

MINUTES OF THE SPECIAL MEETING OF THE EMERALD ISLE BOARD OF COMMISSIONERS

TUESDAY, JANUARY 4, 2000 – 5:00 P.M. – TOWN HALL

Mayor Barbara Harris called the meeting to order at 5:00 P.M. Commissioner W. Emory Trainham gave the invocation. Answering to Roll Call were: Mayor Barbara Harris, Commissioner Emily Farmer, Commissioner Jay Murphy, Commissioner John Wootten, Commissioner Patricia McElraft, Commissioner Emory Trainham, Town Manager Pete Allen, Town Clerk Carolyn Custy.

Mayor Harris opened the floor for public comments and asked any comments regarding the Planning Board be held until the Public Hearing on January 11th, 2000.

PUBLIC COMMENTS

Mr. Gus Farmakidis who resides at 322 Loblolly Street commented on Beach Renourishment. He remarked that the information has been one-sided. He said that a statement has been made that if the Bond Referendum does not pass, the taxes will go up. He stated that the trees that were once here are not here anymore and there is no question about global warming. Mr. Farmakidis commented that the other side of the story is "if all those beach houses fall into the ocean, the tax base will decrease. The level of services must stay the same. He made a point that taxes must go up.

Mr. Lee Lipstiz who resides at 11007 Inlet Drive said he hopes that his remarks are a little premature but it appears that his fears of a group of his peers taking over the operation of town government which would inevitably lead to a much higher tax base are coming into place. The Board has removed the town attorney and hired another one at a much higher cost. A muzzle has been put on a very professional Town Manager and his professional department heads. It seems that the rights of the public and the press to know are being trampled on. A managed information policy is not consistent with the right of open government. Mr. Lipstiz has written two articles that are very critical of the new Boards decree. The censorship of information is followed by a policy of discrimination. Mr. Lipstiz remarked that the new Board may have thought the election gave them carte blanche to do whatever, but in the main, it was a vote against the previous board. He remarked that no one he knows of wants to change the form of Government. The discrimination occurs when you label all realtors and developers as equal or bad. He said he has a real estate license and the Mayor has or did have one. Mr. Lipstiz stated, one of his newspaper articles says exactly how he feels and he quoted from that article "from the way things are shaping up on Emerald Isle, fairness and wisdom will take a backseat to a no growth agenda" and this may be a little harsh, "prompted by a new government headed by an autocratic. God save Emerald Isle and may the tax base not implode."

Mr. Jim Slack who resides at 407 Channel Drive made comments on the acceptance of the resignation of the attorney Mr. Stanley. He asked that the Commissioners and the Mayor comment as to why they were displeased with Mr. Stanley. He asked if Mr. Stanley resigned under duress? Did any of the Commissioners approach Mr. Stanley personally and ask him to resign? What was his salary or pay for his services? What is the pay for the new city attorney?

Mayor Harris responded, "Mr. Stanley did not have a contract. He did send a letter of resignation to the Town Manager that is open for public review. New attorneys were interviewed."

Commissioner McElraft said " I did not want to ask Mr. Stanley for his resignation. There were two commissioners who did not. Mr. Stanley has served the town for 22 years and his service has been outstanding. When I found out that we were looking at a new attorney, I went to the Institute of Government and the League of Municipalities to ask them about doing this and what they said to me was be careful. Town Attorneys are not easy to find. There is only a couple in your area that is qualified town attorneys. Richard Stanley, our town attorney is one of those. The other is Mr. Nelson Taylor. Mr. Nelson Taylor was one that we were looking at and I was glad to hear that. Then when we met with Mr. Taylor and I found out that his fee is \$400 a month, his retained, and \$125.00 a hour versus Richard Stanley's \$100.00 per month and \$95.00 an hour, I was concerned about tax payer money. If there had been a reason to dismiss Mr. Stanley, I would not hesitate to spend taxpayers money that way but I found no reason to dismiss him. Some people commented that he might have had ties to members of the Planning Board. He was probably some builders' lawyer. I think that was probably resolved when Richard Stanley came up with the plan of how to dismiss the Planning Board by changing the Ordinance. Was he dismissing someone he had favor with? I don't think so. The other thing is he also showed allegiance to this Board and his respect to this Board when he knew the night of the last meeting that he was going to be dismissed and Barbara asked him to stay and Richard being the honorable man he is who served this town for 22 years, he stayed knowing he was going to be removed, asked to resign as town attorney. That is why I voted no. I was concerned about tax payers money and I was also concerned that we were taking someone that has been out town attorney for 22 years, that again has done nothing wrong."

Commissioner Jay Murphy responded "the main agenda that I ran on when campaigning for Commissioner was for change. I knocked on doors and talked to people on the telephone and the people that were in support of me wanted certain changes in the town. They were happy with the Manager form of government but the town attorney was one of the several changes that the people said they wanted. They just felt like we needed another town attorney. In voting to accept Mr. Stanley's resignation, I felt that I am living up to my promises that I made to my constituents. I didn't run for Commissioner because I was happy with the way everything was, not to say that the past Commissioners did not do an excellent job, they did. I ran because I wanted to make changes. That is one of the changes I wanted to make. Apart from that, Mr. Stanley is an honorable man. He is a very good lawyer but I felt like the town needed a change."

Commissioner Wootten said, "I was not pleased with the turn of events concerning Richard Stanley. I did hear some of the comments that Jay Murphy is referring to, however I didn't think it was wise at this time to change out town attorneys in the middle of a new board coming in and also the fact that there is an on-going law suit pending. It didn't make a lot of sense to change out in the middle of this. The new board discussed those changes before we were sworn in on December 14th. The hourly expense is greater but the rates that are completely within normal range of attorneys' fees. I did not think it was very good at this point. The point is that I don't think anybody asked for Mr. Stanley's resignation. This thing got out of hand in a timing standpoint. Somehow word got to him that we were talking to another firm and then he pressed the issue with the Board and he was given an honest answer, yes we were looking at someone else, and that resulted in his letter of resignation. It was not, as far as I know, an outward action, a positive action from the Board to ask him to resign, although that was probably not far from happening but not have it happen right away. I still think an option would be the one that you are saying, why the board feels that he had to be replaced. I don't think its my position to express that."

Commissioner Trainham commented "It's gotten down now to where you know the vote, don't you. I

want to take on the responsibility that has appeared to me, not only from what Jay has indicated, I want to back up what John has said, no one has asked for his resignation. I think the fact is that word got out some way that caused him to feel the way he did and he offered his resignation under those conditions. I want to say a word about the costs because I know the costs is in the foremost minds of people. We just spent a Million dollars over on the oceanfront and were wondering where we were going to get the money from on this particular project. One of the concerns I had was the problem of conflict of interest and this is one of the things that has been close to my heart because I am a former Professor of Business Ethics. One of the reasons why we could get legal help here in Emerald Isle all of these years is because the clients of Mr. Stanley are all part of our development program, our real estate people and personal. We felt like we needed a lawyer who did not have any interest whatsoever in the town and as far as the people are concerned here, this particular lawyer we are looking at does not have any interest here. This encouraged me because I felt this is one way to get around the problem with a lawyer having to back off any kind of issue that would come up where he has interests in what is going on. I felt that this would be an inherent problem with interfering with his own private practice since he is a lawyer, not only a lawyer for one of the Board members but also a lawyer for most of the people here and he is a good lawyer. No one is questioning his being a good lawyer. I will not question it. I feel that under the circumstances any lawyer would have had to be paid more except that he has been able to do a lot of work here on the island and that he would have had to charge more if he did not have the clientele to support him in his own private practice. I see nothing wrong with that. What I saw wrong was that there is an inherent problem with conflicts of interests that has permeated the whole island system."

Commissioner Emily Farmer commented, "now it is my turn and everyone has said essentially what I would have said. One of my priorities in my campaign was to get rid of the conflict of interests that I feel Emerald Isle has. That is the town attorney and the Planning Board. I appreciate everything that Richard Stanley has done for the town over the years but I felt very strongly that we needed a town attorney who has no ties to any Emerald Isle businesses. I also felt that the particular attorney that we have talked with would be very effective for us because they have had so much experience that you will hear about. They are more sensitive about, I think, the conflict of interest issue which is very important."

Mayor Harris commented, "my only statement would be that elections are held for the people to choose whom and how they want their country, state or town to operate. Therefore the President, Governor, the Mayor, they have this privilege to choose boards and committees to achieve what we have been elected to do. I think the people have spoken and this is their request."

Mr. Slack said "thank you and I appreciate your straight forwardness of each Commissioner. I think it has enlightened every one here, whatever their feelings and I appreciate however you wanted to answer."

ACCEPTANCE OF RESIGNATION OF TOWN ATTORNEY

Mayor Harris said, the Town Attorney sent a letter of resignation effective immediately to the Town Manager on December 20, 1999. A letter of acceptance has been sent to Richard Stanley.

APPOINTMENT OF NEW ATTORNEY

Commissioner Jay Murphy nominated the firm of Taylor & Taylor of Morehead City as the new Town Attorney. Commissioner Murphy read the qualifications of Mr. Nelson Taylor and then those of Derek Taylor including education, experience and positions held by each.

Commissioner McElraft commented that she called the Institute of Government and they had very good things to say about Mr. Taylor. She said that the public should know that Morehead City's meeting

is on the same night as Emerald Isle's and the senior Mr. Taylor will be at their meeting. Derek has only been a lawyer for 4 years. She knows that we have the both of them but the person sitting at the Board table will be Mr. Derek Taylor not that she has anything against him.

Mayor Harris commented that we are getting two for the price of one and Commissioner McElraft concurred.

Commissioner Wootten commented in regard to the lawsuit that is ongoing in terms of the town vs. a former policeman, Richard Stanley has agreed to continue that lawsuit on behalf of the town out of the goodness of his heart. That takes away some of the concerns of the transition.

Commissioner McElraft said, for the record, she still does not have a letter back from Taylor & Taylor stating that their fees would not be \$600.00 but it would be \$400.00. She verified the costs.

Commissioner Trainham motioned that the nomination be closed. A vote was taken for approval for the firm of Taylor & Taylor to represent the Town of Emerald Isle as town attorneys. The vote was 5-0.

PLANNING BOARD APPLICATIONS REVIEW AND DISCUSSION

Mayor Harris provided information that fourteen applications were received for consideration for Planning Board members. Only three openings for the Planning Board exist and there is one opening for the Board of Adjustments. All applications will be kept on file.

All applicants have been contacted and there will be a Public Hearing on January 11, 2000 to consider an Amendment to the Codification Section 13-32. This will be followed by the appointment of the members for the Planning Board and Board of Adjustments.

Applicants were George McLaughlin, C. Frank Vance, Winton C. Smithwick, Jr., Frank W. Irwin, Cynthia L. Barrow, Phil Almeida, Rodney L. Deardorff who asked that his application be withdrawn, Roy D. Brownlow, Robert L. Smith, Jarell W. Stockdale, Cary L. Harrison, Jerry Bell, David H. Schock, Ceil Saunders and Joseph B. Quigley. The credentials of each applicant were reviewed.

REVIEW OF ORDINANCES FOR POSSIBLE CHANGE

Ordinances that were listed for discussion and possible referral to the Planning Board were as follows:

1. Access to ocean and sound limited to one per lot. Duplex owners want one for each side. Perhaps the need for reduction of materials on the ocean and sound front in the event of a storm needs to be considered. Commissioner Farmer asked that this be forwarded to the Planning Board for review.
2. Any T or L sitting area on the piers or ocean access should be limited to 200 Feet. Commissioner Farmer asked that the Planning Board make a recommendation.
3. Eliminate banners, allowing only non-profits for special events.
4. Require a survey prior to grading that indicates major vegetation on a property. (clearly outlined by surveyor, the 45 percent that will be retained).

The above Ordinances were referred to the Planning Board for review and revisions.

There were no other items to be discussed.

ADJOURN

Commissioner McElraft moved, Commissioner Murphy seconded and the Board voted unanimously to adjourn.

The Special meeting was adjourned at 6:04 P.M.

Respectfully submitted,

A handwritten signature in cursive script that reads "Carolyn K. Custy".

Carolyn K. Custy
Town Clerk