

MINUTES OF SPECIAL MEETING OF THE EMERALD ISLE BOARD OF COMMISSIONERS THURSDAY, MARCH 27, 2003 – 6:00 P.M. – TOWN HALL

Mayor Art Schools called the meeting to order. Present were: Mayor Schools, Commissioners McElraft, Messer, Marks, Eckhardt and Farmer. Staffs present were: Town Manager Frank Rush, Assistant Town Manager Georgia Overman and Town Clerk Carolyn Custy.

After Roll Call, everyone recited the Pledge of Allegiance and a moment of silence followed in support for our troops in Iraq.

ADOPTION OF AGENDA

Commissioner McElraft made a motion to adopt the agenda and the board voted unanimously, with a vote of 5-0. Motion carried.

ORDER TO ADVERTISE TAX LIENS

The Mayor and Board of Commissioners will authorize the Tax Collector to advertise tax liens for the year 2002 as authorized under North Carolina General Statutes 105-369. Advertising for all unpaid taxes will commence on April 6th and run for four consecutive weeks. The amount of unpaid taxes as of March 26, 2003 was \$56,004.54.

Commissioner McElraft made a motion to approve the Order to Advertise Tax Liens and the board voted unanimously with a vote of 5-0. Motion carried.

2ND CONSIDERATION – ORDINANCE AMENDING CHAPTER 15 – SOLID WASTE MANAGEMENT.

The ordinance amendment implements new requirements for refuse containers and recyclable containers, eliminates the placement of solid waste racks on the public right of way, and establishes timetables for the roll-out and roll-in of containers, along with other related changes to the Town's solid waste program. Only a simple majority is required for adoption on the second reading.

The attached ordinance is identical to the ordinance approved by the Board by a 3-2 vote at the March 11 meeting, with the following exceptions:

- Language has been added that clarifies that containers and racks must be located 30 feet from the right-of-way OR behind the front or sidewall of the structure. This language is included to address areas of town where the structure is located closer to the right-of-way than 30 feet. The Board should note that I have not scheduled a public hearing or consideration of a zoning ordinance amendment relative to this requirement, as the Institute of Government has advised that the Board has the legal authority to regulate the placement of containers and racks in the solid

waste ordinance.

- Language has been added to allow individuals who are physically unable to roll-out a 60/65-gallon or 90/95-gallon container to utilize a 35/40-gallon container. As you know, the Town intends to offer free roll-out and roll-back service for individuals who are physically unable to use these containers upon submission of a note from a doctor. This change in language would provide another option for these individuals. Although it is not codified in the proposed ordinance, the Board should note that the Town also intends to accept a handicapped parking card from an individual to qualify for this service.

There is one other change in the solid waste program that is being proposed for the Board's consideration. This change does not affect the ordinance language, however, it is significant. We have received comments from many second home owners who are concerned that they will have no easy way of rolling back their containers after collection because they return to their permanent homes after the weekend. It is believed this is a valid concern, and a recommendation that the Town's enforcement officer and/or other personnel provide free roll-back service for second home owners. This service can easily be provided by the Town's enforcement officer during the off-season, and the chances are good that he/she can also provide this service in the summer season. If it is found that the workload becomes too great in the summer, the Town could hire part-time seasonal help to provide this service at a minimal additional cost.

This additional level of service for second home owners will alleviate their concerns. It is not perceived that this additional level of service will be overly burdensome on town staff. There are approximately 2,200 second homes in Emerald Isle. First, not all second home owners come in to town every weekend. Second, some of these second home owners will actually be in town on collection day, and would be available to roll-back containers. Third, some second home owners will be able to rely on neighbors. Fourth, there should be far fewer second home containers rolled-out for the second collection of the week in the summer because their solid waste would have been collected early in the week if they only visited for the weekend. Town Manager Rush has discussed this issue with the Town Manager of Nags Head, where they provide a similar service for second home owners. According to the Town Manager, only approximately 100 people have signed up for the free roll-back service.

If the Board chooses to provide this service for second home owners, there are two options. One option is that the Town could require second home owners to call or email the Town each time they needed a roll-back. A special telephone voice mailbox and/or email-box could easily be established for this service. Another option is to have a permanent list of the second home owners who have signed up in advance for this service. I believe that Town staff could effectively implement either option.

The Board should note that staff does not recommend any changes to collection schedules at this time. We had initially discussed the possibility of shifting some of the Tuesday/Friday collections to Monday/Thursday, however, there does not appear to be a solution that justifies the additional public education that would be required to implement such a change.

The Board should determine its position on each of the changes summarized above, and then consider the second reading of the attached solid waste ordinance.

For the Board's convenience, and for the public's convenience, Mr. Rush re-summarized the substantive provisions of the new solid waste ordinance. Please note that this summary includes language reflecting the additional changes suggested above.

- All residential units, regardless of type of residential use, would be required to provide "adequate containment" of all refuse and recyclables.
- All residential units would be required to use standard 60/65-gallon or 90/95-gallon roll-out containers. Those who are physically unable to use 60/65-gallon or 90/95-gallon containers could receive authorization to use standard 35/40-gallon containers for residential refuse.
- All residential vacation rental units would be required to use one standard 90/95-gallon roll-out container per 3 bedrooms.
- Solid waste racks would no longer be permitted in the Town's right-of-way. Solid waste racks would be permitted on private property, however racks and
- containers must be permanently stored at least 30 feet from the public right-of-way or behind the front or side wall of the structure.
- All residential units would be required to use standard 18-gallon recycling containers or 35/40-gallon roll-out recycling containers.
- All residential vacation rental units would be required to use one standard 35/40-gallon roll-out recycling container.
- Containers would need to be rolled-out to the street no earlier than 3 pm the day before collection, and rolled-back no later than 9 am the day after collection. The property owner would be responsible for making sure the containers are rolled-out and rolled-back in a timely manner. Real estate rental companies, other private companies, and/or Waste Industries may be available to provide this service for an additional fee between the property owner and the third party. Town staff would roll-back containers for second home owners who sign up for this service.
- Waste Industries would roll containers out and back for those who are physically unable to use 60/65-gallon or 90/95-gallon containers free of charge upon submission of a note from a doctor or by presenting a handicapped parking card. These individuals could also receive authorization to use standard 35/40-gallon containers for residential refuse if so desired.
- The Town would purchase and distribute either 60/65-gallon or 90/95-gallon roll-out refuse containers to all residential units that do not currently have them. The Town would note which residential units were issued containers, and would include the actual cost of the container(s) on the FY 2003-2004 tax bill. The additional fee per container is expected to be approximately \$40. Residential vacation rental units that require more than one container would be issued the appropriate number of containers and billed appropriately.
- The Town would hire a full-time enforcement officer to enforce the new ordinance and provide roll-back service for second home owners.
- The Town's annual solid waste fee would increase from \$130 per year to \$135 per year, an increase of \$0.42 per month.

If the Board adopts the attached solid waste ordinance, publicizing the changes will be done

immediately. Publicity efforts include 1) direct mailing to all property owners, 2) posting information on the Town's web site, 3) information in Emerald Tidings, 4) articles in local newspapers, 5) cooperation with rental agencies, and 6) the distribution of new refrigerator magnets with information about the Town's solid waste services. The target implementation date for the new containers is Memorial Day, while the target date for removal of racks from the right-of-way is June 15.

Ron Brooks, 8526 Sound Drive, suggested that since changes have been made he would like for this to be the 1st reading not the 2nd.

Tom Youngblood, Emerald Isle Realty, said they are ready to take care of the rentals they manage. He asked that the town stick with this ordinance amendment.

John Wootten, 103 Eagles Nest, indicated the town is using a shotgun when they only need a rifle. He suggested keeping the town out of the garbage business.

John Grady, 113 Fawn Drive, reiterated the town had an ordinance in 2001. Enforcement was not done. Hopes law that is being studied becomes law and comes back to bite the town.

Steve Aborgast, part time resident, commented he would have problems meeting the times to roll-out and roll-in. He would have no problem maintaining racks. Also commented that 2nd home property owners do not know about this ordinance amendment.

Billy Farrington, resident, asked why change the ordinance. Wait until July and if they are not doing their job then change the ordinance.

Sharon Lewis, 104 W. Summer Place, owns oceanfront rental. Everyone is impacted several ways. The roll-out plan would be a nightmare to roll-out and back on collection day. Feels a lot could be accomplished with a Saturday pick-up and the town needs to address the capacity of the roll-out Plan that has more drive in it than just rolling out. She also commented on the 30 foot setback and suggested this change was linked to roadside parking.

Mayor Schools clarified that there was no connection between getting cans off of the right-of-way and parking.

Commissioner Marks noted the transfer station is not open on Saturdays and also the Newport transfer station closes. The change has to do with appearance and health and sanitation issue.

Mr. Rush also clarified that there is no link between the parking and the Solid Waste issue. He asked for an enforcement officer because he thinks we are going to need it. Mr. Rush also feels we have good cooperation from the Real Estate Companies.

Mr. Phil Lytle, 110 W. Seaview Drive, suggested the culprit seems to be the rentals. He does not see a problem in his area. If people are going to do what they say they will, the racks could stay in place.

Other part-time residents spoke about them not knowing about the ordinance because part-time residents were not around. The current system works; in the mobile home areas, the people are not here and don't know; one full-time resident spoke on behalf of the part-time residents. That one resident does not see how the part-time residents can comply because they come in on the weekends and leave on Sunday. Garbage is not picked up until Monday or Tuesday. One resident suggested picking up just Ocean Drive with an extra pick-up; one asked how it was going to be enforced; one said Bluewater Bay is an unsightly mess in the summertime with trash all over the streets.

Mr. Wootten asked about trying to get a 3rd pick-up for that area.

Commissioner McElraft commented that the town does think it had a good law last time. Ms.

Overman has done a good job with enforcement but does not think Ms. Overman should have to do it. Each needs to take responsibility with rentals. 2nd homeowners are not the problem. Roll-Outs – roll-in is a problem. Residents have spent money on new racks to comply with old ordinance. The town should have enforced the last ordinance. Suggested going with enforcement officer 3 months out of a year. Commissioner McElraft thinks having containment is good. She would vote “NO” on this issue.

Commissioner Marks said there is nothing that says you have to do away with racks. The town is encouraging residents to move the racks back off the right-of-way. The 90-gallon cans are more efficient and it is time to move with the times. Emerald Isle has never been a fishing village.

Commissioner Messer feels the board represented the majority of the people on beach nourishment and staggered terms. He does not support this ordinance change.

Commissioner Farmer agrees with enforcement of the ordinance. She supports this ordinance.

Commissioner Eckhardt commented that the old ordinance has been in place for two years and is not working. He would support this ordinance amendment.

Commissioner Farmer noted that the town is not trying to penalize anyone, the board is just trying to make the town look better.

Commissioner Farmer made a motion to adopt the Ordinance Amending Chapter 15 – Solid Waste. The board voted, with a split vote, 3-2. Voting for approval were Commissioners Marks, Eckhardt and Farmer. Voting against approval were Commissioner McElraft and Messer. Motion carried.

The deadline for removing racks from the right-of-way is June 15th, 2003. If they are left on the right-of-way after that date, the town will go through town and pick them up. Mr. Rush asked for the residents cooperation in disassembling the racks and putting them into a pile.

APPROVAL OF SOLID WASTE CONTAINER PURCHASE

Mr. Rush explained that NC law allows a unit of local government to “piggy-back” on the purchasing contract of another unit of government if that government undertook a competitive bidding process during the past 12 months. This law allows the Town to bypass a formal bid process and complete purchases in a more efficient and quicker manner while still insuring a competitive price. Mr. Rush recommended that the Board utilize the “piggy-back” option for the purchase of new solid waste containers. If the Board selects a container at the March 27 meeting, the Town will place an ad for 10 days indicating that it intends to utilize the “piggy-back” option. At the end of the 10 day period, the Town can legally enter into a purchase contract with the selected vendor. If the Board selects a container at the March 27 meeting, a resolution formally authorizing the purchase of containers will appear on the Board’s April 8 agenda.

Mr. Rush has solicited the lowest priced “piggy-back” offers from four solid waste container vendors. A summary of the price offered by each vendor is attached. As you will notice, the prices range from \$37.95 per container to \$42.40 per container for the 90/95-gallon containers, and the 60/65-gallon containers range from \$35.50 to \$39.65. As you know, these prices are considerably less than the \$63

figure quoted by Waste Industries last month.

Samples of each of the vendors' containers are available for the board's inspection. Under the piggy-back option, the Town is not obligated to select the lowest priced container by law, and the Board may want to consider quality issues in addition to price. The Board will also need to choose the desired color of the containers.

Each vendor has indicated that it will provide assembly and delivery to each housing unit in the quoted price. Each vendor has indicated a 4-6 week time period to have containers delivered to the housing unit, so the Memorial Day target date is feasible if the Board makes a final decision on April 8. The current proposal calls for the Town to deliver the appropriate number of standard roll-out containers to each housing unit that does not currently have them, and then bill the property owner for the cost of the container in the 2003 solid waste fee that appears on the 2003 tax bill. For administrative purposes, It is recommended that the Town round-up the cost to the nearest \$1 dollar increment on the 2003 solid waste bill.

If the Board authorizes the container purchase, the town will begin publicizing the upcoming delivery of containers, and will also provide our citizens an opportunity to specifically request a 60/65-gallon container. Anyone who does not specifically request a 60/65-gallon container would automatically receive a 90/95-gallon container. The cost difference between the two sizes of containers is minimal, and it is recommended that the Town charge the same price for both containers when the town recovers this cost on the 2003 solid waste bills.

Mr. Rush noted that the 35-40 gallon cans are approximately \$2.00 less than the 55 gallon. He also suggested charging everyone who get a container \$40.00.

After discussion, the board left the container purchase up to Town Manager Rush.

The **RESOLUTION AUTHORIZING INSTALLMENT FINANCING AGREEMENT and BUDGET AMENDMENT – SOLID WASTE CONTAINER PURCHASE** was deferred to the April 8, 2003 board meeting after being advertised.

This meeting was over at 7:30 P.M. and the board went into a meeting jointly with the Planning Board.

Respectfully submitted,

Carolyn K. Custy
Certified Municipal Clerk