

**MINUTES OF THE SIGN ORDINANCE PUBLIC HEARING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
JUNE 13, 2001 – 5:00 PM - TOWN HALL**

**Mayor Barbara Harris** called the meeting to order at 5:00 PM. Present were Mayor Harris, Commissioners Farmer, McElraft, Murphy, Trainham, and Wootten. Also present were Interim Town Manager Mitsy Overman, Inspections Department Head Carol Angus, and Town Clerk Carolyn Custy.

**Mayor Harris** said before they got into the special meeting, they had to pick a date for the reconvening of the stormwater workshop. Date was set for July 2, 2001, at 7:00 P.M.

Commissioner Trainham moved to open the public hearing. Commissioner Farmer seconded the motion. Vote was unanimous in favor of opening the public hearing. Motion carried.

**Mayor Harris** told the public that there were copies of the latest proposed sign ordinance on the back table.

**Mr. Rick Smith** said he had been asked by several people who are interested in this particular issue to speak for them since they could not be there. He started at the top, with Definitions. Under Advertising sign, some of the people have expressed concern about adding to the definition where it says “directs attention to a business”, by means of a logo, or pricing, or types of products advertised. That was one thing brought up to him. Some of them advertise particular bargain on sale or something like that.

**Commissioner Murphy** asked whether he wanted them to differentiate between a t-shirt hanging in a window and a sign with the price on it. **Mayor Harris** said they were talking about merchandise versus price. **Commissioner Murphy** said if they put the definition Advertising sign: A sign advertising price, product, or logo. If somebody put a piece of stained glass in the window without a price on it or a bathing suit in the window without a price on it or a window display, that would not be considered an advertisement.

**Commissioner Farmer** said if they look farther on in the definitions, there is a definition of merchandise, which we had put in there to try to get around that. The problem with defining what an advertising sign is is that creative people out there come up with something that doesn't fit the definition but still ends up being advertising, which is why we have towels with End of Season Sale on them.

**Commissioner Murphy** said that would be pertaining to price. He said what Commissioner Farmer was talking about was on the second page. **Mayor Harris** read, “Merchandise: Goods and commodities bought and sold within a business, not to be construed as signage or advertising.” **Commissioner Farmer** asked if that would do it. **Mr. Smith** said yes. **Commissioner Farmer** said that was one of the changes they had made.

**Mr. Smith** went on to Sec. 19-133. Administration. “(a) No sign of any type, or any part thereof shall be erected, painted, posted, placed, replaced or hung in any zoning district except in compliance with this article. A permit must be obtained for any sign existing at the time of adoption. Others would be considered retroactive to the time of replacement.” This is a hot item, and he does not know if the Board of Commissioners is familiar with the legal term “ex post facto.” He does not know whether this will come into municipal jurisdiction or not, but he is willing to hire a lawyer if he has to to see if this is correct. This could happen down the road, and he wanted them to be aware of this.

**Commissioner Farmer** asked if the problem is the fee that is charged. What we are trying to accomplish is to have a record in Town Hall of the signs that are currently in place. A lot of them they have records of because they received a permit. Some like his are from before the days where they had to get a permit. **Mr. Smith** said if they do not have information concerning the signs, it is not the merchant’s fault. **Commissioner Farmer** said we are not trying to place fault. **Mr. Smith** said they are putting the burden on them by charging them for signs that have already been there. **Commissioner Farmer** said that the issue is the money.

**Commissioner McElraft** said if the signs are grandfathered, we don’t need to do that. **Commissioner Farmer** said her understanding was that there are a lot of signs that are quite recent that permits were never gotten for. **Mrs. Angus** said they do have some that have been there in the last 5 or 6 years . . . . **Commissioner Farmer** said there are other signs that have been there in the last 5 or 6 years where the business owners went through the process that the ordinance required, and if they look at it the other way, they, in fact, are being penalized by having to pay the permit fee for doing it the right way.

**Commissioner Wootten** said this bothered him the last time we talked about this because if the objective is to get an up-to-date list of all the signs in town, this is not the way to do it. He would hire somebody to go around door to door looking at all the signs, come back and research against the records at Town Hall and get a clean record. It can be done in a week’s time. He said there was something about a temporary permit that does not make a lot of sense either.

**Commissioner Farmer** said the purpose was that they have had on the books for a long time a process whereby there is a paper trail for all the signs except for the people who have signs that pre-dated the process or people who, for whatever reason, didn’t go through the process.

**Commissioner McElraft** said she thinks we are starting this whole process over and trying to accommodate. Her philosophy is to start fresh, do what Commissioner Wootten said, get a record of them and start from today, not go back and find out where the paper trail began and punish all those people. Let’s start requiring permits today and let’s not go back and try to find the offenders. They have a record now and go from there.

**Mrs. Angus** asked about the people who don’t have a permit; she does not have a record.

**Commissioner McElraft** said we will make a record. We will go to all the businesses, we will see what signs they have, and we will make a record of it.

**Commissioner Wootten** said they could get a database going. **Mrs. Angus** said she had that started. **Commissioner Wootten** said they could update that and say as of this time, this is the current database. We don't need a permitting process for existing signs.

**Commissioner Farmer** asked how much paperwork is involved in a sign permit. **Mrs. Angus** replied one piece of paper and about 5 to 8 minutes. **Commissioner Farmer** said her question is why are we putting that on Town Hall. She would rather waive the fee and have the businesses do it. Why should Town Hall time be taken up? **Commissioner Wootten** asked why should the business person's. **Commissioner Farmer** replied because they have a sign in the Town of Emerald Isle.

**Mrs. Angus** said she had contacted 3 people right now for months, left messages, contacted landlords, and still never heard from them. Maybe if they get the extra person they've been hoping for, that would be a good project for them. She is not going to get any more cooperation after this than before.

**Commissioner McElraft** asked if Mr. Smith had a suggestion for this situation. He said yes, but before he ran it by, he wanted to go through this a little bit. This ordinance was established in 1985. What has happened is the failure to do the required thing at the proper time. When the ordinance was adopted, it was never, never enforced. They cannot legally come up 25 years later and say we're going to change this and you're in violation.

**Mrs. Angus** said this wouldn't say they are in violation. **Commissioner Farmer** said he would be grandfathered in. **Mr. Smith** said it does not say grandfather. **Commissioner Farmer** said it does somewhere.

**Commissioner Farmer** said again that the purpose was not to punish people. The purpose was not to slap anybody's wrist. The purpose was for Town Hall to have a record of the signs that are in the town as we would have for anyone who filled out a permit. We weren't even thinking about the signs that were old like his; we were thinking about the signs that have come in in the last 5 months that were never permitted.

**Mr. Smith** said what he is saying is line item d "Before being granted a sign permit each applicant shall pay to the town a fee for each sign permit. No more than one sign on a single lot may be shown on the plans, the draft . . . . All existing signs must be brought into compliance (grandfathering will not apply)."

**Commissioner Farmer** said that is prior to additional signs being permitted. **Mr. Smith** said it does not say that. It says "All existing signs must be brought into compliance." **Commissioner Farmer** read, "Prior to additional signs being permitted for a single lot, all existing signs must be brought into compliance." In other words, if he has signs on his lot and he

goes out to get a new sign permit, the signs that are already there are going to have to be brought into compliance.

**Commissioner Murphy** suggested clarifying this by putting in a date, such as “permitted after 6/13/2001 for a single lot . . .” That will clarify that.

**Mrs. Angus** said this might be a moot point anyway. They only allow one sign per lot, so if they have a sign that has been there since 1985 and come in for another sign, she has to deny it anyway. **Commissioner Farmer** said one freestanding sign.

**Commissioner Farmer** said if we go back and get rid of the part that Mr. Smith and some of the other business people are so unhappy about, about going back and requiring them to get a permit for an already-existing sign, if they take that out, maybe they have solved the problem.

**Commissioner Murphy** suggested we grandfather all existing signs, legal or illegal, permitted or not permitted, no time limit. **Mr. Smith** said that was his suggestion all along—grandfather the whole thing, as of the adoption.

**Commissioner McElraft** said to make the list of what is there, start fresh today with everybody knowing all the rules, and permitting can begin with any sign from here on out. **Mr. Smith** said that would be to his satisfaction and is quite sure most of the rest of them would agree with that.

**Commissioner Wootten** asked Mrs. Angus about when somebody opens a new business. They have to come and get a license from her. **Mrs. Angus** said sometimes they get a privilege license, sometimes they don't. Sometimes we don't catch it until someone drives by and sees something in a window. She has been to a number of places that have never gotten a sign permit that she called about. **Commissioner Wootten** said he was not talking about sign permits, he was talking about a new business going into existence. **Mrs. Angus** said a privilege license. That is through Gayle Parker. **Commissioner Wootten** said they have to come into Town Hall to get that before they start the business. **Mrs. Angus** said Ms. Parker had in the last few months, from what she understands, told them they also need to get a sign permit. **Commissioner Wootten** said they should be given a copy of the ordinances and there should be a document they sign that says “I will conform with existing ordinances in the future.”

**Ms. Overman** said it depends on what kind of business it is. A lot of them are exempt under North Carolina law—doctors, lawyers, real estate offices, psychiatrists. They don't come in, and we never see them. **Mrs. Angus** said two of them are attorneys, and they don't have to have one, and she can't get them to come in and get a permit.

**Commissioner McElraft** asked who they rent from. Do they rent from Ronnie or Larry or somebody like that? We could ask them to help us out in that situation. They have to have a sign permit. When they are renting their property, before you put up a sign, we have new rules .

. . **Mrs. Angus** said she made the request, and she was told they would tell them, and it never went anywhere.

**Commissioner Wootten** said he was trying to explore how to shut the spigot for the future. **Mrs. Angus** said we thought that would do it, too; but unfortunately, it hasn't.

**Mr. Smith** said he didn't think they could legally operate in this town without a permit. **Mrs. Angus** said there are a lot of places she cannot make them get a privilege license. **Mr. Smith** asked why she couldn't make them. **Mrs. Angus** reiterated what Ms. Overman had said. **Mr. Smith** said he understood about the doctors and lawyers. For the average business, can't they make him buy a permit? **Mrs. Angus** replied if she is aware he's there, and then she tries to contact him. If they don't return her calls, she can't go on his property and tear his sign down.

**Commissioner Wootten** said a merchandise guy can't open up operations without coming to her for a privilege license. **Mrs. Angus** replied to Ms. Parker, not her. **Commissioner Farmer** said at that point, that information could be handed out. **Commissioner McElraft** said that just started. **Mrs. Angus** said that had been going on, and she hadn't had any problem with retail or anything like that. She doesn't have any violations there that she could think of offhand. It is the other businesses that are exempt from the privilege license.

**Commissioner Wootten** said his recommendation would be to grandfather what is there now and start attacking the problem in the future.

**Commissioner Farmer** jumped to page 9, Non-conforming signs. **Mrs. Angus** said that is 19-139. **Commissioner Farmer** said somewhere in there we say that currently existing signs are deemed non-conforming and are grandfathered in.

**Commissioner Murphy** said "Nonconforming signs may be continued, provided that they: (1) are brought into compliance within ten years." **Commissioner Farmer** read, "Signs in existence prior to the adoption of the ordinance from which this article is derived and which do not conform to the provisions of this article are declared nonconforming signs" and then goes on to say that nonconforming signs may be continued, provided that they are brought into compliance within ten years.

**Commissioner McElraft** said the whole point is that any nonconforming sign will be grandfathered from this point all the way back. There will be non 10-year grandfather, but we will grandfather forever. **Commissioner Farmer** said she would not agree with that. That gets into the problem of new business who come in are therefore at a disadvantage because they're having to comply with stricter regulations by virtue of the fact that they came in later. **Commissioner McElraft** said it is kind of like Paxon on that corner. It is a little stricter for her to build down there than it was for other people.

**Commissioner Murphy** said he paid \$100,000 for his house 8 years ago, and now it's worth \$180,000. He is not going to sell it for \$100,000 because somebody new comes in and

wants to buy it from him.

**Commissioner Farmer** said she didn't think either of those examples had anything to do with this.

**Mayor Harris** went back to the last sentence of Sec. 19-133, Administration. "A permit must be obtained for any sign existing at the time of adoption of this article. The permit will be considered retroactive to the time of placement." She asked if they were leaving that in there.

**Commissioner Wootten** said he would take it out. **Commissioner Murphy** said if this is grandfathered, this would apply to all new signs from tomorrow on. If the signs that are in place now are grandfathered, any new sign would have to comply with the new ordinance. **Commissioner Wootten** said the first sentence says "No sign . . . shall be erected . . ." That is looking forward. As of when this thing is passed, nothing can be put up without being in compliance with this article. The second sentence is not needed.

**Commissioner Murphy** asked if they don't have to provide a permit. **Commissioner McElraft** said no. **Commissioner Wootten** said he had reached the conclusion that we are going to go to the database for the list as opposed to making these guys get permits to catch up.

**Commissioner McElraft** said maybe we should establish the grandfather situation right now. She said she would make a motion that they start from this day forward requiring permits. Anything prior to this day will be grandfathered, permanent signs. **Commissioner Farmer** said her inclination if she is going to do that if make it a level playing field for everybody and stick with the sign ordinance they have now. Don't make the changes, because they are essentially not making changes anyway. This ends up being a totally hollow document.

**Commissioner McElraft** said the changes she would like to make is to increase the neon sign square footage. They can't leave it just like it is right now.

**Mr. Smith** said just in case they do vote on this, and it isn't grandfathered, going back to page 3 on (d), they mentioned the sign fees. They don't mention a fee, or how the fee is determined. A lot of people he talked to are very interested in that. Are they going to charge by the square foot or what? **Mrs. Angus** said it would be a flat fee, no matter how big or how small. **Mr. Smith** asked how much the fee is. **Mrs. Angus** said with the new budget, \$35.

**Commissioner Wootten** said the fee schedule is established each year in the budget process, and he doesn't think it's changed. **Mrs. Angus** said it went up \$5. The reason they don't put the figure in the ordinance is every time the budget changes, they would have to amend it.

**Mr. Smith** said on page 6, Sec. 19-135, Prohibited signs, (3). This was a hot topic, too. The one the people talked to him the most about was the vehicles and trailers that they use in their everyday routine work. They did not think this was a very good idea, and they wanted to

know if they could eliminate vehicle or trailer. **Mayor Harris** asked if he was talking about parking a certain bread truck on someone else's property to advertise. **Mr. Smith** said the way it is stated here, if they were parking it at their own residence, it would be prohibited.

**Commissioner Farmer** said that wasn't the intent. **Mrs. Angus** said that was not the way it was to be interpreted. **Mr. Smith** said that may not be the way it is intended to be, but it is the way it is read. **Commissioner Farmer** asked if they could clean it up.

**Mayor Harris** read it and asked Mr. Smith to stop her when he wanted her to stop. "Except where otherwise allowed by this section, all portable signs. This shall include signs on wheels, affixed to a trailer or vehicle, A-frames or any other devices designed to, or capable of being moved from one location to another." **Mr. Smith** mentioned "wheels, affixed to a trailer or vehicle." He asked them to assume a man has a legitimate business and has a little advertising sign on the side of his truck, whether it be painted on there or magnetized. Then you have a roadside vendor sitting on the side of the road who has a vehicle with signs that are there 24 hours a day. That was one of the things that was brought up to him. Why could a man not drive his own vehicle to his house and park it even though it could be seen from the road while the vendors are sitting on the side of the road that are not supposed to be there to begin with after 9:00 P.M.? That's what they were talking about.

**Mayor Harris** said they would come back to that. **Mrs. Angus** said it is intended to stop those two trucks with the boards all around it. **Mr. Smith** said they don't need this in there. It says that those vehicles are to be moved by 9:00 at night, and they haven't been moved in 10 years.

**Mrs. Angus** said it wouldn't make any difference if she wanted to have this in there; whether they are moved at 9:00 would be a moot point. They are not be there at all with those boards all around it. **Mr. Smith** said what he was saying is that the general public does not know that. They think the ordinance is directed at their own sign. **Mrs. Angus** said it is not meant to do that at all.

**Commissioner Farmer** asked how they could clarify it. **Mayor Harris** asked if there is another word. **Mrs. Angus** said they had it that it was not on the owner's property. She does not want to stop anyone from parking a truck or whatever on their own property. If they put in there, "affixed to a trailer, A-frames or any other devices designed to . . . other than the owner's personal property." **Mr. Smith** said they could look at it in a way of selling directly from that vehicle or trailer. **Mrs. Angus** said that would be an itinerant merchant.

**Mayor Harris** said they would come back to that. She continued reading, "Signs as herein described must be covered, otherwise obscured, or properly situated upon the sign owner's premises, including common areas, in such a way that it may not be seen from any street, road, or other public vehicular right of way. A portable sign, vehicle, or trailer may not be parked, placed or otherwise located at any other location within the Town's jurisdiction where it may be seen from any street, road, or other public vehicular right of way unless the sign is

attached to a vehicle or trailer being actively used by its owner for non-advertising purposes which are specifically related to the owner's regular business activities and then only for such period of time as is reasonably necessary to perform such service."

**Commissioner Wootten** said that takes care of it. **Mr. Smith** said there was concern about the vehicle being parked in their own parking lot. **Mayor Harris** said to her it is pretty clear. **Commissioner Wootten** said "used by its owner for non-advertising purposes which are specifically related to the owner's regular business activities." **Commissioner Murphy** said they have a person who has a vehicle with a logo for his business on the side of that vehicle and gets permission from somebody to park it on their property in a strategic location so it can be visible from the highway. What we're saying is they can't do that anymore?

**Mrs. Angus** said that is exactly right. **Mr. Smith** said another thing is every weekend, they're seeing boats, trailers, automobiles parking on the state and town right of ways, selling, blocking the view of traffic, and he can't have a sign on his truck advertising his business when he's working, but somebody can sit on the side of the road, which is not their property to begin with.

**Commissioner Wootten** said he heard Mr. Smith's concern, but he thinks this avoids it. It is saying they can't have portable signs on vehicles and whatever unless the sign is attached to a vehicle or trailer being actively used by its owner for non-advertising purposes—it means he's driving around doing his business—specifically related to the owner's regular business activities, and then only for such period of time as is reasonably necessary to perform such service. **Mayor Harris** said it says "unless." **Mr. Smith** said he understands this but is bringing up the point. **Mayor Harris** said the "unless" clarifies it.

**Commissioner McElraft** asked about Box Office Bagels. They use that for delivery to wherever they sell their bagels. Can they not park there anymore? **Mrs. Angus** said, "That's right." She said that is a totally different lot than what property he operated his business out of. That's a lot specific for shopping center parking. That is one of the instances.

**Commissioner Murphy** said he did not think there is such a thing as a non-advertising purpose on a sign that is affixed to a vehicle. There is no such animal. His truck is the best advertising he has for his business, and it is never, ever not advertising. For him to tell them that when it is parked in his driveway it is not for advertising, that's a lie. **Mayor Harris** said he is not parking it at the BP station right in front. He had never done that.

**Commissioner Wootten** said Commissioner Murphy is a good example. His truck is covered, he is legitimate within this ordinance change, with the signs on the side of the truck because he is using the truck in his pursuit of business.

**Commissioner McElraft** asked when Box Office Bagels is in a shopping center where they request that employees park their trucks elsewhere because they want people to be able to get into their shopping center to shop there, how do we punish him because he is being forced to

park it over there. **Mayor Harris** and **Mrs. Angus** said he is not. **Commissioner Farmer** said he is the only one that is parked there, and the reason he is parked there is he is using it as a free-standing sign. **Mrs. Angus** said he never parks it perpendicular to Emerald Drive. **Commissioner McElraft** asked if he parks it perpendicular, is he allowed to park in there? She would not want any of her employees to park in the parking lot where her customers would be coming in. She would want to make it as convenient for them to get in to shop in her store as possible. Where is he supposed to park that?

**Mayor Harris** said just like Food Lion and everyone else. They park way in the back so the customers can be in the front. **Commissioner McElraft** said that is way in the back—that is offsite, that is off his property. **Mayor Harris** said he had put in places to park. **Commissioner Wootten** said he is parking it over by the church. **Commissioner McElraft** said that is shopping center for employee parking. He should be there.

**Mayor Harris** said they all disagree with that. **Mrs. Angus** said it was full Saturday night when the theaters were going. **Commissioner McElraft** said it is overflow and is owned by the shopping center. **Mayor Harris** said to continue.

**Mr. Smith** went on to page 8, under (e) “maximum of two neon signs for a total of 8 square feet.” A lot of them had gotten together and gone around to see the neon signs. We came upon the square footage of 12 sq ft. That way anybody who has their signs now will be allowed to keep them. If not, they’re going to lose an investment of about \$400 per sign. **Commissioner McElraft** said if they grandfather it, they won’t.

**Mr. Smith** said also they said something about “interior neon or strip lighting which is located no closer than 10 feet to any exterior window, wall or door containing glass or other transparent or translucent material.” They thought about 10 feet above the retail floor. Some of the buildings are 25 to 30 feet out.

**Commissioner Farmer** said what the ordinance used to say is that it couldn’t be visible from the outside at all, which she thought was ridiculous because they are visible. **Mr. Smith** said this is one of the points somebody brought up about some of the buildings they talked about earlier, some of the big buildings. **Commissioner Murphy** said if they keep the height down to 10 feet, they will negate the neon across the top for a lot of them.

**Commissioner Farmer** said maybe she was confused. The “no closer than 10 feet” is not 10 feet in height. **Mayor Harris** said it is distance from the window backwards, 10 feet back. **Mr. Smith** asked what type of light they are talking about. **Commissioner Farmer** said neon.

**Commissioner Murphy** said the neon signs would have to be 10 feet form the window. **Commissioner McElraft** said they were talking about interior neon, not the ones on the windows. **Mrs. Angus** said if they had Op, Pepsi-Cola . . . Lisa’s Boutique had moved her neon sign when she went to the shopping center, and knowing she didn’t comply with today’s

ordinances, she put her neon on the back wall, and it looks real pretty. She can have whatever amount of neon saying whatever they want as long as it's more than 10 feet from the wall.

**Commissioner Murphy** asked if the 8 square feet would be attached to the window. Anything over that would have to be 10 feet away. **Mrs. Angus** said yes. **Commissioner Farmer** said there is no limit on the stuff inside away from the window.

**Commissioner Wootten** said moving past that, Mr. Smith makes a good point about neon not being any higher than 10 feet above the ground level whether it is inside or outside. **Mrs. Angus** said they have it that they can't have it outside. **Commissioner Wootten** said they don't want Wings. **Commissioner Farmer** said that is exterior strip lighting.

**Mr. Smith** continued with the next one. On page 9, Signs Permitted in Commercial Districts, item (b) (1), "In each commercial zone the sign face of a freestanding sign will be limited to 50 square feet for one business. At the last meeting, it was 100 sq ft. It has always been 100 sq ft.

**Commissioner Farmer** said at the last meeting, it was 50 sq ft for one business, and for a gang sign, it would be 100 sq ft. **Commissioner McElraft** asked what it was before. **Mrs. Angus** replied 100, no matter how many businesses there were. So one business could have 100 sq feet, or 10 businesses could have 10 sq ft. This is saying one business can only have 50 sq ft, but if there is more than one business, they can have up to 100 sq ft, and they have to share it.

**Mr. Smith** said the average identification sign is 4 x 8. The average marquee is 4 x 8. That is a total of 64 sq ft. If this were to go into effect, if they reduce it from 100 down to 50, that means he cannot advertise any of his goods and services.

**Mr. Smith** continued on page 10, item (4), "shall not be re-established after damage or destruction in excess of 50% of the sign square footage at the time of the damage or destruction." He interprets this if they get a big hurricane or a big Northeaster, and his sign blows down, he cannot put it back up. **Commissioner Murphy** said he could put it back up, but he would have to comply with the new ordinance. **Commissioner Farmer** said that is true now, too, in the prior ordinance.

**Commissioner McElraft** said if the sign is not damaged more than 50%, he could stand it back up. He would be replacing the sign anyway, he would have to go out and pay for replacing it anyway. **Mrs. Angus** said if it just fell down and he just wanted to put it up with new wiring, that is fine. **Commissioner Farmer** said the current ordinance reads that if it is damaged more than 50%, it is nonconforming.

**Mr. Smith** said he wanted to bring these points up. The people he represents still believe that the entire ordinance needs to be grandfathered. **Mayor Harris** asked if he was asking for grandfather for entire ordinance. **Mr. Smith** said yes.

**Mayor Harris** thanked Mr. Smith and said they had gotten the message loud and clear and had heard him. She then called on Mr. Watson.

**Mr. Ronnie Watson** said he did not want to speak, but he would. He knows the Board of Commissioners has a tough job, and he made some comments at the last meeting in regards to signs. He knows they have problems, and he does not see problems with the signs that are so major that they have to change the ordinance. He would be in favor of grandfathering those existing now. He does not think any of them want to see their town junked up with junky signs and stuff like that. Most of them take pride in their businesses, and it is still tough to make it in this town on such a short season, that they do need to be able to advertise.

**Mr. Watson** said he agreed with a lot of what Mr. Smith had said, but those are the things they really need to take a hard look at. As he said before, if it's not broke, don't fix it. He thinks they have an ordinance and some of the things need to be enforced.

**Mayor Harris** asked him of the present ordinances, which ones are not being enforced. **Mr. Watson** said he didn't really know the ones that are not being enforced. He is sure that new businesses come in here and open up a new business, and he would think they would have to get permits through town. **Mayor Harris** asked about the existing right now, from the bridge to Town Hall. Does he not see anyone breaking any of the ordinances now? **Mr. Watson** said probably some things. Some of the stuff needs to be cleaned up.

**Mayor Harris** said he had said the committee had done a great job and so forth. They have, for months and months, and this is what they came up with to try to head off tacky stuff. The townspeople, not necessarily the merchants, are the ones that caused this committee to come forward in the first place, and that is where we are.

**Mr. Watson** said she was right about the townspeople, but he didn't think the town businesses had to be hurt. They are the ones that are carrying the brunt of paying most of the taxes, and they have to have guidelines. He is a fanatic about doing things right, and he wants this town to be beautiful. But they have to be able to let every single one of the businesses advertise. They need guidelines, but they have to work with them. Every one of the Board has to work with them because this is a very narrow season. **Mr. Watson** said it used to be four months and now it is down to three or two and a half. He doesn't want to see people go out of business because of not being able to advertise their business, but they have to do it in the proper way. They want the place to look good. They don't want the town junked up.

**Mayor Harris** asked if he wanted people in trucks parking all along 58 advertising? **Mr. Watson** replied no. They have to use some common sense.

**Commissioner Farmer** said she did not think it was ever the Sign Committee's intention to try to put anybody out of business, nor does she think that anything that was recommended by them would have. **Mr. Watson** said it might not have put them out of business but she has not been in business and does not know how hard it is to advertise, she does not know how hard it is

to get customers in there. She looks at it from a different perspective than he would look at it because if she were in business, she would be looking at it totally differently than she is looking at it right now.

**Mr. Smith** asked who in the business community was on the committee. **Commissioner Farmer** replied Mike Kerns, Pat Patteson, Bernie Whalley. **Commissioner McElraft** asked if Monty had come. Monty said he was there and was asked to leave. **Commissioner Farmer** said he had not been asked to leave, that was a misunderstanding.

**Dr. Bogus** said he thinks the comments Mr. Smith had were good, and he had gone over the sections that were of concern to him. He basically agreed with the comments that he made. The section that had to do with the mobile signs, he had read and was confused by it. It sounds reasonable to him as far as that part of it goes. He got confused. He read it through a number of times and had a hard time sorting out whether he was in compliance or not. He thinks that the grandfathering of the current signs is reasonable, and Mr. Smith's comments about some of the roadside parking vehicles and for the businesses, those are some of the things that it was geared towards.

**Mayor Harris** said of those sitting out there, he is the newest business to come to Emerald Isle. If this was grandfathered and dated today for the businesses that are now in progress and next month or next year another person comes in and opens up a business and they say "He has so forth and so on, and I want it," is this going to bother him? **Dr. Bogus** said his signage particularly is fairly minimal. **Mayor Harris** asked about the grandfather. **Dr. Bogus** said he did not think he would be affected either way. To grandfather stuff that he has really has no effect on him because he does not think he is out of compliance in either case.

**Mayor Harris** called on Bernie Whalley and asked him to come forward. **Commissioner Murphy** said he thought they were supposed to raise their hand if they wanted to speak. **Commissioner Wootten** asked where they are going with the line of questioning. **Mayor Harris** replied that it is a public hearing and if everyone wants to speak, they can.

**Mr. Bernie Whalley** said he would like to address one thing, having been on the committee. They could have left the sign ordinance exactly the way it was. There was no big problem with that. They were trying to get things into compliance so they maintained the dignity of the city and made it attractive to the tourists and the people who live here all year round. It was the citizens who made a lot of comments. Admittedly, a lot of this was fostered by the Wings and Pacific and things like this that turned us into the cardboard jungle and the circus atmosphere. That is what triggered a lot of this. When they talk about grandfathering, they have had people who have been putting up signs and they never bother to get permits; in spite of the times they were contacted, they never made any efforts to pay their way.

It is kind of like somebody going into Mr. Watson's trailer park and just not paying each time, and he was there week after week and they keep asking him to pay his bill, and finally Mr. Watson says, "We'll grandfather him. Even though he has been living there free and not paying

his bill, it is alright. But from now on, he has to pay.” That is what we are saying with this. That is why they challenge the fairness of this kind of thing, of going back and seeing should the people who put up the signs and refuse to get the permits and pay the fee, shouldn’t they have to go ahead and pay the fee now. Why should we let them get by with this all the time? If that is the way we elect to do it and decide to go ahead and grandfather it and let’s not charge him, then that is alright. He thinks they need to have a clear understanding of how this thing all came about. Nobody on the committee was anti-business, and there are a lot of things they gave in on. It’s just like they made changes and brought it back and tweaked it a second time. They made changes. They said if it was an important issue, then let’s do it. They did the same thing here today. The Board of Commissioners listened to what Mr. Smith had to say and said it made sense to them and they could live with that. No one was anti-business. They kept the business of the town at heart, and God bless the merchants because if they weren’t here, we would hurt. If the tourism weren’t here, we would hurt there, too. We all play a part in the game.

**Mayor Harris** said that those present who are in business or own businesses have all spoken, and she appreciated it and opened it to anyone else who wishes to speak.

**Mr. Gus Farmakidis**, resident of 322 Loblolly Street, said he was one of the guys who was up there arguing when Pacific went in, Eagles went in, and all those bright lights. The points they made at that time was that they did not want this to look like Atlantic Beach. We do not want it to look like Myrtle Beach. We just do not want that. That is why they asked these people to do this, and they have done something about it. He applauds them for that. He has questions. In what Commissioner Wootten was saying, as far as permits are concerned, they can video camera to see who has what. If they do retroactive and say from now on, does that mean that these people agree to respect it from now forward? If they agree with the document, this grandfathered, because he thinks they should not go back to the old rules. They cannot do it all at one time, but they want to make this town look good, and they are making the statement that they do not want this place to look like Atlantic Beach. He lives here, and these people pay all the taxes and get all the services, too. Why do they need 65 policemen?

**Mr. Bill Reist** said he had a question about grandfathering. What are they actually talking about? He does not understand it. **Mayor Harris** called on Mrs. Angus to answer the question. **Mrs. Angus** replied that if they are to be grandfathered for 10 years hypothetically, that would mean her department does not touch it until 10 years and 1 day. If it is grandfathered indefinitely, then her department will not touch it until such time as it blows down or knocked down or someone else comes in and puts a new business in there and a new sign. **Mr. Reist** asked if they are saying that they just do not want the 10-year, they want permanent grandfathering.

**Mayor Harris** asked Mr. Reist to address it to the Board, not the public. Mrs. Angus had answered him. **Mr. Reist** asked if that is what they were saying, that they wanted to grandfather rather than 10 years, indefinitely. **Mrs. Angus** said yes, and that has not been determined yet.

**Mr. Reist** said he had understood Mr. Whalley to say that he and the committee felt that

they should pay the fee, otherwise it would be unfair. Is that part of it, too? **Mrs. Angus** said that is the way it was discussed at the committee meeting, but that could be changed here. **Mr. Reist** said he would like to support Mr. Whalley, that people should pay. Because they disobeyed the law, they should not be able to get away with that. They should pay at some point in time. Why shouldn't we collect that, and why should those people be left off scot free? He would argue against that, and he would also argue against grandfathering forever. That does not make sense. Ten years is a reasonable period of time. Go back and collect the money that is due.

*Commissioner McElraft made a motion to close the public hearing. Commissioner Murphy seconded the motion. Vote was unanimous in favor of the motion. Motion carried.*

**Mayor Harris** addressed the Board to make a decision, make changes, deletions, whatever. **Mrs. Angus** asked, since she is the one who would have to type this again, that they do this as page 1 to page 2 and not go back and forth.

**Mayor Harris** started with page 1, Sec. 19-132. She asked if there were any changes to Advertising sign, Billboard (off-premises), Construction sign. **Commissioner Wootten** said he had no changes on that section at all. **Mayor Harris** said no changes on Section 19-132.

**Mayor Harris** went to Sec. 19-133, Administration and asked if there were any changes. **Commissioner Wootten** said in paragraph (a), the recommendation is to delete the second sentence, "A permit must be obtained for any sign existing at the time of adoption of this article, which permit be considered retroactive to time of placement." She asked for a consensus of the full Board. All replied yes.

**Mayor Harris** asked if there were any changes on page 3. She asked if it was the consensus of the Board that there were no changes on page 3. **Commissioner McElraft** said on (d), it says "grandfathering will not apply". "Prior to additional signs being permitted for a single lot . . ." Is that what we are saying, that if they were getting a new one, the other one would be gone so there is no need to even say that? **Mrs. Angus** replied that just because that sign that is there now is grandfathered, it does not mean they can come in and get another sign. That is why the grandfathering will not apply in that instance. **Commissioner Murphy** said if they tear down a sign that is grandfathered, the one they put up has to meet the ordinance. **Mayor Harris** asked again if it was the consensus of the Board that there were no changes on page 3. It was.

**Mayor Harris** went on to page 4, Sec. 19-134, Exemptions. **Commissioner McElraft** asked if the little flags are exempt now. **Mrs. Angus** replied yes. **Mayor Harris** asked if it was the consensus of the Board that there were no changes on page 4. It was.

**Mayor Harris** continued with page 5. **Commissioner Murphy** mentioned (11) On-site temporary signs. "a. Window display signs, and other similar such signs, will be limited to 25% of the window surface on one applicant designated façade, this designated façade to be used for calculation purposes only." He would like to delete that. **Commissioner Farmer** asked what he

wanted deleted. **Commissioner Murphy** replied what he had just read. Past that, “A business occupying 2,500 square feet or less shall be limited to not more than two such signs.” he would like to be deleted, so both those sentences. He does not want to limit 2,500 square foot businesses to 25% of their window façade. **Commissioner Farmer** said they didn’t. On temporary signs, that is one of the changes they had made. Businesses 2,500 square feet and under were not limited to the number of temporary signs they could have.

**Commissioner Murphy** said businesses over 2,500 square feet are limited to 4 signs. **Commissioner McElraft** said just delete, “A business occupying 2,500 square feet or less shall be limited . . .”

**Mayor Harris** said to mark off the first two sentences if there is a consensus. **Commissioner Wootten** suggested before she reads that, he does not think the first sentence has to be deleted. The second one is the one that it is at issue. **Commissioner McElraft** said 25% would be in contention. **Commissioner Wootten** said the first sentence is establishing 25% for calculation purposes. **Commissioner McElraft** said she did not understand that. **Commissioner Murphy** said they do not need to calculate it if there is no limit on the signs. **Commissioner Farmer** suggested that they need to say somewhere that the 25% does not apply to businesses 2,500 square feet or less. They can totally plaster their whole window with temporary signs if they want to. That was her understanding of what they had agreed upon. The 25% applies to businesses greater than 2,500 square feet.

**Commissioner McElraft** suggested starting with the sentence “A business occupying over 2,500 square feet . . .” and then put the window display 25% below that. That starts it out addressing that this is for businesses over 2,500 square feet. **Commissioner Farmer** said that makes good sense.

**Mayor Harris** read, “A business occupying over 2,500 square feet shall be limited to not more than four such signs. These signs are not to be posted more than 12 feet from the top of the sign to the walking elevation. Each sign must be no more than 6 feet in width. No descriptive advertising on, or affixed to, merchandise may be displayed in the windows.” **Commissioner Farmer** suggested after the sentence “Each sign must be no more than 6 feet in width” they add “and not greater than 25% of the window surface.” What they were having trouble with was they were not saying that the temporary signs could only be on that front. We are saying that if it is a corner lot, they can have the temporary signs on both walls, but they can only take up 25% of one designated façade. **Commissioner McElraft** asked about the Food Lion. Could they only have up 4 temporary signs? They’re over 2,500 square feet. **Commissioner Farmer** said that is right, and they are aware of that. Her understanding was that his biggest concern was that he has stuff piled up like Coke that he does not want them in front of the windows because he did not like the way it looks, so he put a Welcome to Emerald Isle . . . . **Commissioner McElraft** asked if that is okay. **Commissioner Farmer** replied yes, it is not a sign.

**Mayor Harris** where it says “Each sign must be no more than 6 feet in width, not greater than 25% of the window surface of one applicant designed façade.” **Commissioner Farmer** said she

would still go on to say “this designated façade to be used for calculation purposes only.” **Commissioner Murphy** agreed. **Commissioner Farmer** said it was not very clear, and they struggled trying to come up with language. **Mayor Harris** asked if Mrs. Angus had it.

**Mrs. Angus** said she had it that “Each sign must be no more than 6 feet in width and not more than 25% of the designated façade, this designated façade to be used for calculation purposes on.” **Mayor Harris** asked if this was the consensus of the Board. The Board replied yes.

**Mayor Harris** went on to page 6, Sec. 19-135, Prohibited signs. **Commissioner Murphy** said it was okay with him. **Commissioner Wootten** agreed. **Commissioner Trainham** said it was okay with him. It was the consensus of the Board that it was alright.

**Mayor Harris** went on to page 7, Sec. 19-136, On-premises signs. **Commissioner Farmer** said to note that political signs are not allowed on state right-of-way. They are only allowed on private property. **Commissioner McElraft** asked if they could dictate that. **Mayor Harris** said they are not allowed. She asked if it was the consensus of the Board that page 7 is alright. It was.

**Mayor Harris** went on to page 8, Sec. 19-137, Signs permitted in R-1, R-2, RMH, RMF, and MH districts. **Commissioner McElraft** interrupted and said she had something before that in Sec. 19-136 (e) Neon. **Mayor Harris** asked them to go back to (e) Neon on page 8. **Commissioner McElraft** said on Neon, she would like to change that to 12 square feet. Change the 8 square feet total to 12 square feet. **Commissioner Murphy** said he would like to take out the “two signs.”

**Mayor Harris** read (e). “Neon or fluorescent lighting, either in the form of strip lighting, or as decorative displays, signage or other building structures, fixtures or attachments, is prohibited on either the exterior or interior of any commercial building or commercial property, with the exception of a maximum of two signs . . . .” **Commissioner McElraft** suggested “with the exception of signs for a total of 12 square feet” and taking “two” out. **Mayor Harris** read “a maximum of signs for a total of 12 square feet.” **Commissioner Trainham** asked why. **Commissioner McElraft** said if somebody wanted to have a 12 square foot sign divided, if they want to have 6 little palm trees, she has no problem with that. It should be left up to their own artistic ability. She loves neon.

**Commissioner Farmer** said she did not agree with that. Like a lot of people who live in Emerald Isle, she cannot stand neon. This was a compromise that the Board arrived at to lump up the square footage with the understanding that anything that was over that at this time would not be grandfathered, they would have to come down. It was a compromise that she was not very happy with, but she went along with it.

**Commissioner McElraft** said Mr. Smith said he had looked at what was out there already, and it looks like there is about 12 square feet. They want to make it even for the new people coming

in, she would make it even to let them have 12 square feet also.

**Commissioner McElraft made a motion that they change (e) to change the “8” to “12” and delete “maximum of two”. Commissioner Murphy seconded the motion. Vote was 3 in favor (McElraft, Murphy, and Wootten) and 2 opposed (Farmer and Trainham.) Motion carried.**

**Commissioner Wootten** drew on the chalkboard 12 square feet would be 4 by 3. Eight square feet would be 2 feet instead of 3. **Commissioner Farmer** asked him to draw what it is now, 2 square feet. A lot of people object to that.

**Mrs. Angus** asked Commissioner McElraft to word it. **Commissioner McElraft** said from the comma, “with the exception of a maximum of 12 square feet.” **Commissioner Farmer** said they may also want to delete the last sentence because they do not need it. “This shall become effective upon adoption of the ordinance.” It was agreed. **Mayor Harris** said to take it out and asked if there were any other changes to page 8. She asked for a consensus to go forward.

**Mayor Harris** went on to page 9, Sec. 19-138. It was the consensus of the Board that Sec. 19-138 was okay.

**Mayor Harris** went on to Sec. 19-139, Nonconforming signs. **Commissioner Murphy** mentioned paragraph (b) “General provisions. Nonconforming signs may be continued, provided that they: (1) Are brought into compliance within 10 years.” He said he would like to delete that and put “Nonconforming signs maybe be continued, provided that they: (1) Were erected prior to June 13, 2001.” **Commissioner Farmer** asked if they could make it “the date of adoption of the ordinance.” **Commissioner Murphy** said that was fine.

**Commissioner McElraft** said to delete the whole first sentence in (1).

**Commissioner Wootten** said there were two things in the paragraph. One is the 10 year grandfather, and the other is the temporary permit. He asked if they are past the need for the temporary permit.

**Commissioner Murphy made a motion to change Sec. 19-139 (b) to read Nonconforming signs may be continued, provided that they were: (1) erected prior to adoption of this ordinance.” Commissioner McElraft seconded the motion.**

**Mrs. Angus** said the next sentence “A temporary permit must be obtained for any existing sign never previously permitted” needs to be deleted. “Such signs will be permitted for a period not to exceed . . .” **Commissioner McElraft** said the whole (1) except what they just read should go. **Commissioner Farmer** said they need to keep it the same style as (2) because they need the colon after “they”. (1) is “were erected . . .”

**Commissioner Wootten** said Commissioner Farmer seemed to be pretty adamant about the 10 years. **Commissioner Farmer** said she could explain that pretty easily. One of the reasons why

the Sign Committee got going in the first place was complaints that people had for the way the town was starting to look. So it is not that they are afraid that down the road we are going to look like Atlantic Beach but they feel they are already starting to look like Atlantic Beach. **Commissioner Wootten** said he had never had anybody complain to him about a sign other than Wings, Eagles, and Pacific. Never. **Commissioner McElraft** said and those have been addressed with the architectural style of the building. **Commissioner Farmer** said she had trouble with the 10 years; she thought it was too long.

**Mayor Harris** called for the vote. *The vote was 3 in favor of the change (McElraft, Murphy, and Wootten), 2 opposed (Farmer and Trainham). Motion carried.*

**Commissioner Farmer** said there was a typo in Sec. 19-139, (b) (4). **Mrs. Angus** said she had that corrected to “the time of damage or destruction.”

**Mayor Harris** went on to page 10, Sec. 19-140, Violations and remedies. She asked if it was the consensus of the Board for no changes. **Commissioner McElraft** said she had one question. If within 10 days of the mailing . . . Do they mail those out certified so they get a signature that they actually received that? **Mrs. Angus** replied yes. **Commissioner McElraft** asked if it should be “after receipt of . . .” because if they mail it one day, the person does not pick it up at their post office in Raleigh or wherever for 15 days, could it be from the date of their signature? **Mrs. Custy** said no. **Commissioner McElraft** asked why. **Mrs. Angus** said that is why they do it this way. What if they chose not to sign for it and it just comes back to us?

It was the consensus of the Board that there were no changes on page 10.

**Mayor Harris** went on to page 11. It was the consensus of the Board that there were no changes on page 11.

**Mrs. Angus** said she had a question on page 6. There was a lot of discussion about that, and she wondered if there was any change to (3). **Mayor Harris** said there was no change. **Mrs. Angus** said they had a different interpretation from what she did on the vehicles parked specifically for the purpose of advertising. If they want what she has been geared to listen to for the past 8 months to change, she will not enforce it that way; but from what she has heard up until now, specifically the bagels truck, was to be not allowed to do that. **Mayor Harris** asked for a consensus from the Board on that. **Commissioner McElraft** said it was not her consensus. **Mrs. Angus** said they went off on that one, and that is why she was coming back to it. She has to go by what she felt the interpretation was at the time, and she is getting two feedbacks.

**Commissioner McElraft** said her feeling is that they do not have a legal right to tell the man he cannot park his vehicle that he uses in a parking lot that is designated for him to park in. **Commissioner Trainham** said it is not designated that way. **Commissioner Wootten** said that is the point, that is the only point of differential. If the parking lot is in fact a parking lot that is part of the shopping center, then he can make a case. **Commissioner McElraft** said it is. **Commissioner Farmer** asked where are all his other co-workers. Is he the only one in the store,

because no one else has ever parked there. **Commissioner McElraft** said he legally can say that that is the property he is renting, that shopping center space, and the man has the right to park it there. **Commissioner Trainham** said that is not his property. **Mrs. Angus** said if it were parked in front of the Food Lion, she would say he could do it because it is in the same lot. But the lot where Ace Hardware is, this parking lot, and the Baptist Church are not on the same lot that the shopping center is. **Commissioner McElraft** said it is all part of the shopping center's common area. She used to live in Emerald Plantation, and she knows that that belongs to the same group.

**Commissioner Wootten** said they are not going to change the ordinance to go get the bagel guy.

**Mayor Harris** said Mrs. Angus was asking for directions and guidance. **Commissioner Murphy** suggested taking out the word "vehicle" and the word "trailer." **Commissioner Farmer** said she would not support that. **Mrs. Angus** said that was not the solution.

**Commissioner McElraft** said she wanted to make sure they left the Box Office Bagels guy alone. **Commissioner Farmer** said the ordinance says what the ordinance says. If it is in Mrs. Angus's opinion that he is parking in the Emerald Plantation parking lot where he can park, then fine. **Commissioner McElraft** said that is the Emerald Plantation parking lot. **Commissioner Farmer** said that is not what Mrs. Angus is saying. She is saying it is a separate lot. **Mrs. Angus** said if they are going to make the determination that that is part of the same entity, she has no problem with that.

*Commissioner Murphy made a motion that in Sec. 19-135 (3), the words "vehicle" and the word "trailer." Commissioner McElraft seconded the motion.*

**Mrs. Angus** said they had just taken out the fish. The portable signs affixed to her are the fish things because he can unscrew them and take them off. Bagels cannot take that sign off the side of his truck—it is painted on. **Commissioner McElraft** said she was saying that she would not go after the bagel guy then. **Mrs. Angus** said at this point, no.

**Mrs. Angus** brought up Jay Murphy's truck parked on Paxon Holz's property. **Commissioner Murphy** said that is not his. **Mrs. Angus** said it is the same issue. **Commissioner Farmer** said she is absolutely right. **Commissioner McElraft** said it is parked where the business is not located. The Box Office Bagel business is located, that is part of the shopping center parking lot. **Commissioner Farmer** said that has nothing to do with this public hearing on the sign ordinance.

**Commissioner McElraft** said she is not wrong. Part of the parking area, that overflow that is owned by Emerald Plantation shopping center, is the parking lot where they are parking that bagel truck right now. That is all common area. **Ms. Overman** said she would think that it would be the parcel of Emerald Plantation shopping center. **Commissioner McElraft** said it does not belong to the church, it belongs to Emerald Plantation shopping center. **Mrs. Angus** said if that is the consensus, she has no problem with it.

**Mayor Harris** said if Mrs. Angus is led to believe that is alright, they are going to have many more trucks parked over there. **Mrs. Angus** said that is right. **Commissioner McElraft** said if they work and their business is there, she has no problem with it. **Mayor Harris** said she should. **Commissioner McElraft** said they just changed what they told Mr. Smith they were going to do. **Commissioner Trainham** said they are trying to make advertisement up on the highway 58 where it ought not to be. **Commissioner McElraft** asked if they want to spend taxpayer money on another lawsuit because we have one coming if we enforce that on that.

There were interruptions from the public and arguing from the commissioners. **Mayor Harris** said she would have no more interruptions. She said she had a motion and a second. She asked for the vote.

*Commissioner McElraft withdrew her second* because Mrs. Angus said that interferes with what she is trying to do. **Mayor Harris** said the second was withdrawn and asked if she had a second. Motion denied.

*Commissioner Murphy made a motion to adopt the Article VII. Sign Ordinance with the changes discussed today, Sec. 19-131 through Sec.19-150. Commissioner McElraft seconded the motion. Vote was 3 in favor of the motion (McElraft, Murphy, and Wootten), 2 opposed (Farmer and Trainham). Motion carried.*

**Commissioner Wootten** asked Commissioner Farmer if we are sure that this and the committee has made Wings and Pacific and neon not be allowed. **Commissioner Farmer** said it had already been done. This ordinance does nothing. The Wings and the neon up above was done by the previous Board.

**Commissioner Farmer** moved for adjournment. **Commissioner Murphy** seconded the motion. Vote was unanimous in favor of the motion. Motion carried.

The meeting was adjourned at 7:35 P.M.

Respectfully submitted,

Carolyn K. Custy  
Town Clerk