

**MINUTES OF THE SPECIAL MEETING OF THE
EMERALD ISLE BOARD OF COMMISSIONER
AND PLANNING BOARD
MONDAY, NOVEMBER 4, 2002 – 7:00 P.M. – TOWN
HALL**

Present were Mayor Arthur B. Schools, Jr., Commissioners Farmer, McElraft, Marks, Messer and Eckhardt, Also attending Planning Board members Art Daniel, Pat Patteson, Anne Erikson, Frank Erwin and Brad Fischer.

Mr. Rush said, this proposed ordinance amendment was sent back to the Planning Board at subcommittee level for more work in areas of homes already constructed, cutting down trees and shrubs and there is a perception those areas need to be addressed as well. He elaborated on the purpose and goals of the ordinance to keep it desirable to come to live at Emerald Isle. Another goal is to protect the natural vegetation, oceanfront, interior and soundfront dune structures. One prime goal is revegetation of disturbed area.

Mr. Rush advised that this workshop tonight is a “work in progress” in order to get input from residents, developers, and builders.

Mrs. Carol Angus went over the proposed version recommended from the Planning Board. The proposed version would require permits for any heavy equipment at any site, developed or undeveloped, to grade, move or remove any sand, soil, vegetation or to place fill on any site to install waste water systems. The definition for Natural area was reworded. There were no definitions previously but now there are definitions and included in these is the definition of “dune” from the CAMA Regulations, also adding interior dunes, maritime forest, natural area, natural vegetation, original vegetation and wastewater system, previously referred to as septic system.

The new version specifies in Exemptions that sea shells, etc. cannot be removed in such abundance that they might be used for commercial purposes. It spells out the types of work that might be done within a property that can be considered as lawn maintenance. Also mentioned were relocation of shrubs and trees and to encourage the use of light equipment.

The Police Dept. has been relieved of the duty of enforcement and transferred that duty to the Inspections Dept. with the Dunes and Vegetation Protection Officer (DVPO) designated as being able to write citations for violations.

Ms. Angus attempted to explain the proposal for 50% vegetation on a newly developed property. A new list has been formulated for recommended vegetation. Another proposal is to allow very minimal disturbance within the CAMA setback area which is 30 feet from the high water mark.

Grading a lot for marketing is not permitted in the new version.

Other revisions considered by the Planning Board included in the attached copy of the recommended revisions by the Planning Board at the end of these Minutes.

There has been a very active revegetation committee in the town. Mr. Rush added an

important aspect to Ms. Angus' presentation, that removal of vegetation without a permit is proposed as reduction from 4" to 3 ".

The purpose is to protect natural vegetation from development, to maintain oceanfront, interior and soundfront dune structures and topography variations to the maximum extent practical and to revegetate areas where natural vegetation has been disturbed.

Mr. Rush then presented the alternate proposal that may be reviewed in committee.

Prior to disturbance or removal of trees and bushes on a lot or tract that is not currently developed – includes new subdivisions (Does not apply to "trails" for septic permit review), developed lot where the trees and bushes will not be replaced, and prior to earthwork by major equipment on a currently developed lot and prior to placement of 5 or more loads of fill material on a currently developed lot, a permit shall be required. Other areas touched on by Mr. Rush were Permits Not Required, Definitions, Designation of Officials, Applications for permits on lots not currently developed/limited clearing. More areas were Appeals procedures, Standards to be met in order to receive permit, retain natural undisturbed areas, nuisance plants, reference to removal of anything less than 2" in diameter in natural areas, violations and penalties, and variances.

Mr. Rush briefly discussed the natural areas and percentages that would be applied to each situation. Perhaps not to allow removal of anything less than 2" from the current 4 inches unless it is weeds, briars, poisonous plants. Also, to consider the portion of the property that is only above high water to be considered in the natural calculations.

A copy of the alternate recommendations are attached at the end of these Minutes.

Steve Matthews, a developer, asked about a lot that is void of any trees, sand dunes, etc. and how would the inspector determine the natural part of that lot? Ms. Angus replied there would be no way for them to know what the natural part of the lot was, especially if it had been graded 20 years ago. You have to work with the developer with revegetation.

Mr. Ronnie Watson, resident and developer, commented it is getting tougher and tougher to do things on Emerald Isle. It is getting to a point where it is hard to do anything. He feels there are so many rules and regulations now that you can hardly do anything. All present have homes on Emerald Isle today. He asked if they had to go by the way this ordinance is written, could they build their home on their lot. You can have 10,000 pages of rules but to go out and deal with it in the real world it is tough. He thinks that 90 percent of everyone wants to do the right thing and make Emerald Isle more and more beautiful. Most are very conscious of the environment and want to do things right but it is tough, even 45% is tough. He realizes the board will pass whatever they want to pass but you have to think about the people that own property who have not developed their lot. He asked how hard the board wanted to make it on people; if they wanted to make it so hard that you could not do anything? Mr. Watson said it is very discouraging.

Clint Routson, resident, endorsed defining natural areas, nobody knows what is undisturbed. He supported taking the wastewater system from the calculation but was not sure about the percentages.

Commissioner Marks supports the change. Many of the problems are inappropriate development. Swales and troughs are leveled or filled. Many trees were lost to storms and pine beetles. They need to be replanted. Lawns are irrigating from the aquifer. The town's drinking water is going on lawns and could affect the aquifer. There is no need to move to 75' and

remove vegetation because there is a provision of 75' at the building line. Builders need only to meet setbacks.

Commissioner Farmer commented that stormwater is an issue for Dunes and Vegetation Ordinance. She is torn between whether to take wastewater out of natural area or not.

Mr. Routson said the perception is I have mine, you cannot have yours. The non-resident suffers. A tree ordinance should come about and make all owners comply, not just new construction.

Anne Erikson said it pertains particularly to non-residents. What is built next to her affects her.

Commissioner Messer's input was that you cannot use smaller lots that were bought years ago. We've built what we want but future construction cannot build what they want. Commissioner McElraft readily agreed with this and added that the persons who had bought their lots years ago will not be able to develop as they had planned.

Commissioner Marks suggested putting house on pilings. Opening a canopy allows salt intrusion and the trees and vegetation die. There have been wetlands filling; hurricane damaged vegetation; residents depleting the aquifer with irrigation systems; and mandating that the setback for building line be a width of 75 feet. All this has contributed to the problems the town is having now.

Mr. Watson interjected again that he feels the staff should be working with the potential building, not making more rules.

Commissioner McElraft felt that the property owner should be able to use soils from their own lot to fill other areas of the same property without having to leave an interior dune and bringing fill from another source.

A general discussion took place on the issue of 45% of a lot being left natural and the wastewater and repair area. Mr. Rush said he thought that the average wastewater system is 1,000 square feet, but that is not an exact figure.

Pat Patteson said that perhaps we need to change the attitude of the property owners or developers. To make them 'want' to leave natural, as they do in Pine Knoll Shores without an ordinance, and not just push the limit to what they are permitted to disturb. The property owner usually wants to revegetate.

Mr. Watson is also concerned about how the ordinance is going to be interpreted at the time of review and inspection. It is left at the discretion of the DVPO and may appear to be discriminatory. Commissioner Farmer said that the majority of her phone calls are in regard to dog poop and lot clearing.

Curtis Estes, contractor, said he wants to see trees planted, not bringing in fill. Also, he wants to see the repair area left in the natural area.

Mr. Daniel, planning board chairman, said that only like material is supposed to be used for fill. Some places have filled with other materials which cause problems.

A number of scenarios were discussed as to what should or might happen with the new version of the ordinance and how it would be addressed. Pat Patteson and Frank Erwin responded to most of these scenarios since they were members of the subcommittee that worked with this revision.

Mr. Watson asked how you will address vegetation on the oceanfront? He has planted a number of trees and bushes that were recommended for oceanfront and they died. The

oceanfront needs tough plants, not tender plants. To require the size that is recommended is going to be difficult to deal with.

Ms. Angus replied that she has discussed this with Jim Taylor, DVPO, who was not able to attend this evening. His response has been that he does not care to have all this decision making put on his shoulders to make these calls.

Mr. Rush agreed, and said he would like to see the ordinance be as simple as possible and still achieve the same policy goals. To make it easier to explain to the public when it looks like a property has been clear cut if things are kept simple.

Mr. Daniel said one of the issues he has is when a contractor leaves the roots exposed on or near a property line.

Commissioner Eckhardt said he would like to see some actual surveys to be able to see how they compare from one lot to another.

Mr. Watson said the ordinance should not be so complicated and hard to interpret and enforce that the owner has to go to the Board of Adjustment.

A recommendation was made for the Planning Board Sub Committee to take the ordinance back and review it again.

There being no more discussion, the meeting was adjourned at 9:00 P.M.

Respectfully submitted,

Carolyn K. Custy
Certified Municipal Clerk