cannot put water on your land. He stated that they not only want to solve their problem but they want to address the issues of their surrounding neighborhood. He stated that it is simple. You move the ditch 5 feet and you put the water in a State asset that is currently located there. He stated that he met with the Town Manager and asked for a permit to do this. He stated that there is no permit to do this. He stated that he is stopped and that they cannot do this because of an unnecessary bureaucracy. He stated that this is simple stuff, unlike the pilot project which he stated is about four years' worth of work to try and get housing in the Town. He stated that he is asking for direction and he is asking for direction from the Town Staff to help him resolve this. He stated that if there is no permit, what can we do? He stated that he was told that a permit could be created and that they would talk to the lawyers and create a permit. He stated that if there is no permit then to him, they would design something and present it to the Town to move the ditch to a property line, five to ten feet, and put that water in a State asset that does out to a ditch system. He stated that is what he wanted to bring to the Board's attention. He stated that until we focus on the simple ways of doing things these issues that are so critical in our County and our Town are not going to be solved. He stated that it has been 17 years now. He stated that he will welcome any input to move this project forward.

OLD BUSINESS

SUBJECT: Re-Scheduling of Land Use Plan Amendment Public Hearing

Mr. Ayers stated that the Board set a Public Hearing for the Land Use Plan Amendments to take place on September 15, 2021. The meeting has been advertised, however, our CAMA representative has reached out and notified us of supplemental requirements that are not needed in our traditional public hearings. CAMA land use plan amendment notice and documents need to be placed at the County Courthouse following submission of the draft notice to CAMA for review. To maintain compliance, we will need to reschedule the public hearing, readvertise it, post the notice, and have the relevant documents available for inspection at the Dare County Courthouse. He requested that the Board should vote to reschedule the Public Hearing for Land Use Plan Amendments for October 20, 2021.

SEP 01 2021
204

MOTION: A motion was made by Commissioner Collins and seconded by Commissioner Burke to re-schedule the Land Use Plan Amendment Public Hearing and was approved by the following vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Mann, Borland, Walker, and Collins. Nays: None. Absent: None. **Motion carried unanimously.**

NEW BUSINESS

SUBJECT: Magnolia Pavilion Space Utilization

Mr. Ayers stated that Magnolia Pavilion has served several uses over the years, including business activities, special events, and more. A portion of the enclosed space at this facility has been leased to various tenants in the past. The most recent tenant, Water Street Studio, has vacated the premises and moved to a nearby space. The space is currently unoccupied, and multiple inquiries have been made by prospective tenants interested in the space. Later this fiscal year, there will be community conversations and facilitated public engagement regarding a collective vision for, and future improvements to, this overall property that contains Magnolia Pavilion and the surrounding public spaces. In the meantime, it would be prudent to consider the feasibility of leasing the enclosed space. From a legal perspective, Section § 160A-272 of the North Carolina General Statutes would tell us that "any property owned by a city may be leased or rented for such terms and upon such conditions as the council may determine… and only if the council determines that the property will not be needed by the city for the term of the lease." If a short-term lease is considered, then "the council may delegate to the city manager or some other city administrative officer authority to lease or rent city property for terms of one year or less." Lease terms from one year to ten years would require additional steps, including a public notice and resolution by the governing body. Because many unsolicited inquiries have already been received regarding this property, it makes sense to establish a fair and open method by which proposals can be assessed. A Request for Proposals (RFP) may be issued and advertised to solicit potential tenants, and it would be appropriate to include in the RFP the criteria against which their proposals would be evaluated. For example, criteria may include economic factors (e.g., how much revenue is generated from the lease, how many jobs are created, is the tenant financially responsible, etc.), activation of the space (e.g., does the tenant's activities promote vibrancy and draw people to the area, etc.), compatibility (e.g., is the proposed use compatible with surrounding uses and occupants, etc.), and flexibility (e.g., is the proposed lease term flexible or is long-term use required, will the use be flexible with adjacent uses such as special events, etc.). Although action (such as a vote) by the Board of Commissioners is not required in this case, feedback from the Board is sought regarding the desirability of soliciting a short-term tenant for Magnolia Pavilion.

Commissioner Mann stated that if there is an opportunity to make money while we decide then we should do that.

Commissioner Walker agreed with Commissioner Mann. She stated that Magnolia Pavilion served the previous tenants well and for her, it is more about the incubator and creating jobs than it is about the money. She stated that we don't have a plan for it right away and we have people interested in it so we need to go for it and see who would be the best fit.

Commission Borland stated that it is life and activity that breeds life and activity. He stated that it is going to take time to get there so there is no point in not having someone that is going to produce money, life and activity, and jobs. He is for it.

Mayor Owens stated that the consensus is for Mr. Ayers to proceed with proposals for rentals.

MAYOR'S/COMMISSIONERS COMMENTS

Commission Mann: He thinks that this affordable housing project is going to be multifaceted so we do need to be developers for small projects and public-private partnerships. He thinks that it is equally important for the Board to help developers develop their property into affordable avenues. He stated that he (Mr. Fearing) is willing to do the work quicker than we can do it. We should assist in whatever way the local government can. That is what the local government should be doing.

Commissioner Collins: He asked Mr. Fearing if he had worked with the Planning and Zoning Board regarding his problem?

Mr. Fearing stated that he brought this to the attention of the Planning Staff and he gave a presentation to the Planning Board.

Commissioner Collins asked if the Planning Board can do anything for Mr. Fearing?

Mr. Fearing stated that it is simple. He stated that his guess is if an ordinance has to be created for a permit, then it has to come back to the Board of Commissioners. He stated that we would have to do that in October and this is an issue that has been going on for some time. He stated that it will require a decision from the Board of Commissioners unless they give the Town Manager or the Planning Director leeway to make a decision. He stated that his hang-up is that there is no permit available. He stated that it is reasonable that the Town should get a drawing from them of what their proposal is on handling the water. He stated that is reasonable. He stated that in other words, what size pipe they are going to put it in and what manhole to connect to what State asset. He stated that is reasonable and they are willing to do that. He stated that one of the reasons that he wants to move the ditch is because they do not want an open ditch. They want to put a culvert the whole length of the ditch so that it is not open. He stated that they don't feel like that is safe. He stated that since there is no permit if the authority is given to the staff to try and work this out, that would be of great benefit. He stated that is just the ditch and by doing that allows them to draw the plans that are necessary to go to the Planning Board and the Board of Commissioners. He stated that what they are attempting to do in this project is meet the exact ordinance of the Town, the correct density. We are asking for nothing other than the exact rule of the town.

Commissioner Collins asked if the Board could have Mr. Fearing submit his plan to the Planning and Zoning Board and let them look at it and see if they can work through this problem?

Mayor Owens asked Mr. Ayers if the Board of Commissioners would have to approve the ditch before it went to the Planning Board, as in the ditch being moved?

SEP 01 2021
206

Mr. Ayers stated that it depends on the process. We are venturing into some legal matters now and he is not comfortable at this point having this discussion because there are some things here that sound different from what he has heard before.

Mayor Owens stated that this Board needs to know what they are. The Board has the right to know.

Mr. Ayers replied yes sir.

Mayor Owens stated that it should not be between you and a few members of your staff. He stated that the buck stops here.

Mr. Ayers replied yes sir. The Board is the elected body and of course, he will do their will.

Commissioner Borland suggested that Mr. Ayers, Planner Dickerson, and Attorney Gallop, as a reasonable expectation get our situation together so that we know what we're looking at by just telling us what you got here. He stated that maybe you have to do more research. He stated that he doesn't know and he has seen the ditch. He doesn't want to get in the way of someone that is trying to develop their land that is going to benefit the Town as well. He stated that they want to understand both sides of the situation before making any kind of decision from a legal standpoint as well as operationally.

Mayor Pro-Tem Selby: She stated that her question was the same as Commissioner Collins. Has this been to the Planning Board? She stated that it sounds like it has. She stated that if he went to the Planning Board then the Board of Commissioners need to know what the results were because it seems that he was not satisfied. She asked what happened once Mr. Fearing went to the Planning Board?

Mr. Fearing responded that the specific ditch did not go to the Planning Board. He stated that he had three minutes to do a presentation and explain to the Planning Board. He thought he was going to be on the agenda but due to miscommunication, he was not. He stated that he did not go to the Planning board and say he would like to move this ditch. He stated that he showed the Planning Board the project and the layout which is the same layout that is posted at the site right now. He stated that he can not move forward until the ditch issue is resolved. He stated that his point is no permit exists for the town.

Mr. Ayers clarified that a presentation was presented to the Planning and Zoning Board about this project in general, it was not an application. No permit application was submitted for the Planning and Zoning Board to hear and deliberate on. The Planning and Zoning Board would have sent it to this Board or issued a permit but there was no such application. It was important for Mr. Fearing to present his vision to the Planning and Zoning Board because he wanted to share his idea of what he was trying to do. He stated that it is certainly a laudable cause to try and build these units there and we certainly welcome that.

Mr. Ayers did not want to tread on any legal issues. He stated that the request is not to develop the property. He stated that we thought we were going to have a permit application come in but then the new request was clarified that it was a ditch relocation only, not a development permit, which could be allowed by right based on what we are hearing but we have not seen that application. The question was if a ditch relocation can be done? A ditch relocation only, not a development permit, not anything? Normally, we would have seen the ditch relocation incorporated in a development plan. The site plan would be submitted to the Planning and Zoning Board. That is the normal process but we understand the developer desires to relocate the ditch without going that step. There is nothing called a ditch relocation permit in our ordinance but there are other things that have to do with the floodplain. There are questions as to fill and there are things in the ordinance about fill up to one foot etc. This is a new request that has been made. He stated that we were also given information from Dare County because we were told that Dare County had done this recently as an easement relocation for stormwater. He stated that when we spoke to the county, they said this was just for an easement relocation, not a ditch relocation. They had a different process for ditch relocation. He stated that we are desperately searching through our ordinances and the general statutes, trying to get a quick answer. We are diligently working on it so we can assure you we want this project; we support the ditch relocation and we are trying our best to do it in compliance with ordinances and statutes and make sure that we don't get into legal trouble and put this Board or the community at risk.

Commissioner Borland clarified that it sounds like Mr. Ayers is in the process of figuring out what the process is for Mr. Fearing. He asked if Mr. Ayers is working on it?

Mr. Ayers replied yes sir.

Mr. Fearing mentioned having something for mid-month. He stated that to develop a plan to bring to the Planning Board is $10,000-$15,000 in engineering fees. He doesn't want to do that until the ditch is answered. He stated that once the ditch is answered then they can spend the money on the engineering of the property.

Commissioner Burke asked if there is no permit then is a permit required to do this?

Mr. Ayers replied that there are various permits referred to in our ordinance that may or may not be applicable for which we are seeking clarification further some clear questions as to our ordinance also talks about is it applicable to a traditional development permit. He stated that we just heard that the future applicant does not want to do the things required for a development permit for which this would normally be a part. He stated that we were guided to Dare County where they had a process.

Commissioner Burke told Mr. Ayers to take the county out of it because this is the Town of Manteo.

Mr. Ayers explained that this is what was brought to staff by the developer.

Mayor Owens agreed with Commissioner Burke. He stated that he doesn't care what the county does, the county is not in this.

SEP 01 2021
208

Mr. Ayers replied yes sir.

Commissioner Burke asked what is stopping Mr. Fearing from going out there tomorrow and moving his ditch?

Mr. Ayers stated that he thinks that Mr. Fearing is trying to be helpful and follow the ordinances.

Commissioner Burke stated that he understands that Mr. Fearing is trying to be fair and square about this.

Mr. Ayers stated that one part of our ordinances says that you can't fill a ditch. We don't want to run afoul of that. He is trying to do it the right way without getting in trouble. He stated that he also thinks there still are some remaining questions as to which existing permit is applicable or which statutes apply. He stated that especially the issue about water coming onto a property. That is another one that has legal ramifications as well. He stated that we want to make sure that we properly do this. He stated the staff has been reading hundreds of pages of information, trying to get this sorted as quickly as we can. He stated that they will continue to be diligent about it and we appreciate the support.

Mr. Fearing stated that this is a simple thing that has been made complicated. He stated that there is no permit to move a ditch. He stated that some time ago, James McClease came to him and wanted to dig out the ditch. He stated that he thinks that he did it twice and Mr. Fearing allowed him to do it. He stated that Mr. McClease is not here to back him up but he stated that he told Mr. McClease that he could dig the ditch out but he didn't want it to cause him a problem in the future. He stated that it was flooding the neighborhood back there. Mr. Fearing stated that it is not a flowing ditch there. He stated that the water that is coming is coming from Bay Tree Apartments and it is not their fault. He stated that it is just the way that it is. He stated that he is not trying to cut them off. He stated that he is trying to size a pipe that will accommodate the excess water.

Mayor Owens asked Mr. Fearing if he said that the town dug the ditch?

Mr. Fearing stated that the Town dug the ditch.

Mr. Owens stated the town dug the ditch to help those two projects out.

Commissioner Burke clarified that the town cleaned the ditch. He thinks twice.

Mr. Fearing replied yeah.

Mayor Owens agreed with Commissioner Burke.

Mr. Fearing stated that with legal ramifications, it is only moving a ditch from here to there and putting the water in the pipe that is there.

Mayor Owens asked if the town dug the ditch, did they have permission to dig the ditch?

SEP 01 2021
209

Mr. Fearing stated yes, they did. They dug the ditch out.

Commissioner Burke stated that he thought the State dug the ditch.

Mr. Fearing stated that the State did not dig that ditch.

Commissioner Collins explained to Mayor Owens that the town did not dig the ditch. The town cleaned the ditch.

Mr. Fearing stated that it doesn't need general statutes or years to figure out. He stated that it is a simple thing. He stated that Mr. Ayers has an engineering background and Planner Dickerson is well trained and competent. He stated that he will hire an engineer to draw a diagram and he has asked John DeLucia if he would do it.

Mayor Owens stated that Mr. Fearing can't present anything to the Planning and Zoning Board until Mr. Fearing finds out about the ditch. He stated that Mr. Fearing is in a Catch 22.

Commissioner Borland stated that it sounds like Mr. Ayers may have told Mr. Fearing that he expects to have an answer by the middle of the month. He asked do we think by the workshop meeting we will have an answer in what steps Mr. Fearing needs to take?

Mr. Ayers responded yes sir.

Commissioner Borland stated that he hates to tell Mr. Fearing to wait a few more weeks but he knows that Mr. Fearing has been waiting a long time to do something and if we can have some information for you in a couple of weeks.

Mr. Fearing stated that was more than acceptable. He stated that in their meeting he asked Mr. Ayers should he participate in this before the meeting so they could both collaborate on it.

Mayor Owens asked who owns the property that the ditch runs on?

Mr. Fearing stated that it is MKF Realty, which is a family partnership.

Mr. Fearing stated yes, it is a partnership with his wife and daughters.

Mayor Owens asked if it was part of the group that owns the two units out there (Harbourtown and Baytree Apartments), is that right? He stated that the ditch was dug to help them out because there was standing knee-deep water.

Mr. Fearing stated that the ditch was dug and there was an existing ditch.

Mayor Owens stated that Commissioner Collins just told him that the State dug the ditch and the town supported it.

SEP 01 2021
210

Commissioner Collins clarified that the town cleaned the ditch. He asked Mr. Fearing for clarification that Mr. McClease cleaned the ditch up for Mr. Fearing, right?

Mr. Fearing responded that he cleaned it up, that is right. He stated that Mr. McClease came to him after a storm and asked Mr. Fearing if he could clean it out.

Mayor Owens thought Commissioner Collins said the State did it.

Commissioner Collins clarified that the State did the drainage system.

Mr. Fearing stated that the ditch parallel to the highway is on their property. He stated that parallel to Bowsertown Rd. is a culvert. He asked for clarification from Planner Dickerson.

Planner Dickerson stated that it does not appear on the stormwater map but there is something there.

Mr. Fearing stated that it is a concrete culvert, right.

Planner Dickerson stated that she can not confirm that but there is something there.

Mr. Fearing claims that they saw it.

Mayor Owens stated that we are seeing government in action tonight and it isn't worth a damn.

Mr. Fearing stated that it is frustrating.

Mayor Owens stated that is what he means.

Mr. Fearing stated that to be fair they could use the property for other uses because it is more valuable for commercial use.

Mayor Owens stated that Commissioner Borland had the best idea which is to let Mr. Ayers go ahead and bring it back to the Board at the next meeting with some kind of solution one way or the other. He stated that we haven't even asked legal counsel.

Attorney Gallop stated that with this he is going to have a conflict and he won't be able to advise staff on this one.

Mayor Owens asked if they will have to get another attorney because of a conflict of interest.

Attorney Gallop responded yes sir.

Mayor Pro-Tem Selby stated that we keep hearing James McClease and he cleaned the ditches out because he really cared about Manteo and the appearance of the Town of Manteo. She stated that it speaks to his dedication and the town stayed immaculate. She stated that speaking of him, she wanted to say that because he did everything to keep the town clean.

SEP 01 2021

211

Mayor Owens stated that Mr. Fearing wants to build seven to ten houses out there and rent them and we are holding him back. That doesn't make sense.

Commissioner Borland: He appreciated Mr. Fearing's patience and him trying to take the steps to do the right thing instead of saying there is no permit process let me go do it. He agreed with Commissioner Mann when he said that housing and a lot of things are multi-faceted and there are a lot of different angles to it. He stated that we got our first step and the things that the town can control and it is public and private and you can spend your own money a lot quicker than you can spend the entire town. He stated that he knows getting caught in the red tape is frustrating but we need to follow the process and do things the right way. He stated that it is frustrating to the Board too but hopefully we can get some information and remove roadblocks so that Mr. Fearing can do something that is going to benefit the town.

Mayor Owens stated to Mr. Ayers that it is going to be incumbent on him to bring something at the next meeting on September 15th. He instructed Mr. Ayers to bring something and a legal attorney and he doesn't care if he has to go to Chicago. He stated that we need this resolved one way or another.

There being no further business to come before the Board or other persons to be heard a motion was made by Commissioner Mann and seconded by Commissioner Borland the meeting was recessed at 6:53 p.m. until September 15, 2021, at 5:00 p.m. The motion was approved by the following vote: Ayes: Mayor Pro-Tem Selby, Commissioners Burke, Mann, Borland, Walker, and Collins. Nays: None. Absent: None. **Motion carried unanimously.**

This the 1st day of September 2021.

ATTEST:

Jamie Whitley, Town Clerk

Bobby Owens, Mayor

TOWN OF MANTEO CORPORATE SEAL 1899 NORTH CAROLINA

SEP 01 2021

212

SEP 01 2021

213

AN ORDINANCE AMENDING THE TOWN CODE OF THE TOWN OF MANTEO, NORTH CAROLINA TO MODIFY THE ORDINANCE VIOLATION PENALTY PAYMENT TIME FRAME
Proposed Code of Ordinances Text Amendment 2021-02 COD

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-174, the Town of Manteo (the "Town") may enact and amend ordinances which define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the city, and may define and abate nuisances within its jurisdiction. Pursuant to this authority the Town has codified such ordinances within the Town's Code of Ordinances (the "Town Code"); and

WHEREAS, the Town finds that the extension of the ordinance violation penalty payment time frame will be beneficial to the health, safety, or welfare of its citizens by promoting collection of penalties and encouraging compliance; and

WHEREAS, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Town Code as stated below.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (<u>underline</u>) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipsis ("...") shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of Town Code.

NOW, THEREFORE, BE IT ORDAINED by the Town Board of Commissioners of the Town of Manteo, North Carolina, that the Town Code be amended as follows:

SEP 01 2021

214

PART I. That Sec. 1-6(b)(2) of the Code of Ordinances, Town of Manteo, North Carolina, is hereby amended to read as follows:

A violation of any provision of this Code may subject the offender to a civil penalty in the amount of not more than $500.00, unless some other amount shall be specifically delineated, to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within a period of ~~72 hours~~ seven (7) days after he has been cited for violation of the ordinance.

PART II. That Sec. 2-227 - Penalties for violation of the Code of Ordinances, Town of Manteo, North Carolina, is hereby amended to read as follows:

(a) Whenever a member of the police department, or other person charged with the enforcement of the ordinances of the town regulating town owned cemeteries, shall find that any of such provisions are being or have been violated by a person, such officer or person may issue a civil penalty citation or ticket which shall require the person to pay the town within ~~72 hours~~ seven (7) days after such citation the civil penalty provided below in paragraph.

(b) Any person notified, as provided in this article, shall within ~~72 hours~~ seven (7) days, present the civil penalty citation and $10.00 for each violation involving this division. Such civil penalty is hereby imposed for such violations under authority of G.S. 160A-175.

PART III. That Sec. 46-106 – Enforcement; penalties of the Code of Ordinances, Town of Manteo, North Carolina, is hereby amended to read as follows:

(a) Notice of violation. Whenever a member of the police department, or other person charged with the enforcement of the ordinances of the town regulating the parking of vehicles, shall find that any of such provisions are being or have been violated by the owner or operator of any vehicle, such officer or person shall notify the owner or operator of such violation by conspicuously attaching to the vehicle a civil penalty citation or ticket which shall require the owner or operator to pay to the town within ~~72 hours~~ seven (7) days after such citation, the civil penalty provided below in paragraph (b).

(b) Civil penalty for certain violations; payment; infraction. Any person notified, as provided in this article, shall, within ~~72 hours~~ seven (7) days, present the civil penalty citation, and pay the civil penalty of $25.00 for each violation involving double parking, parking in loading zones, parking in bus zones, blocking driveways and sidewalks, and parking in traffic lanes, or parking in front of a fire hydrant, or within a fire hydrant zone or other place where parking is prohibited, or parking over the allowed time, or parking during the time prohibited. Such civil penalty is hereby imposed for such violations under authority of G.S. 160A-175.

SEP 01 2021

215

ARTICLE IV. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance or Town Code of the Town of Manteo, North Carolina which shall remain in full force and effect.

ARTICLE VI. Effective Date.

This ordinance amendment shall be in full force and effect from and after the 1st day of September, 2021.

Bobby Owens, Mayor

ATTEST:

Jamie Whitley, Town Clerk

TOWN OF MANTEO CORPORATE SEAL 1899 NORTH CAROLINA

Date adopted: September 1, 2021

Motion to adopt by Commissioner Betty Selby

Motion seconded by Commissioner Jason Borland

Vote: 6 AYES 0 NAYS

SEP 01 2021

216