

ROANOKE VOYAGES CORRIDOR COMMITTEE

Call to Order The **Roanoke Voyages Corridor Committee** met on Friday, **July 22, 2011** at 9:49 AM in the Executive Director's office at Roanoke Island Festival Park. Voting members present: Elmer Midgett, Chair; Malcolm Fearing (late arrival); Jerry Jennings, NCDOT Secretary designee; Warren Judge; and Fountain Odom. Commission members present: Linda Carlisle, NCDOT Secretary; and Ellen Newbold. Also present: Eddy Browning, unseated RIC appointee; Tod Clissold, Friends of *Elizabeth II*, Inc. Board Chairman; Dwight Gregory, Friends of *Elizabeth II*, Inc. Board Treasurer; Bob Quinn, unseated RIC appointee; John Robbins, unseated RIC appointee; Perry White, unseated RIC appointee; and Earl Willis, unseated RIC appointee. Staff present: Kim Sawyer, Executive Director of Roanoke Island Festival Park; and Andrea Hanganu, Administrative Assistant. Absent: Tom Brooks; Moncie "Punk" Daniels; Grayson Kelley, Attorney General designee; Angel Khoury; and Carl Vestal, NCDOT Landscape Division (non-voting member).

Welcome Chairman Elmer Midgett welcomed all in attendance.

Adoption of Agenda & The agenda was adopted by consensus.

Approval of Minutes On motion by Warren Judge and second by Fountain Odom, the minutes for April 28, 2011 were approved by consensus.

Old Business Chairman Midgett, on behalf of Fountain Odom, provided the following progress report on underground utilities along the Corridor:

Underground
Utilities along
Corridor
Fountain Odom

- North Carolina Power wanted to run a free-phase line along the north side of the Corridor, where the County was putting in a water line.
- NC Power, after much discussion, moved their line to the south side of the Corridor; now complete.
- Water line is installed on the north side; County has done a superior job putting in their water line along the Corridor.
 - Some places where they anticipated impacting trees produced no impact; other places where trees had to be impacted produced bare areas where trees have not been replaced.
 - He had requested the trees not be put back until cooler weather in order to ensure tree survival.

U.S. Fish and
Wildlife Service
Bonnie Strawser

Chairman Midgett reported that Bonnie Strawser of U.S. Fish and Wildlife Service is presently in Raleigh attempting to find some funding. U.S. Fish and Wildlife is building an 18,000 sq. ft. building on the north of Roanoke Island (RI) and has worked with the committee on putting in power as well as the driveway. The group requests a wayfinding sign, upon which this committee will make a recommendation or non-recommendation that goes to the full Commission and subsequently to DOT. DOT has stated that the more entities put on wayfinding signs the smaller the print. DOT makes that decision.

Discussion followed regarding potentially adding U.S. Fish and Wildlife Service to the wayfinding signs on the Corridor, with the following being noted:

- Question of the County's role in this if they are now to be in charge of the Corridor; Fish and Wildlife would have a difficult time getting a sign with the County (Judge).
 - Facility is large enough and would potentially draw a large enough crowd that it would likely qualify for DOT signing even outside existing RI wayfinding signs (Jennings).
 - Group is applying to the County and the Commission for a sign; wayfinding sign is different than a business sign—signage would be located as one comes into Manteo on DOT's right of way (ROW) (Midgett).
- Suggestion to provide newly appointed, unseated RIC members a brief explanation of the Roanoke Voyages Corridor Committee (RVCC), terminology, and the wayfinding sign (Odom).
 - RVCC charged with maintaining certain elements along the RI Corridor, from bridge to bridge, and down NC Hwy 400 through the Town of Manteo; controls cutting of trees on commercial property, building signs, and such along the Corridor; different setbacks were given to the RVCC by the legislature, which varies by instances from 50' to 200' from the state ROW; can be 50' beyond that for some things; signage can go up to 660'; controls implementation and use of banners, of which there is one on the south end of RI at T.L.'s Restaurant (Midgett).
 - RVCC is in its second reincarnation; the Corridor Commission, a state Commission, was established before the 400th anniversary with the building; when the Roanoke Island Commission (RIC) was born in 1994, it was folded into that legislation and became a committee of the RIC (Newbold).

- Wayfinding signs: over the years signing was put in place to the different attractions along the Corridor but without consistency; about 4-5 years ago legislation passed giving DOT the ability to implement wayfinding signs (blue and white with RI logo) to add a consistent signing pattern for RI attractions; legislation folded into RIC legislation gave DOT that ability to install that type of sign unique to RI; legislation allows DOT to consider new signs upon request of and in recommendation by RIC (Jennings).
- New Special Provision was recently implemented; RVCC in the past has basically voted and controlled what happened on the Corridor; state government decided in an unfunded mandate that Dare County and the Town of Manteo in their respective territories will enforce Corridor regulations; no problems have arisen to date (Midgett).
- Question of how the new legislation in the Special Provision will change how the RVCC will operate in terms of what has been done in the past (Carlisle).
 - Duties of part-time Corridor Administrator previously put on leave by DOT due to lack of funding have been performed by RVCC Chairman; legislation has eliminated decision-making from that position and given it respectively to the Planning Department of Dare County and the Town of Manteo; the County or Town has the option to come to the RVCC for assistance with any problems (Midgett).
 - Special Provision that took away RIC's authority to administer and enforce Corridor regulations was put into one of the budget bills without consultation by the RIC or any RIC committee (Odom); DCR Secretary was not consulted either (Carlisle); RIC learned of the Special Provision too late to get it out; bottom line is the regulations still exist, but the County and the Town of Manteo will enforce them—why referred to as an *unfunded mandate* (Odom).
 - Need somebody from the Attorney General's office to come and explain to RIC the ramifications of the entire Special Provision (Midgett).
 - Chairman Midgett has spoken to Grayson Kelley, RIC's representative from the Attorney General's Office (not RIC legal counsel); need for dialogue with the County and the Town as to how this works so all parties and the general public are clear on the process (Sawyer).
- Question whether, if RIC desires, the Town and the County cannot now enter into an agreement with the RVCC to continue to do exactly what has been done (Carlisle).
 - Need Grayson Kelley or an attorney with the Attorney General's Office to indicate whether that is possible (Odom); Commission should decide if it is interested in doing that (Carlisle).
 - Considered at one time the possibility of the Town and the County together re-hiring the former Corridor Administrator or hiring a Corridor Administrator; Town and County would have to fund that and neither one seems to want to do so (Midgett); 16 hours per week position (Sawyer).
- Question of possibly adding a RIC member to the County Planning Board to provide input (White).
 - He is also Chairman of the County Planning Board, so more input is not needed there (Midgett).
- U.S. Fish and Wildlife needs to make application to the County; already public noticed in the County media that all applicants must come to one Dare County place and submit applications for improvement projects (Judge).
 - U.S. Fish and Wildlife application was made months prior (Midgett).
 - Finalized procedure will be submitted to County Commissioners on August 15, 2011 to potentially adopt (Judge).
- Question whether the County could take care of the entire Corridor, including within Manteo Town limits (Odom).
 - Potential nightmare for Town of Manteo Planning Board (Robbins).
 - Not being critical, but the County would probably not suit Manteo: County tends to see gray quicker than black and white; County tries to make things happen for patrons; not saying the towns do not, but the County's brand of representative government may not necessarily coincide with Manteo; Manteo fathers could request the County take it and do so, as long as things could be done the way the County desires (Judge).
 - Manteo's way is almost a duplication of the Corridor Commission; everything outside the Town of Manteo in the County is a little different regarding setbacks, signage, vegetative removal, vegetative buffer, buffering requirements, etc. that do not clearly mask the ideals of the Commission's mission; Manteo already enforces the signage and the signage already meets the Commission's requirements; Town already enforces buffers often more stringent than the Commission's; it will not be difficult going forward for the Town of Manteo; challenge is more outside on the County standard by adding to their workload (Robbins).
- Question whether the Corridor might look one way on the ends and differently in the middle (Newbold).
 - Entirely possible (Midgett); hopefully not, but that is possible under the legislation (Odom).
 - Hopes entities doing this could work from the same standard so it would at least look alike (Newbold).
 - Dare County regulations would have to meet state statutes at a minimum (Robbins); agreement (Newbold).
 - Manteo might have a more stringent buffer than the two ends (Robbins).
 - Would see discernable differences in a potential rash of development in the Town versus the County, not because the County is not doing their job, but because Manteo takes things a step further; there are six local governments because each Town wanted their neighborhood to look and be run the way they wanted (Judge).
 - Need to ensure approved state regulations are carried out (Newbold).
 - County has not violated the law yet to his knowledge (Judge).
 - Working with the RVCC has gotten much user friendly with Chairman Midgett; Town has gotten more efficient and easier to work with; things were going smoothly up to this time; applauds Chairman Midgett for his good work (Robbins).

Chairman Midgett directed conversation back to the wayfinding sign for U.S. Fish and Wildlife Service, noting that Warren Judge has said the County could have a problem with it. Chairman Midgett said

discussion is regarding a wayfinding sign that goes on the DOT ROW, of which the County has no input.

* Malcolm Fearing joined the meeting at 10:15 AM. *

The following was noted in discussion:

- Legislation regarding wayfinding signs includes DOT looking for a request and endorsement from the Commission supporting said signs, not necessarily approving a COA to put in those signs because DOT installs those not a third party applying for the sign (Jennings).
- Question whether DOT would handle getting signage changed if there was a decision by the RIC to modify the RIFP name (Carlisle).
 - Comes down to the cost of doing so: DOT would have no objections, but the challenge is from a funding standpoint whether existing signs must be remade or if text would be overlaid on existing signs; signs were all first installed by DOT with state-wide contingency funds; maintenance of signs has been absorbed by DOT, which has been 1-2 signs here or there; a wholesale change could be a problem depending on the cost (Jennings).
 - Major issue if anything did move forward (Carlisle); would be a worthy investment for RIFP though (Sawyer).
- Request for verification that the County would not be involved in wayfinding signs in this new era of governance (Judge).
 - County zoning would not be involved; County will be involved because the County Planner will enforce regulations; U.S. Fish and Wildlife would have to apply for a sign through the County and through the Corridor; County has nothing to do with putting a sign on DOT ROW (Midgett).
- Request for verification that no wayfinding signs will come before the County, that requests will go straight to DOT and not through the County (Judge).
 - Will go before the County Planner as an enforcer of Corridor Regulations (Midgett).
 - It is only if they are outside the ROW (Robbins).
 - But a wayfinding sign is going to be in the ROW (Midgett).
 - Agreement with Chairman Midgett: signs within the ROW are within the jurisdiction of DOT (Jennings).
 - The only signs in the ROW that the Corridor Administrator, being the Town and County, would be responsible for would be if somebody put up their own (an illegal) sign in the ROW; official signs that DOT puts in with accordance to regulations would not have to go through the Town or the County (Jennings).
- Question whether, with the new authority now resting with the Town and the County, applicants would go directly to DOT to get on a wayfinding sign (Judge).
 - They would have to go through the Corridor Commission (Midgett); agreement (Odom).
 - That being said, the Town or the County being the enforcer would probably be the starting point (Midgett).
- Request for clarification that they *do* need to make application to the County (Judge).
 - Need for legal counsel to address these questions (Odom).
- Apology for being late to the meeting (Fearing).
- Willing to contact Grayson Kelley and organize a review of this new legislation and how it coordinates; need to ensure the public is not sent to different places unnecessarily (Sawyer).

Motion

Fountain Odom made a motion that even if there must be a special meeting of the Corridor Committee, that the Attorney General be requested to provide legal counsel in order to determine the appropriate roles of the Roanoke Island Commission, the County of Dare, and the Town of Manteo to regulate and provide enforcement for the Corridor Regulations and Statutes; that would include the wayfinding signs. Jerry Jennings seconded the motion.

Discussion followed regarding the motion, with the following being noted:

- Request that Fountain Odom consider adding the word *interpretation* to the motion regarding legal assistance, not pro bono, but for guidance in these matters with interpretation (Fearing).

Amended Motion

Fountain Odom agreed to the amended motion that even if there must be a special meeting of the Corridor Committee, that the Attorney General be requested to provide legal counsel *and interpretation* in order to determine the appropriate roles of the Roanoke Island Commission, the County of Dare, and the Town of Manteo to regulate and provide enforcement for the Corridor Regulations and Statutes; that would include the wayfinding signs. Jerry Jennings seconded the amended motion.

Discussion continued, with the following being noted:

- At no other Commission meetings has it been deemed necessary to have legal representation at Finance

Committee meetings or Commission meetings; it is an unusual action to request legal representation at every meeting (Carlisle).

- RIC has always had it (Fearing); that is uncommon (Carlisle).

Vote

With no further discussion, the motion carried by unanimous vote.

Ellen Newbold noted the need for members to review, prior to legal counsel coming, the legislation from 143B, the Executive Reorganization Act that set up the Commission, which refers to Chapter 1194, Session Laws of 1981 as amended—the Powers and Duties of the Corridor Committee or Commission.

Malcolm Fearing suggested that new RIC appointees receive a copy of the *RVC Regulations and Standards*. Chairman Midgett agreed, and encouraged new members to read them more than once. Kim Sawyer agreed to make the document available to new RIC appointees.

Warren Judge initiated discussion regarding clarification of procedure following the motion just passed, with the following being noted:

- Question if somebody made application today to the County, whether to move forward with it not noting to applicants that RIC is waiting on interpretation of the law (Judge).
 - No problem with that (Midgett).
- Request for clarification that if somebody contacts RIC staff, normally the receptionist, then they should be referred to the County (Sawyer).
 - Correct (Judge).
- Question of who RIC staff refer them to with the County (Sawyer).
 - Donna Creef with the County Planning Department (Judge).
- Question whether Mr. Judge will share the County's application process, once approved, with the RVCC (Newbold).
 - Absolutely (Judge); personally takes responsibility for obtaining finalized Town and County procedure (Midgett).
 - Need to contact Gary Gross, Clerk to the Board, after adoption on August 15th (Judge).
 - Power will rest with the Planning Director through approval of the County Manager; applicant has appeal rights by way of the Board of Commissioners (Judge).
 - Active County staff follow all complaints (Judge); if somebody cuts down a tree RVCC will hear about it (Midgett).
 - County has not broken any law yet; County enforces all that it can (Judge).
- Question whether anything else is needed on the U.S. Fish and Wildlife request (Odom).
 - RVCC is putting it on the table until interpretation of the law; not holding anything up because nothing will happen until a full Commission meeting, which votes whether to adopt committee recommendations (Midgett).

New Business
Special Provision
Regarding Corridor
Elmer Midgett

Chairman Midgett reported that as members are aware there are Special Provisions involving the Corridor that were essentially discussed already. He stated that they will have somebody from the Attorney General's Office to come and discuss the items in the Special Provision.

Reports

No reports were provided.

**Commission
Recommendation**

No Commission recommendations were noted.

Announcements

The following announcements and comments were made in conclusion:

- Request to review RIC process of getting on committees for the benefit of new appointees (Fearing).
 - Discussed in first committee meeting; RIC Chairman will appoint them (Sawyer).
 - Members can serve on more than one committee (Odom).
 - New appointees are not yet seated because they have not cleared their ethics inquiry; serving members continue to serve until complete (Sawyer).
- Whether questions about Corridor Regulations should be directed to Chairman Midgett by new appointees (Fearing).
 - Yes (Newbold and Midgett).
- During a full RIC meeting several years ago DOT presented a before and after of driving footage from one end of Manns Harbor bridge to Pirate's Cove bridge; footage showed progress resulting from the Corridor Commission's work to enhance the beauty of RI (Clissold).
- Members were encouraged to view telephone poles when driving the Corridor, noting telephone lines on the east side run through the Crepe Myrtles; unknown what will happen if somebody applies to trim trees or do something; any attempts to fix what is there now or putting utilities underground will be a major disruption

- along the Corridor; RVCC must decide what to do about the issue (Midgett).
- Go wireless (Robbins); wireless electricity (Judge); is being worked on (Odom).
- Electric lines on the west of the Corridor tend to be higher, and their trimming is benign compared to what the phone company must do (Midgett).
- Question of who erected the two poles and cable on the north end of the Town by the fire station (Fearing).
 - Question was addressed but answer was not determined; assume the Town did so; DOT staff could not identify when they went in; staff said items have been there a long time (Jennings); 3-5 months (Midgett); assume they are for a banner (Jennings); no COA was ever issued (Fearing); no banner is there; poles, crank, and guide wire are there (Fearing).
 - For the record, that did not happen on the County's watch four or five months ago (Judge).
 - It is not on County property but in the Town (Midgett).
- Request for clarification on her next steps: contact Attorney General's Office for assistance; anyone contacting RIC staff about applying for COAs are to be referred to the Dare County Planning Office; August 15, 2011 the County will consider adopting new regulations, which she will obtain from Gary Gross after August 15th and distribute to the RIC (Sawyer).
 - Clarification that the County is not adopting new regulations but its procedure (Judge).
 - Clarification that calls regarding inside the Town (incorporated) go to the Town (Odom).
 - If in the Town limits it goes to Manteo; if not in the Town limits it goes to Dare County Planning Office (Judge).
- If RIC receives an interpretation from the Attorney General contrary to the way it feels that the Special Provision says, then RIC must live with it because RIC has asked for it (Midgett).
 - Attorney General interprets North Carolina statutes; that interpretation must be abided by (Newbold).
- Verification for Secretary Carlisle that the April 28, 2011 minutes were addressed and approved (Midgett).

The next meeting of the Roanoke Voyages Corridor Committee will be Thursday, October 27, 2011 at 9:45 AM.

Adjournment

With no further business, and upon motion by Fountain Odom and second by Jerry Jennings, the meeting was adjourned at 10:38 AM.

Minutes submitted by: Andrea Hanganu, Administrative Assistant

Upon a vote by the Roanoke Voyages Corridor Committee, approved by:

Elmer Midgett, Chair, Roanoke Voyages Corridor Committee