



The Town of Manteo Board of Commissioners will meet in Regular Session in the Manteo Town Hall meeting room, 407 Budleigh Street and via Teleconference* on Wednesday, June 2020 at 6:30 p.m. to hear and act upon the following:

Town Of Manteo
Regular Board of Commissioners
June 3, 2020
PROPOSED AGENDA

1. CALL TO ORDER-MOMENT OF SILENT MEDITATION
2. PLEDGE OF ALLEGIANCE
3. ADOPTION OF AGENDA AS PRESENTED OR AMENDED
4. CONSENT AGENDA
 - A. Approval of Minutes Regular Meeting May 6, 2020
 - B. Approval of Minutes Recessed Budget Workshop May 14, 2020
 - C. Approval of Minutes Recessed Workshop May 20, 2020
 - D. Approval of Resolution 2020-03 Outer Banks Hazard Mitigation Plan
 - E. Approval of Contract Services for Town Attorney
5. PUBLIC HEARING on FY 2020-2021 Budget
6. PUBLIC COMMENT *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 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*
7. MAYOR/COMMISSIONER COMMENTS
8. ADJOURN/RECESS

* The public may access the meeting by calling +1-253-215-8782, +1-301-715-8592, or +1-346-248-7799 and then entering the Meeting ID of 622-572-

789. Members of the public are welcome to participate in the Public Hearing or Public Comment segments.

They MINUTES

The Town of Manteo Board of Commissioners held their Regular session at the Manteo Town Hall, 407 Budleigh Street and via teleconference at 6:30 p.m.

The following members were present:

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

The following members were absent:

Also present at the meeting were:

Town Manager James Ayers
Town Clerk Becky Breiholz
Finance Officer Shannon Twiddy
Planner Melissa Dickerson
IT Director Carl Woody

Town Manager James Ayers did a roll call of those present: Mayor Owens-present via remote teleconference; Commissioner Collins-present via remote teleconference; The following Commissioners were physically present: Commissioner Walker-present; Commissioner Mann-present; Commissioner Burke-present; Commissioner Selby-present and Commissioner Jason Borland-present. A quorum was established.

Mayor Owens called the meeting to order at 6:30 pm followed by a moment of silent meditation and the Pledge of Allegiance.

Mr. Ayers informed the Board that new legislation enacted by the State on Monday requires that a roll call be done after every motion if the meeting is being done remotely.

SUBJECT: Adoption of Agenda as presented or amended.

MOTION: Commissioner Walker seconded by Commissioner Selby to approve the agenda as presented was approved by the following roll call vote: Ayes: Commissioners Burke, Mann, Collins, Walker, Borland and Selby. Nays: None. Absent: None.

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

MOTION: Commissioner Collins seconded by Commissioner Walker to approve the April 1, 2020 Regular; April 15, 2020 Recessed minutes on consent agenda as presented was approved by the following roll call vote: Ayes: Commissioners Burke, Mann, Collins, Walker, Borland and Selby. Nays: None. Absent: None.

PRESENTATIONS

hotel site and are planning on putting 16 condominiums there and would like them to share any information on this.

Mayor Owens commented that we do not respond to questions and Mr. Ayers explained that we are on public hearing for the flood damage prevention ordinance and generally we do not allow questions and answers but as of right now we have not received an application and should an application be submitted all the stakeholders will be notified.

There were no more comments on the public hearing.

MOTION: Commissioner Borland seconded by Commissioner Walker to exit the public hearing was approved by the following roll call vote: Ayes: Commissioners Burke, Mann, Collins, Walker, Borland and Selby. Nays: None. Absent: None

PUBLIC COMMENTS

Mayor Owens opened up public comments and Mr. Ayers read the Public Comment statement: *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 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.*

#3022-Jackie Meyers Compton Street understands the procedure about questions not being answered, but they were told by the developer that 16 condos will be built on the hotel site and they have been in discussion with the Town and wants to know more about this. Mayor Owens commented this is not protocol. Commissioner Borland asked that the process be shared. Mr. Ayers explained the process and for any development that would be submitted it would require public notice as any development would and something like this would require approval by various departments and we would engage the public.

Mayor Owens closed the public comment at 7:10 pm.

NEW BUSINESS

SUBJECT: Discussion of Disposition of Surplus Asset-604 Sir Walter Raleigh Street
The Board of Commissioners previously authorized the acquisition of the lot at 604 Sir Walter Raleigh Street. This property is not part of any Town program or strategic plan, and the property is surplus to the needs of the Town of Manteo. The Town anticipates budget reductions for FY20-21, which would guide us to dispose of surplus assets.

Article 12 of North Carolina General Statute 160A allows municipalities to use the following methods for disposal of real property:

- (1) Private negotiation and sale;
- (2) Advertisement for sealed bids;
- (3) Negotiated offer, advertisement, and upset bid;

- (4) Public auction; or
- (5) Exchange.

The Town Manager recommends the use of sealed bids for the sale of this property. If allowed, a reserve price of \$50,000 may be set given that this is the price at which the prior owner acquired the property in an arms-length transaction. Proceeds of the transaction would be placed in the Town's General Fund for use in the FY20-21 Budget.

Recommendation

The Town Manager requests authorization to dispose of the property at 604 Sir Walter Raleigh and to execute all necessary documents related to the sale and closing of the subject property.

MOTION: Commissioner Borland seconded by Commissioner Burke to authorize the Town Manager to dispose of the property at 604 Sir Walter Raleigh Street with a starting reserve of \$50,000 and to execute all necessary documents related to the sale and closing of the subject property was approved by the following roll call vote: Ayes: Commissioners Burke, Mann, Collins, Walker, Borland and Selby. Nays: None. Absent: None.

SUBJECT: Text amendment to the Town of Manteo Codified Ordinances Section 50-144 Adjustment of bills. Text amendment 2020-04 will allow for the adjustment of water bills due to the filling of swimming pools or power washing in which the water does not enter into the wastewater collection system. This will only be allowed one time per calendar year and we will need notification and written documentation from the homeowner.

MOTION: Commissioner Burke seconded by Commissioner Mann to approve text amendment #2020-04 Section 50-144 for adjustment to the water bills was approved by the following roll vote: Ayes: Commissioners Burke, Mann, Collins, Walker, Borland and Selby. Nays: None. Absent: None.

SUBJECT: Text amendment to the Town of Manteo Zoning Ordinances Section 12-7 Boat Lifts.

At the April 15th Board of Commissioners meeting, a Board member suggested the potential deletion of this section of the zoning ordinance. To lift the prohibition, the following text amendment would be required:

Delete the words "Boat lifts, or any devices attached to pilings or docks and designed to suspend a boat over the water, are not permitted in marinas" from the ordinance text.

Staff recommend that the Board of Commissioners refer this item to the Planning and Zoning Board for review and recommendation as required for by the ordinance for all amendments to the zoning ordinance text. Additionally, staff recommend that the Board of Commissioners schedule a public hearing on this matter for June 17, 2020.

Mr. Ayers commented this only affects private property and certain developments have their own restrictions. Other than the one dock downtown the Board would have control over boat lifts on the Town marina.

MOTION: Commissioner Borland seconded by Commissioner Selby to refer to the Planning Board for recommendation and that a Public Hearing be scheduled for June 17, 2020 was approved by the following roll call vote: Ayes: Commissioners Burke, Mann, Collins, Walker, Borland and Selby. Nays: None. Absent: None.

SUBJECT: Discussion of Fee Schedule-the Town of Manteo fee schedule is in need of updating to include items that are not on it and delete items that no longer apply. The fee schedule will be made a part of these minutes. The fee schedule accompanies the budget each year; no fees are going up and clarifies commercial boat fees and deletes tampering fees. The State no longer allows charge for tampering fees, but we can proceed with civil action. None of the fees are going up.

MOTION: Commissioner Selby seconded by Commissioner Collins to approve the fee schedule as presented was approved by the following roll call vote: Ayes: Commissioners Burke, Mann, Collins, Walker, Borland and Selby. Nays: None. Absent: None.

SUBJECT: Discussion of Pay Plan-Mr. Ayers commented that this is also something included in the budget and we piggybacked with Southern Shores on a salary study. There are no changes in pay grade, classifications or ranges. Only changes are adding new classifications and reclassifying those positions in appropriate grade after discussion with the consultant. For example we have added the position of Deputy Town Clerk to overlap with leaving of the Town Clerk, it has not been an approved position but a potential position and want to make sure any new position that might come to the Board for approval is in the study. Just by putting the position in the pay plan does not mean that the Board is approving or appropriating funds for that position. Are there any changes in salaries? Mr. Ayers commented yes there are some changes based on the reclassifications of a couple of positions.

MOTION: Commissioner Collins seconded by Commissioner Mann to approve the Pay Plan as presented was approved by the following roll vote: Ayes: Commissioners Burke, Mann, Collins, Walker, Borland and Selby. Nays: None. Absent: None.

SUBJECT: Discussion of Fire Works for 4th of July grant agreement. The Town of Manteo applied to the Dare County Tourism Board (DCTB) for a 4th of July fireworks grant for the 4th of July special event. DCTB awarded a grant of \$12,831 that can be applied toward the cost of fireworks, which is \$48,750. The grant agreement specifically excludes pandemics or hurricanes as grounds for delaying or failing to deliver fireworks for this event.

Three key issues arise in this case. First, Governor Cooper provided updated information regarding the State's three-phase approach to re-opening the economy. However, the information presented in the most recent briefing by the Governor indicates that crowd-gathering restrictions at some level are likely to be in place at the time of this special event. Second, from a health, safety, and welfare standpoint, it doesn't seem prudent to put a large crowd downtown while the Coronavirus (COVID-19) threat still exists, even if the crowd is smaller than the 2019 event that was attended by 5,000+ people from 17 states. Third, from a fiscal standpoint, the Town is anticipating decreased revenues in FY20-21, so it would be prudent to eliminate discretionary expenses where feasible.

Recommendation

The Town Manager recommends cancellation of the 2020 4th of July special event, including the fireworks contract and the fireworks grant.

Mr. Ayers also informed the Board that the Town of Nags Head has also cancelled their 4th of July event.

MOTION: Commissioner Walker seconded by Commissioner Borland to authorize the Town Manager to cancel 4th of July including the fireworks grant and the fireworks contract was approved by the following vote: Ayes: Commissioners Burke, Mann, Collins, Walker, Borland and Selby. Nays: None. Absent: None

SUBJECT: Professional Services Contract for Town Commons
Authorization to Negotiate Professional Services Contract for Town Common

The Town of Manteo issued a Request for Qualifications (RFQ) for engineering and related services for the Town Common project. This procurement followed North Carolina General Statute § 143-64.31 and the qualifications-based selection (QBS) process. This process requires us to select a firm based on qualifications and then to negotiate a contract for a fair fee with the best qualified firm. If those negotiations should fail, then the statute directs us to negotiate with the next best qualified firm.

Four firms submitted qualifications packages by the deadline on April 27, 2020, and the submittals were responsive to the RFQ. Submittals were evaluated by the review team in accordance with the evaluation criteria listed in the RFQ, including technical approach, work experience, firm & staff qualifications, and past performance. Here is the rank order of the prospective firms with the highest-rated firm listed as #1:

1. Albemarle & Associates (Kill Devil Hills, NC)
2. Green Engineering (Wilson, NC)
3. Coastal Engineering & Surveying (Kitty Hawk, NC)
4. Quible & Associates (Kitty Hawk, NC & Powells Point, NC)

The solicitation was posted locally and statewide, including listing on the NC DOA website and its HUB (historically underutilized business) portal. The highest-rated firm is SBA-certified as a HUBZone Small Business Concern, and it is prequalified by NCDOT (including status as an NCDOT Small Professional Service Firm).

The proposed action is for the Board of Commissioners to authorize the following:

- The Town Manager is to negotiate a contract with the highest-rated firm;
- In the event contract negotiations are unsuccessful with the highest-rated firm, the Town Manager is to negotiate with the second highest-rated firm and so on until a contract is successfully negotiated; and
- The Town Manager is to sign the contract

MOTION: Commissioner Borland seconded by Commissioner Walker to authorize the Town Manager to negotiate the Town Common contract and to sign the contract and any amendments was approved by the following roll vote: Ayes: Commissioners Burke, Mann, Collins, Walker, Borland and Selby. Nays: None. Absent: None.

SUBJECT: Professional Services Contract for Wastewater Asset Inventory and Assessment

Authorization to Negotiate Professional Services Contract for Wastewater System Asset Inventory & Assessment.

The Town of Manteo issued a Request for Qualifications (RFQ) for engineering and related services for a Wastewater System Asset Inventory & Assessment project. The procurement followed North Carolina General Statute § 143-64.31 and the qualifications-based selection (QBS) process. This process requires us to select a firm based on qualifications and then to negotiate a contract for a fair fee with the best qualified firm. If those negotiations should fail, then the statute directs us to negotiate with the next best qualified firm.

Four firms submitted qualifications packages by the deadline on April 27, 2020, and the submittals were responsive to the RFQ. Submittals were evaluated by the review team in accordance with the evaluation criteria listed in the RFQ, including technical approach, work experience, firm & staff qualifications, and past performance. Here is the rank order of the prospective firms with the highest-rated firm listed as #1:

5. Green Engineering (Wilson, NC)
6. WithersRavenel (Raleigh, NC)
7. Quible & Associates (Kitty Hawk, NC & Powells Point, NC)
8. Anlauf Engineering & Michael Robinson (Kitty Hawk, NC & Kill Devil Hills, NC)

The solicitation was posted locally and statewide, including listing on the NC DOA website and its HUB (historically underutilized business) portal.

The proposed action is for the Board of Commissioners to authorize the following:

- The Town Manager is to negotiate a contract with the highest-rated firm;
- In the event contract negotiations are unsuccessful with the highest-rated firm, the Town Manager is to negotiate with the second highest-rated firm and so on until a contract is successfully negotiated; and
- The Town Manager is to sign the contract and any amendments.

MOTION: Commissioner Walker seconded by Commissioner Burke to authorize the Town Manager to negotiate the Wastewater System Asset Inventory and Assessment contract and to sign the contract and any amendments was approved by the following roll vote: Ayes: Commissioners Burke, Mann, Collins, Walker, Borland and Selby. Nays: None. Absent: None

OLD BUSINESS

SUBJECT: Discussion and consideration of Recycling Contract-This was given to the Board at their March 4th meeting and at that time were given multiple options to consider. There are two proposed amendments to the contract #1 would allow incineration and #2 is to allow for a 50% price increase.

Mr. Ayers commented that there has been an update received from Bay Disposal and they are offering to go back to the way it used to be as a subscription-based service at \$11.35 per month. It was a subscription-based service from 2008 to 2017. Commissioner Burke commented that it was a 5-year contract and they have two years left. Commissioner Mann would like to see some type of self-service recycling.

MOTION: Commissioner Mann seconded by Commissioner Borland to accept #1 allowing for incineration and deny #2 for a price increase was approved by the following roll vote: Ayes: Commissioners Burke, Mann, Collins, Walker, Borland and Selby. Nays: None. Absent: None

SUBJECT: Discussion of Traffic and Traffic Calming Measures on Sir Walter Raleigh Street (West of Highway 64)

The Board of Commissioners has received community feedback regarding multiple issues related to Sir Walter Raleigh Street west of Highway 64. Topics have included speeding on this roadway, traffic calming measures, signage, and sidewalk & crosswalk improvements. Staff at Town Hall and the Manteo Police Department have investigated key issues and coordinated with external agencies, and this document is intended to update the Board and community on the status of these inquiries.

Traffic

Manteo Police Department responded quickly to the concerns regarding speeding and left-of-center driving, including speeding during school times. MPD stepped up patrols and established a radar trailer to display speeds and collect data in this 20 mph zone. In March, total vehicle count was 13,495 and the 85th percentile speed was shown at 24 mph. 122 vehicles were shown to be driving 30 mph or higher (less than 1%). 9 speeding citations were issued along with 15 warnings for left-of-center driving. In April, total vehicle count was 10,999 and the 85th percentile speed was shown at 24 mph. 91 vehicles were shown to be driving 30 mph or higher (less than 1%). 2 speeding citations were issued.

MPD staff speculates that reduced traffic count may be due to COVID-19 restrictions. On the other hand, MPD received complaints of mini-bike and motorcycle speeding in April after schools were closed and more people were home. MPD staff noted vehicles may have started avoiding Sir Walter Raleigh by using Fernando Street, and officers have issued several citations on that parallel street.

Traffic Calming Measures

Multiple community members expressed concern about the traffic calming measures previously installed by the Town with permission from DOT. These concrete improvements may be called bump-outs, bulb-outs, or curb extensions. It is understood these items were installed for traffic calming because other measures such as speed bumps couldn't be used on a State roadway. The community members appearing at the Board's public comment period indicated a desire to remove these items. One community member approached staff in the days following the meeting and requested that these items should be preserved. Town staff contacted DOT regarding this issue, and the question has been posed whether or not the Town would be permitted to remove these items should the Board of Commissioners vote to spend the money for the removal of the bump-outs and restoration of the roadway surface.

Pedestrian Improvements

Community feedback indicated interest in pursuing a crosswalk at or near the entrance to the playground adjacent to Cartwright Park. Town staff contacted DOT to find out if this location would be acceptable for a crosswalk. Although the location may be too close (250-260 feet) to the intersection of Sir Walter Raleigh and Bideford Street at the roundabout, it seemed appropriate to ask our colleagues at DOT. Also, in the event the crosswalk could be permitted, the question was posed

whether the DOT would allow the Town to install crosswalk signage and (potentially) flashing yellow lights at the crosswalk.

On a related note, feedback indicated a desire to pursue a future section of sidewalk on the north side of Sir Walter Raleigh connecting the sidewalk on Highway 64 to the short stretch of sidewalk in front of Cartwright Park. Town staff contacted DOT to see if they would support the Town in seeking grants or other funding to construct this sidewalk and, if so, would they permit the proposed improvements to be constructed.

Signage

The Town received a request to remove the "No Parking" signs on the north side of Sir Walter Raleigh in front of Haven Creek Baptist Church. Unfortunately, vehicles cannot park in a travel lane, which would force vehicles fully into oncoming traffic, so this request cannot be approved. However, MPD has offered to assist this organization in handling activities such as funerals in which traffic control would be important.

In conjunction with local law enforcement, it has been recommended that the Town should add two 20 mph speed limit signs and adjust the locations of the existing signs in this stretch so that they are more visible to motorists. The Public Works Department has these signs in stock, and Town staff has requested permission from DOT to proceed with this signage work.

Commissioner Collins would like additional signage such as "Kids at Play" and Mr. Ayers will contact NCDOT to see if we can get permission to do that. The speed limit was also discussed that portion of Sir Walter Raleigh is 25 mph base on NCDOT 1983 records, we have it at 20mph. Mr. Ayers will investigate to see if it can be lowered to 20 mph. Commissioner Mann would like to facilitate a public hearing with a NCDOT representative and involve the community so they can hear the community concerns.

SUBJECT: Discussion and consideration of Manteo Relief Fund for Residents and Businesses
The Board of Commissioners took a leadership role early in this declared emergency by providing relief to residents and businesses, including suspension of utility disconnections, establishment of payment plans, waiver of convenience fees, and waiver of delinquency fees, interest, and/or penalties. At its April 15th meeting, the Board directed staff to explore additional options for utility bill relief for residents and businesses. Although North Carolina law prohibits the waiver or discounting of water charges for individuals out of the Utility Fund, there are options for special programs using General Fund dollars.

Options

The first option was noted at the April 15th Board meeting, and it was to assess the cost to pay utility bills for all accounts from May 1st to September 1st. The Finance Department has estimated the cost of this option based on prior year numbers:

	May	June	July/Qtrly	August	Total - 5/1-9/1
Residential	\$43,187.49	\$41,349.67	\$207,411.93	\$42,763.70	\$334,712.79
Commercial	\$32,228.63	\$31,554.33	\$56,636.96	\$36,192.38	\$156,612.30

Sub-Total	\$75,416.12	\$72,904.00	\$264,048.89	\$78,956.08	\$491,325.09
Institutional	\$23,191.32	\$19,553.47	\$48,074.69	\$21,176.65	\$111,996.13
Irrigation	\$2,015.10	\$1,825.58	\$47,430.23	\$1,720.58	\$52,991.49
Sub-Total	\$25,206.42	\$21,379.05	\$95,504.92	\$22,897.23	\$164,987.62
GRAND TOTAL	\$100,622.54	\$94,283.05	\$359,553.81	\$101,853.31	\$656,312.71

The estimated grand total across all accounts is shown as \$656,312.71. However, it is thought that the intent of this idea was to focus on residents and businesses, so the total drops to \$491,325.09 if irrigation and institutional accounts are removed from the equation.

In assessing the pros and cons of this first option, the pro position would be that it addresses the concern that all people in town have been impacted by Coronavirus (COVID-19). The top con for this option is the cost, which would have to be taken from the fund balance in the General Fund, thus impacting the Town's ability to perform existing projects such as the Town Common.

The second idea was reviewed at the April 15th meeting, and it was to establish a resident relief fund with limitations on use (maximum \$500 per household) and a limit on total value (\$100,000). The program was proposed to run during the emergency and up to ninety days following expiration of the emergency declaration. There would be an application process designed to document eligibility while maintaining flexibility in demonstrating impact. The pro of this program is that it limited overall cost while providing relief to the hardest-hit people. The con is that this option only applies to residents. One approach to mitigate that con would be to open up the relief program to businesses.

The third option would be to extend further the utility bill repayment options for residents and businesses impacted by Coronavirus (COVID-19). Governor Cooper's Executive Order 124 stipulates a minimum repayment period of six months for past due accounts. However, the Town could offer longer repayment periods (nine to twelve months), and customers paying their accounts in accordance with the payment plans would not be charged interest, fees, or penalties. The pro for this approach would be the reduced burden on customers while they get back on their feet, and the con would be that cash flow to the Utility Fund would be reduced during the repayment period.

Mr. Ayers reported the latest information that a total of 418,500 is past due and is higher than the pre-pandemic. Commissioner Walker is concerned about the online bank fee, it was supposed to be waived and paid for by the Town. Mr. Ayers reported that the bank had to send it to their legal department for review, but we have been refunding the bank fee charge to those accounts that are paying it. Commissioner Borland thinks we should delay this until the end of June. Commissioner Collins thinks we need to something now.

MOTION: Commissioner Collins seconded by Commissioner Walker to establish the Manteo Utility Relief Fund \$500 per household not to exceed \$100,000 was approved by the following roll call vote: Ayes: Commissioners Burke, Selby, Collins and Walker. Nays: Commissioner Mann and Borland. Absent: None.

SUBJECT: Selection Town Attorney-Mr. Ayers should the Board select the attorney requests that the Board authorize the Town Manager to negotiate a written contract. Mayor Owens opened the floor for nominations.

Commissioner Selby nominated Jeff Malarney.

Commissioner Burke nominated Ben Gallop.

Commissioner Collins commented that the Mayor should recuse himself; for the record "the Mayor should not vote as this is unethical as one of the nominees, Mr. Malarney is a longtime friend of the family and as Mayor and Chief Officer in charge of town government it is not in the best interest or practice of the Town for him to appoint a friend of the family to the upper echelon of Town government which he has oversight and direction of." "Also for the record he would like the requests for proposals that was sent out by the Town on February 14th soliciting proposals the Town Attorney; he would like to add to the record that the two proposals we received from Malarney and McCown and the other one from Hornthal, Riley, Ellis and Maland so the citizens can see that in the best interest for the Town the best firm has institutional knowledge, unlimited resources and offering their services at a substantial discounted rate." Mayor Owens, "in response to Darrell, I believe I do not have permission to vote and I don't know what Darrell's intention are but certainly does not sound honorable," "he is a friend of my son who has no interest in Manteo and does not care for Manteo," "which I do, I care for Manteo and love Manteo." "I don't know what Darrell is referring to." "I don't recall having ever voted on something and I am not allowed to according to the ordinances of the Town." Commissioner Collins: "are you going to recuse yourself from this vote." Mayor "I don't have to recuse; I just don't vote." Discussion on the proposals received and Mr. Ayers commented that the proposals are considered a matter of public record. Mayor Owens "I still don't know what Commissioner Collins is referring to." Commissioner Collins "I just want the proposals the Town received attached to the minutes so the public can see." Mayor Owens for the record, I do know Jeff Malarney and Ben Gallop and if you are impugning Malarney's character, I would take issue with it," "I suggest you look at his total record," "it's a lot more honorable than some people I know, Darrell." Commissioner Collins "I am just trying to do what is best for the Town of Manteo." Mayor Owens "thank you for that," "on every single issue you have been so selfish and jealous it's unbelievable." Mayor Owens "the record speaks for itself; you are not the cleanest person in town." Commissioner Collins "you aren't either Mr. Mayor." Mayor Owens "I don't claim to be; I know my past."

Commissioner Borland this has been going on awhile, he thinks both would be great. He has put a lot of thought into it. He found that Mr. Gallop has an unfair advantage as he has done work for the town and he was impressed with his work.

Commissioner Mann thinks both attorneys are very well qualified. "I think it unfair to use this as an opportunity to grandstand to muddy the waters, to make anyone feel prior to this who their choice was to muddy the waters and unfair to push an agenda."

Commissioner Borland commented that he did not take that into account and does not believe it would be a conflict of interest. Mayor Owens commented that he can work with Ben just as good as he can work with Jeff. Mayor Owens "I don't deny I would rather have Jeff Malarney, but I can work just as closely with Ben Gallop," "my first love is the Town of Manteo without grandstanding."

MOTION: to appoint Jeff Malarney as Town Attorney was **not** approved by the following roll call vote: Ayes: Commissioner Selby and Mann. Nays: Commissioner Burke, Borland, Walker and Collins. Absent: None.

MOTION: to appoint Ben Gallop as Town Attorney was approved by the following roll call vote: Ayes: Commissioner Burke, Borland, Walker and Collins. Nays: Commissioner Selby and Mann. Absent: None.

Mr. Ayers will prepare the necessary documents and start the transitioning of records from previous Town Attorney Wyatt Booth who has continued to do work for the Town while we were without an attorney. Commissioner Selby commented so we are paying two town attorneys and Mr. Ayers commented no they were working on different issues for the Town.

Commissioner Collins would like a letter of appreciation be sent to Mr. Booth recognizing his service to the Town. Commissioner Walkers thinks we should also do this. Mayor Owens we do not have a problem sending him a letter of appreciation for what he has done for the Town.

MOTION: by Commissioner Mann seconded by Commissioner Borland to authorize the Town Manager to negotiate and sign a written contract for legal services with the new Town Attorney Ben Gallop was approved by the following roll call vote: Ayes: Commissioner Selby Burke, Borland, Walker, Collins and Mann. Nays: None. Absent: None.

SUBJECT: Discussion and consideration of The Town of Manteo Flood Damage Prevention Ordinance and Flood Maps. Because of the new legislation that was enacted on Monday regarding public hearings requiring an additional 24 hours to allow for public written comment this will be placed on the May 20, 2020 agenda. Mr. Ayers informed the public that they have 24 hours to provide written comment.

MAYOR'S/COMMISSIONERS COMMENTS

Mayor Owens apologized for his lack of knowledge on teleconferencing.

Commissioner Selby wants everyone to know it was a hard decision to cancel the 4th of July.

Commissioner Mann would like a community action group to be involved in the process going forward on the Town Common to work with the Manager and engineer. I love small town government and thinks now more than ever we should remember that; and even though we may disagree we should not attack one another and help one another.

Commissioner Borland agrees that it makes sense to have a small working group involved with the Town Common. With everything going on this has been an ugly time and we need to be respectful of one another. It is okay to disagree respectfully.

Commissioner Walker thanked everyone and thought the phone meeting was done well and hopes everyone has completed the census.

Commissioner Collins "If I stepped on some peoples toes please accept my apology." He would like to recognize the hard work that is put in by the employees working his pandemic and does not know

how we recognize them and asks everyone on the Board to come up with ideas on how to recognize the dedication of the employees who have done a great job during the pandemic.

There being no further business to come before the Board or other persons to be heard a motion by Commissioner Mann seconded by Commissioner Walker the meeting was recessed at 9 pm until May 14, 2020 at 8:30 am for a budget retreat was approved by the following vote: Ayes: Commissioners Burke, Mann, Collins, Walker, Borland and Selby. Nays: None. Absent: Non

This the 6th day of May 2020

ATTEST:

Bobby Owens, Mayor

Becky Breiholz, Town Clerk

Proclamation

51st ANNUAL PROFESSIONAL MUNICIPAL CLERKS WEEK
May 3 - May 9, 2020

Whereas, The Office of the Professional Municipal Clerk, a time honored and vital part of local government exists throughout the world, and

Whereas, The Office of the Professional Municipal Clerk is the oldest among public servants, and

Whereas, The Office of the Professional Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and

Whereas, Professional Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all.

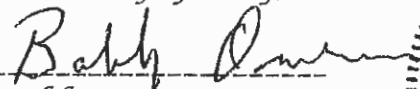
Whereas, The Professional Municipal Clerk serves as the information center on functions of local government and community.

Whereas, Professional Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Professional Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state, provincial, county and international professional organizations.

Whereas, It is most appropriate that we recognize the accomplishments of the Office of the Professional Municipal Clerk.

Now, Therefore, I, Bobby Owens, Mayor of the Town of Manteo, do recognize the week of May 3 through May 9, 2020, as Professional Municipal Clerks Week, and further extend appreciation to our Professional Municipal Clerk, Becky Breiholz and to all Professional Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Dated this 6th day of May, 2020

Mayor 
Bobby Owens





The Rhythm
OF
PUBLIC WORKS
NATIONAL PUBLIC WORKS WEEK
MAY 17-23, 2020

National Public Works Week Proclamation

May 17 – 23, 2020

"It Starts Here"

WHEREAS, public works professionals focus on infrastructure, facilities and services that are of vital importance to sustainable and resilient communities and to the public health, high quality of life and well-being of the people of the **Town of Manteo** and,

WHEREAS, these infrastructure, facilities and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers and employees at all levels of government and the private sector, who are responsible for rebuilding, improving and protecting our nation's transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and,

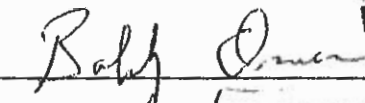
WHEREAS, it is in the public interest for the citizens, civic leaders and children in the **Town of Manteo** to gain knowledge of and to maintain a progressive interest and understanding of the importance of public works and public works programs in their respective communities; and,

WHEREAS, the year 2020 marks the 60th annual National Public Works Week sponsored by the American Public Works Association/Canadian Public Works Association be it now,

RESOLVED, I, **Bobby Owens, Mayor** do hereby designate the week May 17 – 23, 2020 as National Public Works Week; I urge all citizens to join with representatives of the American Public Works Association/Canadian Public Works Association and government agencies in activities, events and ceremonies designed to pay tribute to our public works professionals, engineers, managers and employees and to recognize the substantial contributions they make to protecting our national health, safety, and quality of life.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State (to be affixed),

DONE at the **Town of Manteo, North Carolina** this 6th day of May 2020.


Bobby Owens, Mayor



Text Amendment #2020-04 (C/O) to Ordinances Section 50-144 – Adjustment of Bills (Sewer)

Sec. 50-144. - Adjustment of bills.

- (a) The finance department shall have the authority to adjust a water and sewer bill after determining that the bill is excessive. A customer may request in writing that his bill be adjusted based on a defect in a plumbing fixture, a broken pipe or leak, that was not the fault of the occupant of the premises.
- (b) No adjustment shall be made for a period in excess of two consecutive billing periods and not more than one adjustment caused by the same condition shall be made within a period of three years.
- (c) The sewer charges shall be adjusted as follows:
 - (1) If the cause is a broken pipe or leak whereby the wasted water is not returned to the sanitary sewer system, the sewer charges shall be adjusted by writing off the portion of the bill that exceeds the average two previous billing cycles.
 - (2) If the cause is a defect in a plumbing fixture whereby the excess water is returned to the sanitary sewer system and it does not appear upon investigation that the occupants of the premises served were in any way at fault for the excessive usage, the sewer charges shall be adjusted by writing off 25% of the amount by which the unadjusted bill exceeds the average two previous billing cycles.
- (d) Adjustments to water bills will be done in accordance with section 50-45.
- (e) The finance department shall have the authority to adjust a sewer bill after determining that the bill is excessive. A customer may request in writing that the bill be adjusted based on documentation that the increase was due to filling a swimming pool or pressure washing performed on the property. This type of adjustment shall be calculated by averaging the two previous billing cycles and crediting the amount of the current bill above that average. This adjustment only applies to instances in which the water does not enter the wastewater collection system. This adjustment may only be applied one time per calendar year.

Adopted this 6th day of May 2020.


Bobby Owens Mayor

ATTEST:


Becky Breiholz, Town Clerk



TOWN OF MANTEO FEE SCHEDULE

Fee Schedule referenced in Codified Ordinance Article II Sec. 14-63 and
adopted by the BOC during Budget approval every year

Water and Sewer Department	
Quarterly Water Account Deposit	\$200
Quarterly Sr. Citizen Water Deposit	\$100
Monthly Water Account Deposit	\$100
Monthly Sr. Citizen Water Deposit	\$50
After Business Hours Service Call for reconnection by non-payment	\$50
Reconnection Fee for non-payment	\$50
Account Transfer	\$25
¾" Water Tap	\$4700
1" Water Tap	\$4900
1 ½" Water Tap	\$6800
2" Water Tap	\$7500
Deposit for 2" Tap	\$2500
Greater than 2" Tap	Actual cost + 15%
¾" non-sequential water only meter within 15 feet of service connection	\$1200
Disconnect Service Fee Water (Sec. 50-42)	\$100
Meter size reduction from 1" to ¾" (Sec. 50-36)	\$900
Increase in Meter size	Cost of new tap fee
Relocation of water meter requiring a boring underneath driveway or sidewalk	\$1500
Relocation of water meter requiring use of heavy equipment plus \$200 and labor at \$200 per hour	\$1500 plus \$400 per hour
Bad Debt Collection Fee (Sec. 50-44)	\$50
Payment Penalty (Sec. 50-44)	10% bill amount after 21 days from date of billing
Sewer Department User Fee (Sec. 50-140)	\$8 per gallon per day according to approved design flows

Administrative Services	
Returned Check Charge	\$25
Copy of Agenda Package	\$15
Black & White copy (8.5x11) (first 5 pages free)	.15 per page
Color Pages (8.5x11)	.20 per page
Black & White (11x17)	.30 per page
Color Pages (11x17)	.40 per page
CD Copy	\$5 (or can supply own)
Copy of Code of Ordinances	Available online at Town of Manteo website or for purchase from Municode at 1-850-576-3171
Copy of Zoning Ordinances	Available online at Town of Manteo website or for purchase from Municode at 1-850-576-3171

TOWN OF MANTEO FEE SCHEDULE

Fee Schedule referenced in Codified Ordinance Article II Sec. 14-63 and
adopted by the BOC during Budget approval every year

Administrative Services (continued)	
Copy of CAMA Land Use Plan	\$25
Copy of Plan Update	\$20
Copy of Manteo way of Building	\$20
Copy of Roanoke Transportation Plan	\$20
Copy of Zoning Map (22" x 34")	\$10
Copy of Budget Document	\$10
Copy of Audit Document	\$10
Banner Placement on Highway	\$100
Peddlers License (Article III Sec. 14-91/14-98)	\$25
Other Administrative Fees may be charged for Special Events, Facility Use Agreements, Weddings, etc.	

Police Department	
False Alarm Charges for Security Systems 1 st -5 th occurrence (after 5 th \$100)	\$0 (after 5 th \$100)
Parking Tickets	\$25
Handicap Parking Violations	\$100
911 Hang-Up Response Charge	\$25

Cemetery Rates (effective May 5, 2010)	
Town Resident Gravesite	\$800 (per site)
Town Resident Cremation Site	\$350 (per site)
Out of Town County Resident Gravesite	\$1000 (per site)
Out of Town County Resident Cremation Site	\$500 (per site)
Out of County Resident Gravesite	\$1600 (per site)
Out of County Resident Cremation Site	\$850 (per site)
Internment Fee (burial and cremation)	\$150
Sites 1-16 in new section of cemetery are for single lot sales only	See above prices

Marina Rates					
Daily Rate Per Ft./Day	Weekly Rate Per Ft./Day	Monthly Rate Per Ft./Mo	Annual Rate Contract Per Ft./Mo.	Annual Live Aboard 30A Monthly	Annual Live Aboard 50A Monthly Fee
\$1.65 + Utilities	\$1.40 + Utilities	\$18.00 + Utilities	\$10/Ft./Mo + \$10 fee	\$10/Ft./Mo + \$10 fee	\$10/Ft./Mo. + \$10 fee
Utilities/Day 30A=\$3.50 50A=\$7.00	Utilities/Day 30A=\$3.50 50A=\$7.00	Utilities/Mo. 30A=\$105 50A=\$210	Utilities Included	Utilities Liveaboard Fee \$100	Utilities Liveaboard Fee \$150
As per the slip rental agreement, slip fees not paid by the tenth of the month are past due and no boat shall be released if payment is late. All unpaid slip fees due to the Town of Manteo shall bear interest at the rate of 1.5% per month prorated for all days the rental is late. Discount for off-season rental may be allowed by the Town Manager or designee.					
COMMERCIAL RATES: \$660.00 per month					

TOWN OF MANTEO FEE SCHEDULE

Fee Schedule referenced in Codified Ordinance Article II Sec. 14-63 and
adopted by the BOC during Budget approval every year

Planning Department	
Development Review Fees:	
Residential site plan review-new construction	\$100
Residential site plan review-additions, out buildings, renovations & pools	\$50
Multifamily dwellings, duplexes, condominiums, townhouses, apartments	\$150 per dwelling unit
All other development not included elsewhere in fee schedule (This fee is to be calculated based on the footprint of proposed development.)	\$0.50 per square foot
Lots in a subdivision	\$100 per lot
Building Permits Fees:	
Residential New Construction and Additions	\$0.50/sq. ft. heated space \$0.25/sq. ft. unheated space
Multifamily, Condominiums, Hotels, Motels	\$100.00 per unit plus \$0.60/sq. ft. heated \$0.45/sq. ft unheated
Commercial New Construction and Additions	\$0.60/sq. ft. heated \$0.45/sq. ft unheated
Re-inspection fee (building and fire inspections)	\$50
Proceeding work without a permit	2 x permit cost
Alterations and repairs	\$10 per \$1,000 based on cost
Decks	\$10 per \$1,000 based on cost
Storage areas	\$10 per \$1,000 based on cost
Garages	\$10 per \$1,000 based on cost
Utility rooms	\$10 per \$1,000 based on cost
Elevators	\$10 per \$1,000 based on cost
Boat Lifts	\$150
Mobile homes	\$0.50 per square foot of heated space
House moving	\$250
Signs	\$50 per sign
Commercial parking lots	\$15 per space
Swimming pools	\$300
Gas pumps	\$250 per pump
Demolition	\$200
Fuel tanks	\$500 per tank
Bulkheads	\$1.00 per linear foot
Piers	\$1.00 per linear foot
Electrical Permits Fees:	
New construction-residential	Included in building permit
Remodel and alteration	Included in building permit
Temporary service pole	\$50
Minimum permit fee	\$50 plus the following:
Service change or additional service	\$0.50 per amp
Each additional circuit installed by an electrician	\$25 per circuit
Generators	\$150

TOWN OF MANTEO FEE SCHEDULE

Fee Schedule referenced in Codified Ordinance Article II Sec. 14-63 and
adopted by the BOC during Budget approval every year

Mechanical Permits Fees:	
New construction-residential	Included in building permit
Remodel and alteration	Included in building permit
Minimum permit fee (plus fees below)	\$50
Change air handler	\$50
Change heat pump	\$50
Change boiler	\$50
Plumbing Permits Fees:	
New construction-residential	Included in building permit
Remodel and alteration	Included in building permit
Minimum fee (plus fees below)	\$50
Fixture	\$20 per fixture
Other Planning and Zoning Review and Application Fees:	
Ordinance text amendment request	\$200
Rezoning request	\$300
Change of use permit if no site plan change is required	\$100
Change of use permit requiring submittal of a new site plan	\$200
Conditional use permit	\$200
Zoning permit for home occupation	\$100
Zoning permit	\$50
Board of Adjustment variance request	\$500
Combination use application fee	\$750
Combination use amendment fee	\$375
Exempt plat review fees	\$100
Special meeting request by applicant	\$300
Annexation request	\$500

*Site plan approvals expire 12 months after the date of approval by the Planning and Zoning Board. After the expiration date of an approved site plan, a charge of 50% of initial review fee shall be paid for a re-submittal when the following conditions are met:

- A review fee has been paid
- Site Plan approval has expired
- No changes are being proposed in the re-submitted site plan



Friday, May 1, 2020

Town of Manteo Board of Commissioners
PO Box 246, Manteo, NC, 27954

Dear Mayor Owens and Manteo commissioners,

Thank you for your leadership as our community works to maximize its resilience by revising the Flood Damage Prevention Ordinance (FDPO) in preparation for the 2020 Flood Insurance Rate Map (FIRM)'s June 19 effective date. The over 500 members of the Outer Banks Home Builders Association (OBHBA) appreciate the complexity of the task before you and welcome the opportunity this process presents us to apply our professional knowledge in service to the town. We are thankful for Town Planner Melissa Dickerson and planning staff's responsiveness to our members' recommendations as the ordinance has developed in recent months and are confident the draft before you offers sound solutions to the challenges the 2020 FIRM poses for construction and development standards.

OBHBA members began working in early 2017 with the surveying and engineering community to assist local planning staff in designing new flood prevention measures to address an anticipated reduction in the 2006 FIRM's flood zone elevations in Dare County. Extensive consideration of historical flooding, previous FIRMs, and topographical data informed a consensus among county and municipal planning staff that administration of eight foot standards to a revised reference level, the bottom of the lowest floor or utility, would ensure adequate flood protection in X and Shaded X zones. Because our members operate in seven county and municipal jurisdictions with varying regulatory requirements, OBHBA's paramount interest throughout our communitywide flood map discussions has been promoting commonsense consistency in the development of new local elevation standards. OBHBA appreciates the draft FDPO's inclusion of local elevation standards appropriately consistent with this paradigm. In addition, our association has offered extensive technical support to assist planning staff in crafting ordinance language that exactly tailors town regulatory goals to current area construction practices. We appreciate staff's consistent availability for productive discussions to achieve an FDPO that works on paper and in practice for homeowners, builders, and town permitting and inspection personnel. Manteo's FDPO clearly reflects planning staff's belief in a cooperative approach to community resilience that incorporates building community stakeholders' interests and expertise as fully as possible.

We hope OBHBA's intensive participation in the FDPO process communicates our seriousness about meeting the complex environmental and regulatory challenges involved in residential construction on our barrier islands. Thank you again for participating in the Outer Banks' cooperative

endeavor to address present and future flood risk, an effort we feel serves other coastal communities as a model for stakeholder-inclusive regulation to promote sustainable building.

Regards,

Vaughan Robinson

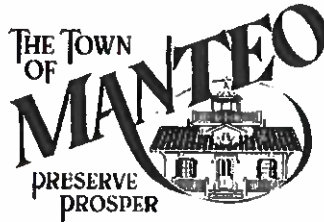
Vaughan Robinson
President
OBHBA

Jay Overton

Jay Overton
Legislative Chair
OBHBA

Porter Graham

Porter Graham
Government Affairs Director
OBHBA



REQUEST FOR PROPOSALS FOR TOWN ATTORNEY & LEGAL SERVICES

TOWN OF MANTEO, NORTH CAROLINA

Due Date: February 14, 2020

Time: 1:00 P.M.

Receipt Location

Mailing Address:

Town of Manteo
Attention: James Ayers, Town Manager
P.O. Box 246
Manteo, NC 27954

Physical Address:

Town of Manteo
Attention: James Ayers, Town Manager
407 Budleigh Street
Manteo, NC 27954

E-mail: jayers@manteonc.gov

Phone: 252-473-2133



Purpose of RFP

The Town of Manteo, North Carolina (Town) invites the submittal of responses to this Request for Proposals (RFP) from qualified firm(s) or individual(s) interested in serving as the Town Attorney and providing legal services to the Town. The Town intends to consider firms and/or individuals who possess the professional and administrative capabilities to provide the scope of services detailed below in this RFP.

Legal Authority for Appointment and Appointee's Responsibilities

In accordance with NC General Statutes § 160A-173, the governing body "shall appoint a city attorney to serve at its pleasure and to be its legal adviser." In this case, the governing body is the Board of Commissioners. According to the Town's Code of Ordinances Section 2-166, the Town Attorney shall have the following powers and duties:

The town attorney shall attend each meeting of the board of commissioners; he may prosecute and defend actions and suits for and against the town and for and against town officers acting in their official capacity; he shall approve all official bonds as to form; he shall approve all draft ordinances as to form, and, at the request of any commissioner, he shall approve any draft resolution as to form; he may draft or approve all deeds, contracts and other instruments relating to the business of the town; he shall advise the mayor and board of commissioners, and other town officers, as to the legality and legal consequences of proposed courses of action; and, in general, the town attorney shall be the legal counselor of the town.

Scope of Work

The Town is seeking a firm/individual to dedicate a varying number of hours per month dependent on the issues facing the Town and its departments. In addition to providing legal representation for the Board of Commissioners, Staff, and Boards and Committees, the Town Attorney shall perform the following functions:

1. Performs legal research, fieldwork, and other work and communicates the results to the appropriate person.
2. Negotiates, reviews, and prepares contracts, agreements, and conveyances, such as service agreements, lease agreements, franchise agreements, easements, purchase contracts, and other legal documents upon request of the Board of Commissioners or Town Manager.

3. Reviews, analyzes, drafts, and revises ordinances, policies, manuals, and other memoranda for the Town and its various departments to ensure they are coherent, enforceable, and consistent with State and Federal law; advises the Board of Commissioners, the Town Manager, and Town departments when revisions and changes need to be made upon request of the Board of Commissioners or Town Manager.
4. Researches, interprets, and applies laws, court decisions, and other legal authority in the preparation of opinions and briefs; prepares formal legal opinions upon request of the Board of Commissioners and the Town Manager.
5. Drafts or supervises drafting of ordinances and resolutions for the Board of Commissioners, explains the foregoing to the Board of Commissioners, and answers questions related thereto upon request of the Board of Commissioners or Town Manager.
6. Analyzes legislation including proposed State and Federal legislation affecting the Town upon request of the Board of Commissioners or Town Manager.
7. Engages in litigation-related matters including drafting, discovery, court attendance, mediation, investigation, hearings and trials, and similar activities.
8. Prepares for and attends the Board of Commissioners meetings, Board of Adjustment meetings, and other boards and committee meetings of the Town.
9. Assists in the acquisition of real property interests for the Town to include title review, interdepartmental communications, negotiations, and litigation.
10. Performs other such duties as may be required by virtue of this position as Town Attorney and as directed by the Board of Commissioners.

Selection Process

From a review of the proposals received, the Town may invite Firms or Individuals to be interviewed before making a final selection. If the Town desires to perform interviews, each Firm or Individual will receive notification of the date and time of the interview. The selected Firm or Individual will negotiate with the Town on fee and contract terms and conditions. If, in the sole opinion of the Town, an agreement cannot be achieved with the first respondent of choice, negotiations will proceed with the second or subsequent choice respondents until a mutually agreed contract can be negotiated.

Submittal Requirements

Interested parties should submit the following items in packet form to the Town for consideration:

1. Statement of Interest in providing service to the Town.
2. Statement of Qualifications of the firm/individual, including governmental experience to include description of areas of expertise or relevant experience that may benefit the Town.
3. Statement of Conflicts of Interest relevant to the Town.
4. Indication of ability to provide timely and efficient service to the Town, including a specification of available resources, time, and related items.

5. Suggested contractual terms and conditions to include hourly rates.
6. Names and contact information for a minimum of three professional references, preferably from referees familiar with the firm/individual's local government experience.
7. Other factors or information thought to be important to the Town in considering the proposal.

While the Town Attorney is expected to perform the primary legal service functions for the Town, the Town may hire specialized legal counsel to represent the Town in various matters. In the event the Board of Commissioners hires outside counsel, the Town Attorney is expected to represent the Town's interest and coordinate with outside counsel.

Evaluation Criteria

The criteria used to evaluate the RFP responses will include, but not be limited to, the following (items listed below are not listed in order of importance):

1. Qualifications of Firm or Individual, specifically as they relate to local government experience.
2. Available resources to complete required work.
3. Responsiveness to the RFP, including any additional documents submitted.
4. Proposed contract terms and conditions.
5. Availability of the Firm or Individual via local office or residency.
6. Professional references.

Additional Instructions, Notifications and Information

No Gratuities – Respondents will not offer any gratuities, favors, or anything of monetary value to any official or employee of the Town for the purpose of influencing this selection. Any attempt by a Respondent to influence the selection process by any means, other than disclosure of qualifications and credentials through this solicitation, will be grounds for exclusion from the selection process.

All Information True – By submitting a response, Respondents represent and warrant to the Town that all information provided in the response submitted shall be true, correct and complete. Respondents who provide false, misleading or incomplete information, whether intentional or not, in any of the documents presented to the Town for consideration in the selection process may be excluded.

Interviews – After the initial evaluation of the responses, Respondents will be notified of their status in the selection process. Interviews may or may not be required at the discretion of the governing body.

Inquiries – Do not contact elected officials, appointed officials, or Town staff to make inquiries about the progress of the selection process. Respondents will be contacted when

it is appropriate to do so. Process inquiries may be directed to Town Manager James Ayers via e-mail at jayers@manteonc.gov or via phone at 252/473-2133.

Cost of Responses – The Town will not be responsible for the costs incurred by anyone in the submittal of responses.

Contract Negotiations – This RFP is not to be construed as a contract or as a commitment of any kind. If this RFP results in a contract offer by the Town, the specific scope of work, associated fees, and other contractual matters will be determined during contract negotiations.

No Obligation – The Town reserves the right to: (1) evaluate the responses submitted; (2) waive any irregularities therein; (3) select candidates for the submittal of more detailed or alternate proposals; (4) require interviews or waive interviews of any kind before accepting a proposal; (5) accept any submittal or portion of submittal; (6) reject any or all Respondents submitting responses, should it be deemed in the Town's best interest; or (7) cancel or re-issue the entire process. Proposals will be reviewed and forwarded to the Board of Commissioners for further consideration. The Board of Commissioners reserves the right to select the proposal that best meets the needs of the Town and to proceed in any fashion that it deems appropriate in making such selection so long as such process complies with all applicable laws.

Professional Liability Insurance – The Respondent shall have the appropriate insurance coverage types and limits, including professional liability insurance, as may be approved by the Town in its sole discretion, and written by an insurer authorized to transact insurance in the State of North Carolina.

Submittal Instructions

The Town will receive responses to this RFP at the address set forth below until 1:00 p.m. on February 14, 2020. Responses should be directed to the following point of contact:

Mailing Address:

Town of Manteo
Attention: James Ayers, Town Manager
P.O. Box 246
Manteo, NC 27954

Physical Address:

Town of Manteo
Attention: James Ayers, Town Manager
407 Budleigh Street
Manteo, NC 27954

All questions or requests for clarification should be directed only to the Town Manager, James Ayers, via phone (252/473-2133), e-mail (jayers@manteonc.gov), or regular mail (P.O. Box 246, Manteo, NC 27954).

The Request for Proposals document is available on the Town's website at www.townofmanteo.com.



REQUEST FOR PROPOSALS – TOWN ATTORNEY & LEGAL SERVICES

List of Proposals Received

February 14, 2020

In response to the Request for Proposals (RFP) for Town Attorney & Legal Services, proposals were received from the following firms by the deadline at 1:00 p.m. on February 14, 2020:

1. Hornthal, Riley, Ellis & Maland, L.L.P. (Ben Gallop)
2. Malarney & McCown, PLLC (Jeff Malarney)



Received by Town Manager



Date



**MALARNEY &
McCOWN, PLLC**

ATTORNEYS AT LAW

February 13, 2020

Town of Manteo
Attention: James Ayers, Town Manager
P.O. Box 246
Manteo, North Carolina 27954

RE: *Statement of Interest for Town of Manteo Attorney and Legal Services*

Dear Mr. Ayers,

I am submitting this proposal in regard to the above referenced matter. I am confident that you'll find that Malarney & McCown, PLLC is well qualified to meet the scope of legal requirements identified by the Town of Manteo (hereinafter "Town") in its request for proposal.

Statement of Interest

I am Jeff Malarney, a resident of Wanchese, North Carolina. My wife, the Honorable Amber Davis Malarney, my law partner, Linda McCown, and I, together with our respective families, have a rich and long relationship both as professionals, merchants, and landowners in the Town. I would like to continue that expansive heritage and community involvement by offering my legal services to the Town.

Statement of Qualifications

Malarney & McCown, PLLC is uniquely qualified to represent the Town. We maintain two (2) offices, one in Manteo and the other in Kitty Hawk.¹ I, Linda McCown and our associate, Betsy Butler, each have been practicing law for over twenty-eight (28) years, and collectively have a deep and broad real estate background, extensive experience with governmental bodies and an unrivaled local knowledge base. Likewise, we're uniquely positioned to assist the Town as our Manteo office is located directly across the street from the Manteo Elementary School and only minutes from the Town's offices.

I graduated from Wake Forest University School of Law in 1991, am a veteran of the United States Navy Judge Advocate General's Corp, (retiring as a Commander)² and formerly served as a Special Assistant United States Attorney. I have been employed both as an associate and later as a

¹ The predecessor law firm to Malarney and McCown, PLLC was McCown & McCown. McCown & McCown was established in Manteo in 1950 and operated thereafter continuously up and until the merger with my firm. My partner, Linda McCown is a Manteo native, and a graduate of Manteo High School, Duke University and Duke University School of Law.

² The United States Navy awarded me several medals during my career, including, the Navy Commendation Medal, the Navy Achievement Medal, and the Global War on Terrorism.

partner for the Manteo based law firm of Aldridge, Seawell, & Khoury. Likewise, and perhaps most importantly, I served as the Town of Manteo attorney for approximately two (2) years. During that period, I attended Town meetings, worked with Town staff on various legal issues to include drafting ordinances, resolutions and memorandums and was otherwise available to advise the Town on a wide range of topics.

Over the course of my legal career, I've handled various legal matters, including, but not limited to: (i) negotiating and drafting leases, offers to purchase and contracts, addendums, financing documents, etc.; (ii) worked with local, state and federal bodies and agencies to include negotiating local ordinances, text amendments, amending statutes for the State of North Carolina and coordinating with various Federal agencies, to include the United States Department of Justice; (iii) I have successfully litigated both criminal and civil cases in Courts Martial, as well as State and Federal Courts; and (iv) handled various other subject areas, such as, mergers and acquisitions, corporate, real estate, including, all aspects of the vacation rental industry, and finance.

I am in my third term with the North Carolina Real Estate Commission and am currently the Chairman of that Board. I was formerly the Chairman of the Outer Banks Chamber of Commerce and a Board member for the Outer Banks Community Foundation. Likewise, I am the former President of the North Carolina Vacation Rental Manager's Association. I also hold an active real estate broker license and a property insurance license.

Contractual Items

I would be available to handle all aspects of Town matters, including attending Town meetings, drafting applicable legislation, preparing various documents, analyzing the law, negotiating contracts and handling litigation issues. I would propose an hourly rate of \$285.00. That rate would include travel time, when applicable, since I live and work on Roanoke Island.

Personal References

I would invite you to speak with local attorneys, as well as other members of the community with regard to my professional reputation and experience. In addition, you may want to contact Ms. Miriam Baer, the Executive Director of the North Carolina Real Estate Commission, (919.875.3700); Mr. Andrew Womble, the District Attorney for the First Judicial District (252.331.3847); and Mr. Ervin Bateman, a Dare County Commissioner (252.202.1072).

Conflicts of Interest

I am not aware of any current conflicts of interest with the Town. However, since I, my wife and my law partner, Linda McCown all live and practice on Roanoke Island conflicts of interest or even the appearance of conflicts of interest may arise. In those situations, I will advise the Board as well as the Town staff and assist in ensuring that Town affairs are conducted with the utmost integrity and transparency.

Miscellaneous Qualification Factors

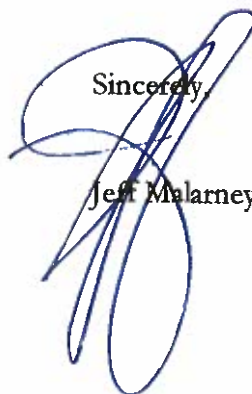
Finally, I would like to highlight that for over twenty (20) years, I have either run or walked through the Town of Manteo on an almost daily basis. My children grew up in Manteo, where they attended Manteo Elementary, Middle and High Schools. My wife's family still owns property in the Town. In summary, I would greatly enjoy assisting the Town in shaping its future for the benefit of the current and next generation of residents.

Thank you for your consideration and I am happy to discuss this submittal in more detail at your convenience.

With kind regards, I am

Sincerely,

Jeff Malarney



Kitty Hawk Office
P.O. Box 928 4112 N. Croatan Highway
Kitty Hawk, NC 27949
Office: 252.573.3889 Fax: 252.429.1629

Manteo Office
P.O. Box 729 708 US N. Highway 64
Manteo, NC 27954
Office: 252.473.2191 Fax: 252.473.3822

darecountylaw.com
jeff@darecountylaw.com

HORNTHAL, RILEY, ELLIS & MALAND, L.L.P.

ATTORNEYS AT LAW

2502 S. CROATAN HIGHWAY

NAGS HEAD, NORTH CAROLINA 27959

TELEPHONE (252) 441-0871

TELEFAX (252) 441-8822

INTERNET: www.hrem.com

BRYAN M. DOUGLAS
M. H. HOOD ELLIS
BENJAMIN M. GALLOP
ROBERT B. HOBBS, JR.*
L. PHILLIP HORNTAL, III
ANDREW W. HOWLE
JOHN D. LEIDY
W. BROCK MITCHELL
WILLIAM P. NORRELL
DONALD C. PRENTISS

*BOARD CERTIFIED SPECIALIST IN
REAL PROPERTY LAW

RETIRED

L. P. HORNTAL, JR.
MARK M. MALAND
CHARLES W. OGLETREE
J. FRED RILEY
THOMAS L. WHITE, JR.

OTHER OFFICE

ELIZABETH CITY, NC

February 14, 2020

VIA HAND DELIVERY

Town of Manteo

Attention: James Ayers, Town Manager

P.O. Box 246

407 Budleigh Street

Manteo, NC 27954

RE: Response to Town of Manteo RFP for Legal Services

Dear James:

I hope this letter finds you doing well. Please find enclosed our firm's response to the Town of Manteo's recent Request for Proposal for Legal Services. Feel free to contact me if you or the Town Board has any questions or require any form of clarification. We look forward to hearing from you.

Sincerely yours,



Benjamin M. Gallop

BMG/
Enclosures

PROPOSAL FOR LEGAL SERVICES OF
HORNTHAL, RILEY, ELLIS & MALAND, L.L.P.

Attorneys at Law

to the

TOWN OF MANTEO

February 14, 2020

INTRODUCTION AND STATEMENT OF INTEREST

The law firm of HORNTHAL, RILEY, ELLIS & MALAND, L.L.P. is honored to submit the following proposal and bid in response to the Request for Proposal for legal services to the Town of Manteo (the "Town"). The Firm proposes to represent the Town in all matters and to perform all of those services described on the Request for Proposals published by the Town.

NAME AND ADDRESS OF THE APPLICANT

The Law Firm of Hornthal, Riley, Ellis & Maland, L.L.P. has two offices:

Elizabeth City Office: 301 East Main Street, Elizabeth City, NC 27909. Telephone: (252) 335-0871. Fax: (252) 335-4223.

Nags Head Office: 2502 South Croatan Highway, Nags Head, North Carolina 27959. Telephone: (252) 441-0871. Fax: (252) 441-8822.

Internet Web Site: <http://www.hrem.com>

Email Address: Refer to the section below entitled "Attorney Designated by Applicant as its Lead Counsel."

ATTORNEY DESIGNATED BY APPLICANT AS ITS LEAD COUNSEL

Ben Gallop, a partner with the Firm and resident of Roanoke Island, would be the primary attorney advising the Town. His practice resides primarily in the Firm's Nags Head office. Mr. Gallop's direct phone number is 252-441-0871 extension 202. His email address is bmgallop@hrem.com.

THE FIRM'S LOCAL GOVERNMENT AND PUBLIC BODY EXPERIENCE

Ben Gallop has concentrated his practice on local government and civil litigation since 2005, is the Town Attorney for the Towns of Hertford and Southern Shores (both since 2008), and served as Board Attorney for the Currituck County Board of Adjustment (2008-2019). He is currently retained by the Town as special counsel on particular zoning and development matter. He also provides substantial services to and serves as litigation attorney (or litigation co-counsel) for the Towns of Nags Head, Town of Edenton and Town of Duck. Mr. Gallop performs a significant amount of work for all of the firm's local government clients, and has also represented Kill Devil Hills, Kitty Hawk, Elizabeth City, Currituck County, Tyrrell County, Engelhard Sanitary District, Chowan County Board of Adjustment and various school system clients on particular matters. Mr. Gallop has appeared on behalf of local government clients and in opposition to local governments for private clients at numerous board meetings on political, legislative and quasi-judicial proceedings. He handles municipal work including government and board operations, contracts, land use and zoning, condemnation, eminent domain, minimum housing, unsafe structures, civil rights, constitutional issues, public records, open meetings and all forms of litigation related to local governments at all levels of the State and Federal court systems. In representing local governments, Mr. Gallop also has substantial experience dealing with flood zone issues, CAMA permitting issues and other coastal environmental issues.

Hood Ellis served as City Attorney to the City of Elizabeth City from 1981 to 1989. He has also served as Town Attorney for the Town of Edenton since 2008. Mr. Ellis has also served as counsel to the Elizabeth City Housing Authority from 1981 to 1995.

Robert Hobbs has been the Town Attorney for the Town of Duck since 2008 and Board Attorney for the Dare County Airport Authority since 1990. He has also served as real estate attorney for the Town of Southern Shores and the Town of Nags Head. Mr. Hobbs has been certified by the N.C. State Bar as a specialist in Real Property Law since 1992.

John Leidy is the Town Attorney for the Town of Nags Head (since 2008), and serves as personnel/employment attorney for the firm's other various municipal clients, including the City of Elizabeth City and the Towns of Southern Shores, Duck, Hertford and Edenton. Mr. Leidy is counsel for the Albemarle Commission and has been Board Attorney for the Elizabeth City-Pasquotank Public Schools since 1996. He has been and remains lead counsel for the

following school boards: Camden County (since 1998); Martin County (since 2010); Gates County (since 2012), Perquimans County (since 2005) and Washington County. Mr. Leidy also serves as general counsel to College of the Albemarle (since 1994) and Mid-Atlantic Christian University (since 2006). Mr. Leidy also serves as general counsel to the Elizabeth City Housing Authority (since 1995), New Edenton Housing Authority, the Hertford Housing Authority, and the Plymouth Housing Authority.

Brock Mitchell has also performed real estate and bankruptcy related matters for various local governments including the Town of Hertford, the Town of Nags Head, Martin County and Colerain. Mr. Mitchell also has an L.L.M. in taxation.

Andrew Howle also has worked closely with our local government clients, attending meetings, assisting with contract drafting and handling other transactional needs.

Will Norrell, has been representing the Firm's education clients since 2017 and has become a primary contact for many of our school board clients. Mr. Norrell has extensive experience representing school boards in various education matters including quasi-judicial proceedings (such as non-renewal hearings, dismissal hearings, and student disciplinary proceedings). Mr. Norrell also frequently attends monthly board meetings, drafts and reviews contracts, and has extensive experience in drafting and applying policy and procedures.

Don Prentiss, John Leidy, Phillip Hornthal and Ben Gallop have litigation experience working directly with local governments (including the Towns of Kill Devil Hills, Nags Head, Duck, Edenton and Hertford) as approved attorneys for the Inter-local Risk Financing Fund of North Carolina (IRFFNC). The Firm's extensive litigation experience would benefit the Town since the Town would not be required to hire outside counsel if the Town became involved in litigation. Since the Firm is local, any of the attorneys working on a particular case would be available to meet in person with Town staff or to attend meetings of the Town upon request.

Tony Hornthal, Tom White and Charlie Ogletree have all retired from private practice. However, they provided much needed insight and experience to those still in the practice from their many years of serving various public bodies.

Additional biographical information for all of the Firm's attorneys is attached to this Proposal.

THE FIRM'S "AV" PEER REVIEW RATING

Hornthal, Riley, Ellis & Maland, L.L.P. is one of the few law firms in Northeastern North Carolina with an "AV" peer review rating, which is the highest possible peer review rating in the Martindale-Hubbell law directory. The Martindale-Hubbell law directory is recognized as the leading guide for legal services and abilities of attorneys throughout the world. The Martindale-Hubbell law directory publishes a peer review rating for law firms and attorneys.

THE FIRM'S AREAS OF PRACTICE

The various specialties practiced by members of the Firm enable the Firm to provide a broad range of legal services. The attached descriptions show the primary areas of law in which each attorney concentrates. Major practice areas include local government, personnel and employment, litigation, real estate, bankruptcy, estates and trusts, and business/commercial. Underwriting this ability is a current lawyer's professional liability insurance policy with Lawyer's Mutual Liability Insurance Company of North Carolina in the amount of \$3,000,000.

HISTORY OF THE FIRM

The Firm traces its origins in Elizabeth City to the early 1900s. The current Firm resulted from a merger in 1985 of two long-standing law firms, LeRoy, Wells, Shaw, Hornthal & Riley, and Wilson & Ellis.

ADMITTED TO PRACTICE IN ALL COURTS IN NORTH CAROLINA

All of the Firm's attorneys are admitted to practice and have experience in all appellate, superior, and district courts in the State of North Carolina. Many of the Firm's attorneys also have experience practicing before various State of North Carolina agencies.

One or more (and in some cases all) of the Firm's attorneys are admitted to practice and have experience in the following Federal Courts: United States Supreme Court, United States Court of Appeals for the Fourth Circuit, United States Court of Appeals for the Fifth Circuit, United States District Court for the Eastern District of North Carolina, United States District Court for the Middle District of North Carolina, United States District Court for the Western District of North Carolina, United States Tax Court, and United States Bankruptcy Court.

THE FIRM'S STAFF, OFFICES AND EQUIPMENT

Hornthal, Riley, Ellis & Maland, L.L.P. has a staff consisting of ten (10) active attorneys. The Firm also has a support staff of approximately 20 people consisting of a full time firm administrator, paralegals, legal assistants, and administrative staff. All of the Firm's open offices are fully tech-supported and connected by a network. All attorneys and staff in the Firm have e-mail addresses. Hornthal, Riley, Ellis & Maland, L.L.P. maintains the largest and most up-to-date law library in Northeastern North Carolina, which includes WESTLAW and/or LEXIS-NEXIS, computer-assisted research tools which provide instant access to court opinions, statutes, regulations, and other legal and nonlegal information from all over the United States. The Firm also subscribes to several of the major publications on local government law.

SPECIFIC AREAS OF INQUIRY IN THE REQUEST

In addition to the narratives contained within this Response, the Firm provides the following information in response to the specific delineated requirements for skills and example duties found in the Request for Proposal.

1. Statement of Interest in providing service to the Town.

See narrative above.

2. Statement of Qualifications of the firm/individual, including governmental experience to include description of areas of expertise or relevant expertise that may benefit the Town.

See narrative above and below.

3. Statement of Conflicts of Interest Relevant to the Town.

See narrative below.

4. Indication of ability to provide timely and efficient service to the Town, including a specification of available resources, time and related items.

See narrative above.

5. Suggested contractual terms and conditions to include hourly rates.

See narrative below.

6. Names and contact information for a minimum of three professional references, preferably from referees familiar with the firm/individual's local government experience.

See narrative below.

7. Other factors or information thought to be important to the Town in considering the proposal.

See narrative below.

ADDITIONAL INFORMATION RESPONSIVE TO REQUEST

The Firm provides the following information in support of its proposal:

- (a) The Firm has extensive experience with North Carolina local government law. There is no other law firm or lawyer in northeastern North Carolina with comparable experience in such matters. We have represented local governments and local public boards in various matters, including quasi-judicial proceedings, as well as in various State and Federal court cases at all court levels.
- (b) Due to the size of the Firm and the high level of legal experience with local government law, the Firm's attorneys and staff are able to meet established deadlines, to act expeditiously in legal matters, and operate in an effective and efficient manner.
- (c) All attorneys and staff members in the Firm make extensive use of email and telephone to be available to clients to provide quick responses to inquiries that arise for the client on a daily basis. All attorneys in the Firm use smart phones to further enhance their availability to clients by phone and by email.
- (d) The Firm's attorneys and staff regularly attend legal seminars to stay up to date on changes in the law. In particular, the Firm's local government attorneys regularly attend legal seminars in local government law presented by the North Carolina Bar Association and by the UNC School of Government. Some of the Firm's attorneys have presented programs at legal seminars attended by other attorneys, including programs on local government law topics.
- (e) The Firm's attorneys are responsive to clients' needs and have the ability to work effectively with the Town Board, Town Manager and staff members.
- (f) The Firm's cost of services is discussed below.

- (g) As stated above, the Firm's extensive experience is representing local public boards makes the Firm uniquely qualified to provide competent, reliable, effective, prompt and quality legal services to the Town.
- (h) The Lead Counsel will be accessible to the Town Board and Town staff by telephone and email, even outside of regular office hours. The Lead Counsel offers the following response time: Our goal is to return phone calls by end of the business day unless the attorney is out of the office and in that event, there will be a contact on call to put the client with the right attorney to assist them in the lead counsel's absence.
- (i) None of the attorneys or employees in the Firm who are expected to perform services to the Town under this RFP has been disciplined, admonished, warned, or had any license, registration, charter, certification or any similar authorization to engage in the legal profession suspended or revoked for any reason.
- (j) While the Firm's response to a request for proposals from a public agency, county or town has on occasion not been accepted, resulting in another firm or attorney being hired, neither the Firm nor any individual attorney in the Firm has been terminated for cause by any public agency or town.
- (k) The lawyers in our Firm have the most extensive experience in all types of litigation matters. This includes, but is not limited to, extensive representation in employment matters throughout North Carolina State courts, administrative offices, and federal trial and appellate courts. We also have vast experience in contract, personal injury, construction and civil rights litigation.
- (l) The Firm has extensive experience in drafting and applying policies and procedures. We are leaders in this region in policy development for public bodies, including personnel policies, employment benefits policies, grievance and procedural policies and other operational procedures. We developed the first drug and alcohol testing policy adopted by a school board in this region.
- (m) The number of attorneys in our office, as well as the diverse geographic locations of our offices, makes it very easy for us to meet in person, by telephone or via electronic communications with Town staff at any time. We also are prepared to attend regular Town meetings or special meetings, as requested.
- (n) Our Firm is a leader in providing representation to nonprofit organizations throughout this region. In addition to substantial experience in serving on

nonprofit boards, all of our attorneys have provided legal assistance covering a vast array of matters for nonprofit organizations.

- (o) The Firm has extensive experience, both with respect to tax matters and otherwise, relating to nonprofit organizations.

IDENTIFICATION OF EXISTING OR POTENTIAL CONFLICTS OF INTEREST

The Firm is currently representing the Town via Mr. Gallop as special counsel on a zoning matter and did not discover any conflicts in the process of accepting that representation. Of course, the Firm may have existing conflicts of interest with the Town due to prior or ongoing representations of third parties, but the Firm is unaware at this time of any particular conflict of interest that would result in its inability to provide services to the Town. As noted previously, the Firm is general counsel for or otherwise represents individuals, numerous local government boards and other entities in the region. Due to occasional interaction between the Town and such third parties, it is possible, though not probable, for a conflict to arise if the Town and the third parties are adverse to one another. Otherwise, the Firm does not foresee any potential conflicts of interest. However, if conflicts of interest arise, the Firm will address them on a case-by-case basis in an ethical and professional manner as it does with all of its clients.

REFERENCES

The Firm is pleased to submit the following client references:

Client	Contact	Telephone
Town of Edenton	Anne-Marie Knighton, Town Manager P. O. Box 300 Edenton, NC 27932 anne-marie.knighton@edenton.nc.gov	252-482-7352
Town of Duck	Christopher Layton, Town Manager P.O. Box 8369 Duck, NC 27949 clayton@townofduck.com	252-255-1234
Town of Nags Head	Cliff Ogburn, Town Manager PO Box 99 Nags Head, NC 27959 cliff.ogburn@nagsheadnc.gov	252-449-2010

Town of Southern Shores	Tom Bennett, Mayor 5375 N. Virginia Dare Trail Southern Shores, NC 27949 manager@southernshores-nc.gov	252-261-2511
Currituck County	Ike McRee, County Attorney 153 Courthouse Road, Suite 210 Currituck, NC 27929 Ike.Mcree@CurrituckCountyNC.gov>	252-232-0300

COST OF LEGAL SERVICES

Hornthal, Riley, Ellis & Maland, L.L.P. proposes the following billing for consideration by the Town:

The Firm would charge a discounted "blended" hourly rate for all attorneys in the Firm of \$200.00 per hour for all legal services performed for the Town plus actual expenses incurred. Our summer law clerks are often used for legal research, title work and some document preparation at a rate of \$140.00 per hour; paralegals bill their time by the hour at a rate of \$140.00 per hour (both of which present a cost savings to the Town as compared to the attorney rate). We can also discuss with the Town a monthly retainer fee that could cover routine services such as attendance at regular meetings of the Town Board. The Firm charges for certain expenses that go beyond routine overhead, such as mileage, overnight mail charges, fees for court reporters, color copies, special printing or copying etc. The Firm does not usually charge for postage, long distance telephone, computerized research, etc. However, particular specialized circumstances may require the Firm to charge for such costs.

The proposed discounted rate is greater than 25% off of our standard hourly rates for most attorneys in the firm, and in line with our typical hourly rates for local government clients. We provide this discounted rate in recognition of our pride in representing governmental clients and of the type of long term working relationships we typically develop with our local government clients.

When comparing proposals from attorneys that include hourly billing rate quotes, the Town should consider what components go into making up the final fee that is presented to the client who is being billed by the hour. The first component is time. The second component is the hourly rate. The rate multiplied by the amount of time spent is the fee presented to the client. Since there are two components to consider, the Town should not look merely at the hourly rate alone. For example, if a more experienced attorney charging a higher hourly rate

spends less time on the matter because of his or her expertise, the total bill might be less than the bill presented by a less experienced attorney who must spend more time on the matter but who charges a lower hourly rate.

CONCLUSION

We respectfully submit this proposal to the Town and express our appreciation for the opportunity. We are happy to provide further information upon request.

HORNTHAL, RILEY, ELLIS & MALAND, LLP

By: 
Benjamin M. Gallop, Partner

HORNTHAL, RILEY, ELLIS & MALAND, L.L.P.

BIOGRAPHICAL INFORMATION

PARTNERS:

M. H. HOOD ELLIS

Born in Raleigh, North Carolina on November 6, 1949. Admitted to the North Carolina State Bar in 1975 and to the U.S. Court of Appeals, Fourth Circuit in 1976. **Education:** North Carolina State University (B.S. in Civil Engineering, with high honors, 1972); Tau Beta Pi; Phi Kappa Phi; Wake Forest University (J.D., cum laude, 1975) Phi Delta Phi. Editor, Wake Forest Law Review, 1974-1975. **Memberships:** North Carolina Bar Association (Inductee, General Practice Hall of Fame, 2005); North Carolina State Bar (Member, Disciplinary Hearing Commission, 2007—); Fourth Circuit Judicial Conference. First Judicial District (President, 1982-1983); North Carolina Association of Defense Attorneys; Fellow, American College of Trial Lawyers. Certified Mediator. **Positions:** City Attorney, Elizabeth City, 1981-1989. Chairman, North Carolina State Board of Elections, 1989-1993. **Practice Areas:** Civil Litigation; Municipal and Local Government Law; Real Estate; Construction.

DONALD C. PRENTISS

Born in Middletown, New York on October 19, 1955. Admitted to the North Carolina State Bar in 1981, U.S. District Court, Eastern District of North Carolina in 1987, U.S. Court of Appeals, Fourth Circuit in 1987. **Education:** Wake Forest University (B.A., 1977; J.D., 1981). Phi Delta Phi. Legislative Counsel to North Carolina Bar Association, 1982-1985. **Memberships:** Board of Directors, Legal Services of North Carolina, 1990-1996; North Carolina State Bar; North Carolina Bar Association; American Bar Association (Member, Sections on: Litigation; Labor and Employment Law; Torts and Insurance); North Carolina Association of Defense Attorneys; Defense Research Institutes. **Practice Areas:** Civil Litigation; Insurance; Admiralty; Commercial and Contract Disputes; Personal Injury.

ROBERT B. HOBBS, JR.

Born in Richmond, Virginia on December 31, 1960 and raised in Rocky Mount, North Carolina. Admitted to the North Carolina State Bar in 1986 and the U.S. District Court, Eastern District of North Carolina in 1987. **Education:** University of North Carolina at Chapel Hill (B.A., 1983); Campbell University (J.D., 1986). Pi Sigma Alpha. Phi Alpha Delta. Staff Member, Campbell Law Review, 1984-1986. Case Law Editor, Campbell Law Observer, 1985. Author: Note, "Cable TV's Must Carry Rules: The Most Restrictive Alternative," 8 Campbell Law Review 339, 1986. **Memberships:** North Carolina State Bar; North Carolina

Bar Association; Dare County Bar Association; North Carolina Land Title Association; Real Estate Lawyers Association of North Carolina; North Carolina Municipal Attorneys' Association. **Bar-Related Positions:** Board of Governors, North Carolina Bar Association, 1993-1996; Section Council (2004-2011) and Chair (2009-10), Real Property Section of the North Carolina Bar Association; Section Council (1988-1993) and Chair (1991-1992), Law Practice Management Section of the North Carolina Bar Association. Strategic Planning Committee of the North Carolina Bar Association (2004-2008); Board of Directors, Alumni Association, Campbell University School of Law, 2015-current; Real Property Specialization Committee, North Carolina State Bar Board of Legal Specialization, 1997-2002; Real Property Drafting Committee (Multistate Bar Examination), National Conference of Bar Examiners, 2009-current. **Board Positions:** Board Attorney, Dare County Airport Authority, 1990-current; Town Attorney, Town of Duck, North Carolina, 2008-current. General Counsel, Roanoke Island Historical Association, 2008-current. Resident Partner in the Firm's Nags Head Office. Board Certified Specialist in Real Property Law - Residential, Business, Commercial and Industrial Transactions, by the North Carolina State Bar Board of Legal Specialization. **Practice Area:** Real Estate Transactions and Development; Municipal and Local Government; Property Owner Associations; Business Law.

JOHN D. LEIDY

Born in Albion, Michigan on February 15, 1962. Admitted to the North Carolina State Bar in 1987, the U.S. District Court, Eastern District of North Carolina in 1989, and the U.S. Court of Appeals, Fourth Circuit in 1989. **Education:** Denison University (B.A., 1984); University of North Carolina (J.D., 1987). Staff Member, North Carolina Journal of International Law and Commercial Regulation, 1985-1986. **Memberships:** North Carolina Bar Association (Judicial District Representative for Young Lawyers Division; Member, Sections on: Labor and Employment, Education, Litigation and Antitrust and Trade Regulations); American Bar Association (Member, Sections on: Litigation; Labor and Employment Law; Torts and Insurance Practice); North Carolina State Bar; Defense Research Institute; North Carolina Association of Defense Attorneys. **Board Positions:** Board Attorney, Elizabeth City-Pasquotank Public Schools, 1996-current; Board Attorney, Camden County Board of Education, 1998-current; Board Attorney, Martin County Board of Education, 2010-current; Board Attorney, Gates County Board of Education, 2012-current; Board Attorney, Perquimans County Board of Education, 2005-current; Board Attorney, Washington County Board of Education; General Counsel, College of the Albemarle, 1994-current; General Counsel, Mid-Atlantic Christian University, 2006-current; Town Attorney, Town of Nags Head, 2008-current. **Practice Areas:** Civil Litigation; Employment including Benefits; Workers Compensation; Wrongful Termination; Education; Municipal; Insurance; Commercial.

L. PHILLIP HORNTAL III

Born in Elizabeth City, North Carolina in 1967. Admitted to the North Carolina State Bar in 1993, North Carolina, and the U.S. District Court, Eastern District of North Carolina in 1995.

Education: University of North Carolina at Chapel Hill (B.A., 1989), Phi Eta Sigma; Campbell University (J.D., 1993). Notes and Comments Editor, Campbell Law Review, 1992-1993. Author: Note, "Another Step Towards Ending Discrimination In the Jury Selection Process-Power v. Ohio," 14 Campbell Law Review, 369, 1992. Research Assistant to the Honorable Justice John Webb, North Carolina Supreme Court, 1993-1994. **Memberships:** North Carolina Bar Association; North Carolina State Bar; Defense Research Institute; North Carolina Association of Defense Attorneys. Certified Mediator. **Practice Areas:** Civil Litigation, Insurance Defense; Personal Injury; Worker's Compensation; Subrogation.

W. BROCK MITCHELL

Born in Goldsboro, North Carolina on December 19, 1973. Admitted to the North Carolina State Bar in 2002. **Education:** College of Charleston (B.A., 1996); Mississippi College School of Law (J.D., 2000); University of Denver (LL.M. Taxation. 2001). **Memberships:** North Carolina Bar Association; American Bar Association; North Carolina State Bar. **Practice Areas:** Real Property, Bankruptcy, Creditors' Rights, Taxation, Estate Planning and Probate, Corporate, Commercial, and Business.

BENJAMIN M. GALLOP

Born in Boston, Massachusetts in 1976 and raised in Rocky Mount, North Carolina. Admitted to the North Carolina State Bar in 2005, the U.S. District Court, Eastern District of North Carolina in 2005, the U.S. Court of Appeals, Fourth Circuit in 2012 and the United States Supreme Court in 2017. **Education:** North Carolina State University (B.S., Computer Engineering, 2000); Campbell University (J.D., cum laude, 2005); Campbell University Law Review, Staff Member (2003-2005) and Comments Editor (2004-2005). **Memberships:** North Carolina State Bar, State Bar Ethics Committee (Advisory Member 2012-2019); American Bar Association; North Carolina Bar Association, Technology Committee (Member 2006-2017, Chair 2010-12), Nominations Committee (Member 2014-15), Legal Education Reform/Unmet Legal Needs Committee (Member 2014-16); First Judicial District Bar (President 2017-2019) **Board Positions:** Town Attorney, Town of Southern Shores, (2008-Present), Town Attorney, Town of Hertford, (2008-Present), Board Attorney, Currituck County Board of Adjustment, (2008-2019); North Carolina Certified Superior Court Mediator. **Practice Areas:** Municipal and local government; civil litigation; land use and zoning; eminent domain; condemnation; coastal issues; public trust rights; beach nourishment; riparian and littoral rights.

ANDREW W. HOWLE

Born in Chapel Hill, North Carolina in 1964. Admitted to North Carolina State Bar 2008. **Education:** University of North Carolina Kenan-Flagler Business School (B.S., Business Administration, with distinction, 1991); University of North Carolina Kenan-Flagler Business

School (M.B.A., 1993); University of North Carolina School of Law (J.D., with honors, 2008). **Memberships:** North Carolina State Bar, North Carolina Bar Associates and First Judicial District Bar. **Practice Areas:** Corporate Law, Business Transactions, Elder Law and Estate Planning.

WILLIAM P. NORRELL

Born in Elizabeth City, North Carolina in 1991. Admitted to North Carolina State Bar and U.S. District Court, Eastern District of North Carolina in 2017. **Education:** College of the Albemarle (A.A., 2012); University of North Carolina at Chapel Hill (B.A., 2014; J.D., 2017). **Memberships:** North Carolina State Bar, North Carolina Bar Association and First Judicial District Bar. **Practice Areas:** Real Estate, Estate Planning, Business, Education, and Local Government/Municipal Law.

ASSOCIATES:

Bryan M. Douglas

Born in Orlando, Florida in 1973. Admitted to North Carolina State Bar in 2008, the Florida State Bar in 2009 (currently inactive) and U.S. District Court, Eastern District of North Carolina in 2019. **Education:** Florida State University and Stetson University College of Law. **Memberships:** North Carolina State Bar, North Carolina Bar Association and First Judicial District Bar. **Practice Areas:** General litigation, employment law, federal and private sector employment discrimination, and insurance and business litigation.



MINUTES

The Town of Manteo Board of Commissioners held their Recessed May 6, 2020 meeting on May 14, 2020 for a budget retreat Town Hall, 407 Budleigh Street, Manteo, NC at 8:30 am

The following members were present:

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

The following members were absent:

Also present at the meeting were: Town Manager-James Ayers; Assistant Town Manager-Finance Officer Shannon Twiddy; Becky Breiholz, Town Clerk.

Mayor Owens called the recessed meeting to order at 8:30 am for discussion of the budget.

Town Manager James Ayers gave the Board a slide presentation with the Budget Philosophy of Aligned, Balanced and Clear. The Budget schedule was reviewed with giving the Board the recommended Budget at their May 20, 2020 meeting and to schedule a public hearing at that time for June 3, 2020 with adoption date of June 17, 2020.

Structure given by fund level and Department level. The key points: the millage rate of 0.37 and because of the re-evaluation this year revenue neutral is 0.3455 which is what we are proposing. There is no increases in the fees but will need a small water and sewer increase for FY 21-22. Trends are property taxes level; other taxes reduced; miscellaneous revenues varied.

Revenue Diversification-Key Points Expenses. All essential services continue; recycling program altered with curbside service by customer subscription and adding a small convenience center in Town.

Special Events-Eliminated 2020 4th of July and New Year's Eve; maintained 2021 Dare Day and 4th of July and maintained Christmas events and Community/Children events.

Commissioner Selby would like more discussion on New Year's Eve and possibly working with the County and businesses. Commissioner Borland thinks we should budget for it. Commissioner Mann recommended doing it but at a smaller scale and downsizing it.

Possibly starting during the afternoon and ending it 8 pm and if the businesses want to continue into later hours let them take over until midnight. Consensus was to include \$20,000 in the budget for a smaller event. Commissioner Walker wants to reduce the burden to staff and does not want staff to be cleaning up confetti at 3 am.

All departments have reduced original budget requests; departmental Capital requests reduced or postponed to FY 21-22. Miscellaneous reductions from supplies to training.

Projects from the General Fund expenses: Town Common, Davis lot and stormwater drainage work. Wastewater Asset inventory and assessment and Queen Elizabeth sewer lift station are from Water and Sewer Fund.

Human Resources scenarios were reviewed and in the current scenario would be to eliminate the Dockmaster position and Assistant Dockmaster position (but retain some part-time hours). Postpone Project Manager/Facilities Manager/Inspector to FY 21-22 and add Deputy Town Clerk since Town Clerk Becky Breiholz will be retiring in December which would allow for training. Pay request of 2.5% COLA and 1% increase except Town Manger. Commissioner Collins thinks we should give each employee a \$750 bonus plus the COLA and 1% increase because of their hard work during the COVID-19 pandemic. Commissioner Borland would be in favor of this. Commissioner Mann suggested giving them a week vacation. Mr. Ayers will have Shannon Twiddy look at potential bonus structures of either a certain amount of money or extra paid week of leave. Mayor Owens commented that we do not know what the revenue stream will look like.

Proposed FY 20-21 Budget by Fund: General Fund \$5,617,352; Cemetery Fund \$22,000; Water and Sewer Fund \$2,966,774 for a total of \$8,606,126. Comparison slides were shown for revenue; expenses by category; expenses by Department. Also shown were slides comparing operating project FY 21 and Personnel.

Fund Balance Position: FY 19-20 Fund Balance-original allocation transferred to budget \$381,944; FY 20-21 Fund balance-proposed allocation to budget \$1,050,907. \$198,321 return of unused FY 19-20 funds; \$732,844 Town Common; \$100,000 Manteo Resident Relief fund for utilities; \$19,742 Davis Lot (portion). Proposed FY 20-21 Fund Balance \$4,221,956 equals 75.16% of General Fund.

Miscellaneous topics discussed: Commissioner Borland would like the Board to think about exploring the idea of purchasing the vacant property at Marshes Light from SAGA. Mr. Ayers has explored options of financing and an estimate would be \$10,000 per month for 20 years. Commissioner Mann would like to know how much revenues we would receive if the SAGA property was built.

Commissioner Burke wanted to bring up allowing out-door seating for restaurants in parking lots and waiving zoning issues. Mr. Ayers commented that the Town has purchased 10 new picnic tables to place on the Davis lot and other parks since there are really no parking lots in downtown Manteo. The Board would like tables also placed at Magnolia Market. Commissioner Mann would like the Town to purchase more picnic tables and to hire a local small business who makes picnic tables.

There being no further business to come before the Board or other persons to be heard a motion by Commissioner Collins seconded by Commissioner Walker the meeting was recessed until May 20, 2020 at 5:00 pm for their workshop meeting was approved by the following vote: Ayes: Commissioners Burke, Mann, Collins, Walker, Borland and Selby. Nays: None. Absent: None

This the 14th day of May 2020

ATTEST:

Bobby Owens, Mayor

Becky Breiholz, Town Clerk

MINUTES

The Town of Manteo Board of Commissioners held their Recessed May 14, 2020 on May 20, 2020 at Town Hall, 407 Budleigh Street, Manteo, NC and via teleconference at 5:00 pm

The following members were present: Mayor Pro Temp Betty Selby
Commissioner Darrell Collins
Commissioner Eddie Mann
Commissioner Christine Walker
Commissioner Richie Burke
Commissioner Jason Borland

The following members were absent: Mayor Bobby Owens, Commissioner Walker

Also present at the meeting were: Town Manager-James Ayers; Ben Gallop-Town Attorney; Becky Breiholz, Town Clerk; Carl Woody, IT Director.

Town Manager Mr. Ayers did a roll call: Mayor Pro-Temp Betty Selby (present) Commissioner Eddie Mann (present) Commissioner Richie Burke (via teleconference) Commissioner Jason Borland (via teleconference) Commissioner Darrell Collins (via teleconference) and a quorum was established.

DEPARTMENT HEAD REPORTS:

The Department Head reports were given to the Board and are online for the general public on the conference call to review and encourages everyone to look at them to see what the Departments having been doing.

PRESENTATIONS

SUBJECT: Town Manager's recommended FY 2020-2021 Budget-Mr. Ayers presented the Board with the budget. Staff has been working hard to reconstruct the budget because of the COVID 19. The public will have the opportunity to see the documents. The budget message, the budget presentation slide show and the actual budget ordinance will be on the Town website. A slide show presentation was given by Mr. Ayer and the budget schedule was gone over.

We have restructured the budget at the fund level with General Fund, Water and Sewer fund Cemetery fund have been retained. The dock fund has been eliminated. Changes at the Department level added two new departments Information Technology and Community and Economic Development and consolidated the Museum and Marina.

Some key points are the millage rate of 0.37 and because of the re-evaluation this year revenue neutral is 0.3455. There are no increases in the fees, but we will need a small water and sewer increase for FY 21-22. Trends are property taxes level; other taxes reduced; miscellaneous revenues varied.

For expenses, all essential services continue; recycling program altered with curbside service by customer subscription and adding a small convenience center in the Town. Special Events we have eliminated 2020 4th of July; reduced 2020 New Year's Eve to \$20,000 and maintained 2021 Dare Day and 4th of July and Christmas events.

Department cuts have been reduced or postponed such as Capital requests; we retained ordinance compliance, postponed new ordinance, comprehensive plan and land use plan and other miscellaneous deductions. Other expenses from the General Fund are the Town Common, Davis Lot and Stormwater Drainage work and from the Water and Sewer Fund Wastewater Asset Inventory and Assessment and replacement of Queen Elizabeth Lift Station.

The current scenario for Human Resources is elimination of Dockmaster position and assistant dockmaster position but will retain for some part time hours; postpone Project Manager/Facilities Manager/Inspector. Add Deputy Town Clerk. Request a 2.5% COLA and 1% increase except for the Town Manager.

Summary of Funds: General Fund \$5,617,352; Cemetery Fund \$22,000; Water and Sewer Fund \$2,966,774 for a total of \$8,606,126. Comparison slides were shown for revenue; expenses by category; expenses by Department.

Fund Balance Position: FY 19-20 Fund Balance-original allocation transferred to budget \$381,944, \$183,623 return of unused FY-19-20 funds. FY 20-21 Fund balance-proposed allocation to budget \$1,050,907 of unassigned fund balance; \$732,844 Town Common; \$100,000 Manteo Resident Relief fund for utilities; \$25,000 Davis Lot; \$193,063 Other balance. Proposed FY 20-21 Fund Balance \$4,233,897 equals 75.37% of General Fund.

SUBJECT: Business Support Activities-Mr. Ayers commented that this Board has been very supportive of businesses in the Town. Mr. Ayers gave a background of what the Town has done since the crisis and a website was developed "Manteo Life" to provide to residents, non-profits and business links to various sources that can help them navigate the COVID -19 virus and things we can do to support businesses and think long term. A slide show was presented. We are proposing to assist businesses and there is a need to resurrect a Manteo Business Association. There will be a conference call for all stakeholders on June 8th at 5:30 pm via zoom conference for all businesses and stakeholders to weigh in. The Town wants to help assist with startup costs. Town Staff is working with stakeholders for ideas and direct Manteo as a destination. A mock website was developed to show the Board

about “Discover Manteo” with categories of where to stay, shop, eat and what to do. Also, there will be videos of things that can be done in Manteo. This will also help the community businesses by attracting people to come to Manteo.

The Governor has announced the opening of Phase II but a bit more cautious than originally planned by the end of the week. It will still be no mass gatherings of more than 10 people indoors and 25 outdoors and allow for restaurants to open up at a reduced capacity provided that 6 feet of social distancing is observed. Gyms, movie theaters, bowling alleys and other indoor entertainment venues will still not be allowed to open.

Some of the things the town has done to help businesses is we have placed picnic tables on all Town property for off premises take out from restaurants. The Planning Board approved the temporary placement of a tent for an ice cream business. Another way to help is the Town owns Old Tom Street and there is a 7-foot easement that could accommodate some tables. We are working with the businesses, but we need to be careful to not violate our laws. Businesses want signage to let the public know they are open, and our new Town Attorney has been dealing with how other Towns have been dealing with signage. Commissioner Collins asked if the tent was enclosed or open. Mr. Ayers commented it was intended to be open and is a temporary structure and not enclosed.

Mr. Gallop commented that he is excited to be the Town’s attorney and glad to be at the meeting tonight. He described issues regarding signage at some of the beach towns. Some of them are using their emergency declarations as a way to allow the Mayor to make accommodations but there is some risk to making accommodations through the emergency declaration that are making changes to your zoning ordinance. Mr. Gallop explained that rather than dealing with specifics he thinks having a text amendment that in times of an emergency declared by the Mayor that the Mayor can designate the zoning administrator or the Manager to make reasonable accommodations that is consistent with the emergency declaration to the zoning ordinance. If you go through the process to adopt a text amendment the zoning ordinance can be used during an emergency. The biggest issue of that is it takes some time to adopt a text amendment, it has to go to the Planning Board, at least a 10 notice has to be given, has to have a public hearing and with the new restriction that allows for written comment 24 hours after the public hearing. If the Board is inclined to make some changes for reasonable temporary accommodations during declared emergencies is how he would recommend doing it going through the zoning process. Mayor Pro Temp Selby thanked Mr. Gallop and looks forward to working with him.

PUBLIC COMMENT-Mr. Ayers explained the process to speak during public comments and for someone wishing to make a public comment to hit *9 and they will be recognized by the last 4 digits of their phone number.

8264-Lisa Ortega with Ortega's Grill and wanted to know since the Governor said outdoor seating will be confirmed by each locality she would like to know when that will happen. Mr. Ayers commented he has her information and will get up with her later.

NEW BUSINESS

SUBJECT: Set Public Hearing for Town of Manteo FY 2020-2021 Budget for June 3, 2020

MOTION: Commissioner Mann seconded by Commissioner Burke to schedule a public hearing for June 3, 2020 at 6:30 pm for the FY 2020-2021 Budget was approved by the roll following vote: Ayes: Mayor Pro Temp Selby, Commissioners Burke, Mann, Collins and Borland. Nays: None. Absent: Mayor Owens and Commissioner Walker.

OLD BUSINESS

SUBJECT: Town of Manteo Flood Damage Prevention Ordinance and Flood Maps
On May 6, 2020, The Town of Manteo Board of Commissioners held a public hearing on the proposed Flood Damage Prevention Ordinance and Preliminary Floodmaps. Prior to this public hearing, the Planning and Zoning Board held a public hearing at their March 10, 2020 meeting. There was one comment during both the public hearings and that comment was made by Mr. Jay Overton representing the Outer Banks Homebuilders Association.

The Town of Manteo Board of Commissioners delayed their vote on the Floodmaps and Flood Damage Prevention Ordinance to comply with new law (Session Law 2020-3) requirement that public comments can be submitted 24 hours after a public hearing. Staff confirm that no additional comments have been received.

Staff recommend approval of the Flood Damage Prevention Ordinance and adopting a plan consistency statement on Wednesday, May 20, 2020.

MOTION: Commissioner Mann seconded by Commissioner Collins that the Town of Manteo Board of Commissioners find the action to update Article 26 Federal Emergency Management Administration/Flood Damage Prevention Ordinance of the Town of Manteo's Zoning Code to be consistent with the Town's 2007 Land Use Plan. The following policies and actions of the Town's Land Use Plan support floodplain management through the National Flood Insurance Program: Natural Hazard Policies 24, 25 and 27 and Natural Hazard Action 27. It is reasonable and in the public interest to approve the amendment to the Flood Damage Prevention Ordinance was approved by the following roll call vote: Ayes: Mayor Pro Temp Selby; Commissioners Burke, Mann, Collins and Borland. Nays: None. Absent: Mayor Owens and Commissioner Walker.

MOTION: Commissioner Mann seconded by Commissioner Burke that the Board finds action to update Article 26 - Federal Emergency Management Administration/Flood Damage Prevention Ordinance of the Town of Manteo's Zoning Code to be consistent with the Town's Land Use Plan per §160A-383, the Board of Commissioners amend the Town's Zoning Code with the new Article 26-Federal Emergency Management Administration/Flood Damage Prevention Ordinance as presented was approved by the following roll call vote: Ayes: Mayor Pro Temp Selby; Commissioners Burke, Mann, Collins and Selby. Nays: None. Absent: Mayor Owens and Commissioner Walker.

Mayor/Commissioners Comments

Commissioner Burke welcomed new Town Attorney Ben Gallop to the Town of Manteo.

Commissioner Mann would like to recognize Planner Melissa Dickerson and Town Manager James Ayers for getting the Veteran only parking signs up and welcomed Mr. Gallop to the Town.

Commissioner Collins thanked staff for balancing the budget and all the hard work that the Town staff does and welcomed Mr. Gallop.

Mayor Pro Temp Selby welcomed Mr. Gallop again.

There being no further business to come before the Board or other persons to be heard a motion by Commissioner Mann seconded by Commissioner Borland the meeting was adjourned at 6:00 pm was approved by the following roll vote: Ayes: Mayor Pro Temp Selby; Commissioners Burke, Mann, Collins and Borland. Nays: None. Absent: Mayor Owens and Commissioner Walker.

This the 20th day of May 2020

ATTEST:

Bobby Owens, Mayor

Becky Breiholz, Town Clerk

Resolution 2020-03 Adoption of Outer Banks Regional Hazard Mitigation Plan

WHEREAS, the Town of Manteo is vulnerable to an array of natural hazards that can cause loss of life and damages to public and private property; and

WHEREAS, the Town of Manteo desires to seek ways to mitigate situations that may aggravate such circumstances; and

WHEREAS, the development and implementation of a hazard mitigation plan can result in actions that reduce the long-term risk to life and property from natural hazards; and

WHEREAS, it is the intent of the Town of Manteo Board of Commissioners to protect its citizens and property from the effects of natural hazards by preparing and maintaining a local hazard mitigation plan; and

WHEREAS, it is also the intent of the Town of Manteo Board of Commissioners to fulfill its obligation under North Carolina General Statutes, Chapter 166A: North Carolina Emergency Management Act and Section 322: Mitigation Planning, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to remain eligible to receive state and federal assistance in the event of a declared disaster affecting the Town of Manteo; and

WHEREAS, the Town of Manteo, in coordination with Currituck County, Dare County, and the Towns of Duck, Kill Devil Hills, Kitty Hawk, Manteo, Nags Head, and Southern Shores has prepared a regional hazard mitigation plan with input from the appropriate local and state officials;

WHEREAS, the North Carolina Division of Emergency Management and the Federal Emergency Management Agency have reviewed the Outer Banks Regional Hazard Mitigation Plan for legislative compliance and has approved the plan pending the completion of local adoption procedures;

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Town of Manteo hereby:

1. Adopts the Outer Banks Regional Hazard Mitigation Plan; and
2. Agrees to take such other official action as may be reasonably necessary to carry out the proposed actions of the Plan.

Adopted this 3rd day of June 2020

Bobby Owens, Mayor

ATTEST:

Becky Breiholz, Town Clerk

NORTH CAROLINA
DARE COUNTY

This instrument has been preaudited in the manner required by the Local Government Budgets and Fiscal Control Act.

Town of Manteo, Finance Officer

CONTRACT FOR LEGAL SERVICES

This Agreement for the appointment of the Town Attorney is entered into the 3rd day of June, 2020, by and between Town of Manteo, North Carolina, a body corporate and politic existing pursuant to the laws of the State of North Carolina (the "Town"), and Hornthal, Riley, Ellis & Maland, L.L.P. (the "Law Firm") and is effective as of the 1st day of July, 2020.

RECITALS

1. The Town is in need of the legal assistance of a law firm to fill the position of Town Attorney.
2. The Law Firm desires to be engaged to represent the Town in the capacity of Town Attorney.
3. The parties desire to memorialize their agreement as hereinafter set forth.

NOW, THEREFORE, for and in consideration of the mutual covenants expressed herein it is agreed as follows:

1. **Term of Engagement:** This agreement shall remain in place until terminated by either party or amended or superseded by subsequent agreement of the parties. It is the agreement and understanding of the parties, that the position of Town Attorney is an appointed position and may be terminated at will by the Town or the Law Firm provided, however, Law Firm shall not cease employment in such manner as to prejudice any legal positions, whether by litigation or otherwise, the Town may be maintaining through the Law Firm. In this regard, the Law Firm shall not withdraw from any litigation, negotiations, drafting or the like without the specified permission of Town, if to do so would prejudice Town's position.

2. **Services:** Law Firm shall provide to Town such legal services as Town requires and requests.

3. **Independent Contractor Status:** Law Firm offers its services as an independent contractor and Town has no liability for payment of any benefits that would normally accrue to its employees by virtue of their employment with the Town.

4. **Reimbursement and Billing:** Law Firm shall invoice and shall be reimbursed as follows:

- a. The hourly rate for all legal services performed by any attorney of the Law Firm on behalf of the Town shall be \$200.00 per hour. All services performed by any paralegal or law clerk of the Law Firm shall be billed at \$140.00 per hour. Law Firm shall submit monthly invoices to the Town indicating all work performed and expenses incurred. Town shall pay Law Firm for the invoiced work and expenses incurred. All statements are due upon receipt. All amounts not paid within thirty days of the billing date are subject to late charges on the outstanding balance at the rate of 1-1/2% per month. All payments received from the Town will be applied first to any late charge due.
- b. Billable time will be charged in tenths of hours and will be rounded up to the nearest one-tenth of an hour. All expenses the Law Firm incurs or advances in connection with providing legal services will be invoiced at the Law Firm's customary rates. All variable expenses will be billed according to the actual amount of the expense. Examples of variable expenses are recording fees, filing fees, court costs and deposition expenses.
- c. Travel expenses and associated time incurred for travel shall be invoiced at customary travel expense rates of the Law Firm and the hourly rates stated herein.
- d. This engagement is estimated not to exceed the budgeted amount of \$50,000.00 for billed time and expenses during the Town's 2020-2021 fiscal year. Upon the cost of legal services reaching the budgeted amount during the Town's 2020-2021 fiscal year, the Town Manager shall consult with the Law Firm to develop an estimate of funds necessary to pay for the legal services to complete the 2020-2021 fiscal year and perform any necessary budget transfer to ensure sufficient funds are unencumbered for legal services during the remainder of the 2020-2021 fiscal year. To the extent such a budget transfer is appropriate for the Town Manager to undertake under the Town's budget ordinance, the Town Manager may make such transfer without consultation, confirmation or approval of the Board of Commissioners. Otherwise, the amendment shall be approved by the Board of Commissioners like any other budget amendment.

5. Expectations: Law Firm recognizes the need of Town for accessibility and prompt service. To this end, it shall be the obligation of Law Firm to diligently return phone calls and electronic communications, to be available upon request, and to otherwise meet reasonable deadlines imposed by the Town. Benjamin M. Gallop, a partner of the Law Firm, shall be primarily responsible for providing the requisite services to the Town. However, the Town understands it is hiring the Law Firm as opposed to an individual attorney. In the event of Mr. Gallop's unavailability, the Town may seek advice from other attorneys within the Law Firm who will provide the services under this Agreement. The Town understands that the Law Firm cannot guarantee any results and that litigation matters could require significant expenditures. The Town recognizes and understands that the Law Firm may need information from the Town and access to Town officials and employees on occasion, and the Town agrees to provide such to the Law Firm in a timely and complete manner.

6. Organization and Access to Services: Law Firm represents the Town by and through its Board of Commissioners and not the Town's individual Commissioners, administration, staff, employees, contractors or other agents. However, unless requested or instructed to do so by the Board of Commissioners, the Law Firm shall be assigned legal tasks by the Town Manager and shall report to the Town Manager as to the progress and status of legal matters. In the event Law Firm recognizes a legal matter it deems in need of attention, the same may be reported to the Town Manager for permission to proceed. Except in emergency situations, Law Firm shall not initiate any legal action, or maintain any position on behalf of the Town, without the permission of the Board of Commissioners or pursuant to the instruction of the Town Manager.

7. **Non-exclusive Obligation:** It is agreed and understood that Law Firm is a private law firm with a substantial and varied practice. Nothing herein shall be construed as to prohibit the Law Firm from continuing to serve its other clients and promote its practice outside representation of Town.

8. **Conflicts of Interest:** During its representation, Law Firm shall not undertake any new representation in conflict with the Town. In the event a conflict of interest is discovered, the same shall immediately be reported by Law Firm to the Town Manager. On behalf of the Town, the Town Manager may approve or consent to representation which raises a potential for conflict, if such consent is allowed under the North Carolina State Bar's ethics rules. If the conflict is ethically irreconcilable, the Law Firm shall not represent either the Town or its other client in a controversy arising between them or in any way that is barred by the North Carolina State Bar's ethics rules.

9. **Effect upon Prior Agreement:** As of the effective date stated above, this Agreement supersedes and replaces the prior contract for specific legal services entered into by the parties on or about October 8, 2019 and any subsequent amendments thereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first
above written.

ATTEST:

TOWN OF MANTEO

Town Clerk

By: _____
James Ayers, Town Manager

(SEAL)

HORNTHAL, RILEY, ELLIS & MALAND, L.L.P.

By: 
Benjamin M. Gallop, Partner