

**MINUTES OF THE JOINT MEETING
OF THE EMERALD ISLE TOWN BOARD OF COMMISSIONERS
AND PLANNING BOARD**

MONDAY, FEBRUARY 28, 2000 – TOWN HALL – 7:00 P.M.

Mayor Barbara Harris called the meeting to order at 7:00 P.M. Commissioner Emory Trainham gave the invocation.

Present for the meeting were Mayor Harris, Commissioner Farmer, Commissioner Wootten, Commissioner Trainham, Commissioner Murphy, Commissioner McElraft, Town Manager Pete Allen, Town Clerk Carolyn Custy, Inspections Department Carol Angus and Jimmy Taylor, Planning Board

Commissioner Trainham gave the Invocation.

COMMENTS FROM MAYOR HARRIS

The Board has been very busy trying to get the beach traffic committees together. Those selected to serve on the Beach Traffic Committee are: Jamie Lang, Bruce Meyer, Richard Brauns, Joyce Mize, Ann Huml, Diane Schools, Sally Waters, Lee Lipsitz, Harry Whitmore, and Ed Johnson. Commissioner John Wootten will be the advisor for the committee. [Mayor Harris commented later that Ann (Erickson) is not on the Beach Traffic Committee but would probably be assigned to the Beach Strand Dog Traffic Committee.]

Another committee on dogs on the beach strand needs to be formed. Forms are available in the back of the room if anyone would be interested in volunteering for the committee.

Volunteers are needed for second alternate on the Board of Adjustment. Please pass along the word. Second alternate should be named April 11, if possible.

Mayor Harris asked the Board to add an item to the agenda as the first item of discussion after Recommendations for Amendments to Land Use Plan – Antennas on current existing structures.

Commissioner Trainham moved, Commissioner Murphy seconded the addition of the item to the agenda. Board voted unanimously to approve.

**PRESENTATION BY MR. TODD MILLER, NORTH CAROLINA COASTAL FEDERATION,
ON LAND USE PLANNING**

Mr. Todd Miller, Executive Director of the North Carolina Coastal Federation gave a presentation on land use planning. Commissioner Farmer headed up the planning committee and asked Mr. Miller to give the presentation.

Mr. Miller gave a background of CAMA (Coastal Area Management Act) and land use planning. There have been 20 coastal counties affected since 1982, and there are both federal and state laws that govern coastal management. Federally, the Coastal Zone Management Act provides federal funding for coastal management programs and land use plans. The federal Clean Water Act is a system of designating waters for their best and highest use for the state and set standards for the protection of water quality—in

this area, the ocean for swimming, sound for shellfishing, Bogue Sound and islands for resource waters and assures that those waters be maintained in their exceptional state. The NC General Assembly passed the Coastal Zone Management Act, which led to the CAMA program. NC set it up so that the local communities could use the federal Clean Water Act guidelines. Locally, there are 20 coastal counties, 70+ municipalities that are affected by local ordinances and land use plans.

CAMA permits come into play only in areas of environmental concern. Local plans are developed by communities and are approved by the Coastal Resources Commission and become part of the state coastal program, although there are state requirements as to what has to be in the plans. A well-designed plan gives a roadmap for the future, a blueprint to deal with issues of environmental protection and provision of services in a way that is affordable to the taxpayers. The basic purpose of CAMA plans is environmental protection and orderly development.

Locally, all permits issued must be consistent with the plan. Local planning in areas of environmental concern also must be consistent with local ordinances. On the federal level, federal permits issued or federal assistance in terms of money or grants also must be consistent with the land use plans.

Mr. Miller showed the four key elements to a plan:

1. Data collection and analysis.
2. Mapping existing land uses.
3. Policy statements of local government – community has the choice of how specific they get, but unless it's specific, it won't have much effect. He cited two examples of Emerald Isle's planning policies and showed them to be vague.
4. A classification map that shows appropriate uses, based on policy statements, which is a formula of population projections anticipating and allocating the growth to areas of the community the local government is prepared to service and for which it will provide environmental safeguards. Traditionally, coastal communities usually end up with much more area designated for future development than population predictions indicate are needed.

There are state rules governing some aspects:

1. Resource protection – constraints by types of soils, hurricane and flood evacuation needs, potable water, sewage treatment, storm water runoff.
2. Resource production and management – special environmental areas, economic and community development, redevelopment, appropriate densities of development
3. How the public is involved

Communities are asked to look at these issues with a 10-year projection. Study the issues, the options for implementation, what the community can afford to do, then select the policy that makes the most sense for the community. The key to remember is once the policies have been adopted and have become an official part of the plan is that other agencies will be looking at them for consistency – CAMA permits, federal funding, etc.

Land use plans—either portions of the plan or the whole plan—are required to be updated every five years. However, funding for a complete update of the plan before the five years is up may not be as readily available if not due for an update.

There was a question/answer session following Mr. Miller's presentation.

Mr. Larry Spell asked in a situation like Emerald Isle, which is 95% developed, do we change ordinances that are in effect now or grandfather them all, then change if something new were to take place? (Could not understand the response because of noise).

Planning Board Chairman, Roy Brownlow commented his understanding is that there is a moratorium on the Land Use Plan. He asked for an explanation of why and what are they exactly looking for in the Land Use Plan? Mr. Miller replied that a year ago, the Coastal Resources Commission voted to stop funding updates to the plans. A committee has been working to make recommendations to the commission. Many plans are vague, but the commission questions whether this is an effective use of their resources. A moratorium doesn't stop amendments to plans.

Commissioner Wootten asked if in a situation where a town knows what they want to do to effect changes in land use, e.g. rezoning, does the land use plan have to be changed and modified to reflect the thinking prior to taking a course of action? Mr. Miller suggested doing the plan first, that there should be consistency between the plan and ordinances within areas of environmental concern. Outside of those areas, there's no legal requirement for consistency

Emerald Isle's Land Use Plan was last updated in 1996 and adopted in May 1997. It will be updated in 2001 and adopted in 2002.

RECOMMENDATIONS FOR AMENDMENTS TO THE LAND USE PLAN

Commissioner Farmer asked if the board is supposed to do the plan when it knows that some ordinances are going to need to be changed and commented that everything seems to have to be done at once. She expressed her concern that the Planning Board will be very busy and to put a Land Use plan on top of that is asking too much. She asked whether a citizen's committee could be set up to report back to the planning board and/or commissioners? **Mr. Miller** agreed that it would be fine to do that.

Commissioner Farmer mentioned that the current land use plan supports the construction of a centralized sewer system, which no one running for office wanted. Should that be in our Land Use Plan? She mentioned bulkheading—should it be allowed in areas on the sound where there is no erosion? How wide do we want Hwy 58 to be? **Mr. Miller** replied that if the Board doesn't want five lanes up to town hall, that could be put in the Land Use Plan and the state would not be able to issue a permit if it's in our plan. It might be worthwhile to set up a citizens group. **Mayor Harris** questioned taking that up in March.

Commissioner Trainham asked if the Planning Board feels the Commissioners have put too much on them. **Mayor Harris** said in the past it has been the planning board's duty. The citizen's group could report back to the Planning Board.

Commissioner McElraft mentioned that two things (cell towers and also the other the Planning Board has been working on) will be finished in 90 days, and they could then take up the land use plan. She agreed that citizen input is needed, but the Planning Board should be responsible.

Commissioner Trainham suggested that 90 days is a little long to be waiting to for this to happen. He feels it should happen as soon as possible. He said he would like to see a committee named to report to the Planning Board to save some of the grunt work and that would come back to the planning board before 90 days. We need to get on with this.

Planning Board Chairman Roy Brownlow said the committee could tie in with the development of a Community Development Committee that would serve as purely an advisory board to the Inspection

Department, Planning Board, and Board of Commissioners. This committee would be doing legwork and research. The commissioners need to help the Planning Board prioritize the desires of the community.

Commissioner Wootten brought up the possibility of hiring an outside consulting firm. His comment was that the Board is having trouble coming up with a Dog Leash Committee, and this is pretty heavy stuff compared to that. What would be the cost to bring in a firm to guide this process?

Town Manager Pete Allen commented that the Division of Coastal Management funds a 75% grant for outside consulting services. The last Emerald Isle land use plan consulting services cost \$15,000 to \$17,000, and CAMA funded 75% of that. **Mr. Miller** said CAMA allocates that money on a yearly cycle and that there is some money available for special planning projects, but he did not know how much is still available for this year.

Commissioner Farmer and **Mr. Allen** will check on availability of funds. Commissioner Farmer's concern is that outside firms aren't citizen-driven. She questioned whether it is necessary to use an outside consulting firm simply for amendments. **Mr. Miller** said they would act as a facilitator to help the process but that getting the money on short notice could be very difficult, and he wouldn't be too optimistic about getting the funding. State professional staff and other resources could help and wouldn't cost anything. **Commissioner Wootten** said he wouldn't let the availability of state money stand in the way of something we think is this important. **Mayor Harris** will put on the agenda in March that Commissioner Farmer and Town Manager Allen will report back on the availability of funds.

ANTENNAS ON CURRENT EXISTING STRUCTURES.

The subject was discussed at the Planning Board meeting which took place prior to the joint meeting. There was discussion on an ordinance change or resolution that this board had asked the attorney, Derek Taylor, to come up with concerning wireless communication. Attorney Taylor faxed a resolution draft, but some commissioners had not yet seen it. It will be considered later. The date on the bottom of the resolution (February 28, 2000) reflects the deadline that was given to Mr. Taylor to write the draft, not the fact that it would be handled this evening.

Mr. Larry Spell asked for clarification on the last board meeting's resolution to stop construction of cellular towers. When Triton PCS tried to get a building permit to put an antennas on top of the water towers, he was turned down because there was some question on whether it pertained to the moratorium or not. Mr. Spell questioned whether erecting an antenna on the top of the water tower has anything to do with the moratorium or not? If not, a permit should be issued to do so.

Commissioner Farmer asked that Mr. Spell's request be made clear to the audience. Her understanding was that there would be two antennas – one on each water tower. **Mr. Spell** responded that there are already antennas (i.e., police, Bell South) on the water towers and Triton would erect one 6 to 7 feet high on the tower close to Town Hall, similar to what is already there, and that a small building (10' x 12') would be located on ground level to house some of the equipment involved. On the 7th Street tower, the antenna would be mounted on the side of the tower rather than on top.

Commissioner Farmer questioned the town's legal stand in terms of the moratorium. **Commissioner McElraft** understood that when she proposed the moratorium, it was for erected cell towers, not for antennas. **Mayor Harris** said the moratorium would be up March 12, 2000, and asked if they could wait until then.

Commissioner Trainham moved, Commissioner McElraft seconded, to grant Mr. Spell the permit to proceed, that the antenna has nothing to do with the moratorium. Commissioner McElraft seconded the motion.

Discussion followed on whether the motion was even needed because the original moratorium is for cell towers, not antennas. **Planning Board member Cary Harrison** expressed concern that there is no ordinance at this time concerning the accessories structure, screening, heights, signage, etc. Discussion continued about the building and the fact that there are no requirements for such. **Mr. Todd Griffin** of Triton PCS said his company would be happy to submit plans, do landscaping, fencing, structural requirements deemed necessary by the water department. Triton had started the project a year ago knowing that they didn't need to construct any facilities, and he promised to make the landlord and the building inspector happy. **Mrs. Carol Angus** of the Inspections Department said she could make the building permit as explicit as needed regarding signage, etc. **Planning Board Chairman Roy Brownlow** asked if an agreement could be worked out so that he and Planning Board member Cary Harrison could do an informal review to make sure it is consistent with the proposed new ordinance. **Commissioner Wootten** argued that there is a motion on the floor to give the Inspections Department permission to proceed. *Motion carried.*

Mayor Harris asked for a motion to recess and continue the meeting Tuesday, February 29, at 7:00 P.M. No motion was made.

Commissioner McElraft said she would be out of town and asked why the moratorium could not be extended right then. Discussion arose as to another possible meeting date before the expiration of the moratorium March 12. **Commissioner Murphy** asked why the moratorium couldn't be extended immediately.

Mayor Harris replied she wasn't sure action could be taken on it. **Commissioner Murphy** said if the action taken is not correct, then the other meeting could be planned, and proposed a 180-day moratorium.

Commissioner Wootten moved, Commissioner Farmer seconded and the board voted unanimously to extend the moratorium 180 days on construction of free-standing wireless communication support towers.

Discussion ensued about extending moratoriums and what the FCC considers blocking the process.

ITEMS FOR DISCUSSION

1. TOPICS SUGGESTED BY INSPECTIONS DEPARTMENT FOR PLANNING BOARD TO CONSIDER

a. Access to ocean/sound to limit one per lot

Mr. Jimmy Taylor from Inspection Department discussed duplexes on the ocean front that have been afforded two accesses to the beach. It is more economically friendly to have one, especially since it reduces the amount of debris after storms. **Mr. Allen** suggested that he didn't think owners could be legally required to have one common access. **Mr. Brownlow** suggested checking with neighboring beach communities to see how they regulate it.

Commissioner McElraft agreed with Mr. Allen that we need to check the legality before making it an ordinance. Check with Alesia, and if not, check with the town attorney.

Mr. Brownlow mentioned that he was under the impression that each topic would be read and if the Board thought an item deserved more attention, they would direct it to the Planning Board to handle. **Commissioner Wootten** wanted to prioritize the items, then get back to the Planning Board. **Mayor Harris** said the Inspections Department had been waiting for discussion on these items for a couple of years and wanted to go through each item on the list separately.

b. 200 sq ft tee/sitting area for oceanfront properties

Mr. Taylor said he thought a CAMA regulation allowed a 200 sq ft deck and an uninhabitable gazebo in the oceanfront setback area. If that is the case, that would be taken care of in the CAMA regulations. **Mr. Brownlow** replied that CAMA has in place now a provision that allows for 500 sq ft of uncovered deck seaward of the setback line plus a 200 sq ft sitting area. **Commissioner Farmer** asked if we want to be more strict than CAMA. **Mr. Brownlow** said Pine Knoll Shores allows a 160 sq ft deck. **Commissioner Farmer** suggested that the Planning Board come up with a reasonable size. **Mayor Harris** directed that the Planning Board look into it immediately.

c. Banner (of 32 sq ft) to be permitted for 30 days for grand opening only; special events to be exempt for non-profit organizations

Commissioner Murphy mentioned that some businesses open, then up to a year later have a grand opening. He suggested that it might be more fair to allow them to have a banner 30 days after the actual opening of the business, then 30 days to announce the grand opening. **Ms. Carol Angus** said the term special event has been a nightmare to try to monitor and would make it more complicated to enforce. The decision was made to allow a single 30-day period for a grand opening, to be decided by the business. Size is not a problem. Limit on special events is not an issue.

d. Remove portions of ordinances that duplicate NC code requirements

Mr. Taylor said there is a lot of language in our ordinances that duplicates parts of the building code and is not needed. If you put anything in the town ordinances that pertain to the building code, if you make a change, it has to go before the Building Code Council as well. **Mr. Brownlow** suggested changing the wording to say Emerald Isle adopts the building code amendments as it changes from time to time.

e. Wisdom of swimming pools oceanward of beachfront property

Mr. Taylor said that currently CAMA will allow swimming pools oceanward of beachfront property, but the Pier Pointe pool was one of those lost because of that. Quite a number of residential structures are proposing swimming pools. CAMA will allow a swimming pool, tennis court, or clay parking lot between the house across the frontal or primary dunes (between the beach and the structure.)

2. TOPICS SUGGESTED BY PLANNING BOARD CHAIRMAN, ROY BROWNLOW

Mr. Brownlow said he would read and discuss briefly all the items and the Planning Board would wait for the Board of Commissioner to get back to the Planning Board with a list of priorities. Comments follow the complete list.

a. For maintaining and improving the quality of life for Emerald Isle citizens:

1. Review to see if lighting ordinance is necessary (for nuisance and safety; public and private areas)

This concerns safety on Highway 58, the spillover of security lights, adequate lighting in some areas, basically a review from lack of lighting to excessive lighting

2. Business corridor beautification plans

Need to improve the view coming into Emerald Isle on Emerald Drive from the foot of the bridge to Town Hall: billboards, storage and garbage containers, dead trees, etc. (already being taken on by Reforestation and Revegetation group)

3. Long range planning and steering (aging population, more year-round residents, etc.)

Make community more pedestrian friendly by increasing bike paths, jogging paths, walking paths; encourage more medical offices and facilities; improve transportation programs for increased amount of traffic

b. Empowering citizens:

1. Seek innovative ways to promote/increase citizen participation and involvement

To have more authority in the town involves giving authority away. We need to get citizen input; e.g., Community Development Committee (see item 2).

2. Look into creation of a "Community Development Committee" to serve as advisory board for Board of Commissioners, Planning Board, community appearance, assistance to Inspections Department, etc.

This committee would do the legwork and research, surveys, etc.

c. Environmental Resources Protection:

1. Maritime Forest

a. Look into adoption of a Municipal Tree Ordinance – public property only.

This would require a routine schedule for maintenance, replanting of trees on town-owned right-of-way and on public property such as Town Hall

b. Look into feasibility of a tree removal permit process

Concerning private property. The island is located right in the middle of a maritime forest that is an integral part of the natural resources of a barrier island. Due to hurricane damage, we need to look into this.

c. Review definition or intent of "vegetative buffer" (i.e., to remain natural? Adequate lateral distances from resources it's designed to protect? Use of disturbed land for septic area to be inclusive of "natural area"? Existing use adequate?).

2. Look into local legislation pertaining to the filling of wetlands and estuarine bulkheading (noting better controls, not necessarily prohibiting)

State and federal laws are not serving the town's needs.

3. Land Use:

1. Review current densities of zoned districts (adequate or need improvement?)

Especially zoned multi-family and hotel/motel districts.

2. Review and clarify clear intent of non-conformity (grandfathering) ordinance.

We will rely on this heavily if the beach bond referendum does not pass and there's no beach renourishment provided to protect the oceanfront landscape. If houses get washed into the ocean, it will be a public trust area and the town will need to make it clear the remains are public nuisances and need to be removed. We already have a problem with the beach access platforms that have been abandoned – who is responsible for them and how they are going to be removed from the beaches?

3. Look into adoption of a prescribed landscaping ordinance (exempting 1 and 2 family development)

4. Signs

1. Complete review of current sign ordinance and regulations

Commissioner McElraft asked about dead trees. What about developer-owned lots that have not been sold? Is there any way to force a developer to clean up a lot and get the dead trees out? **Mr. Allen** replied that as of now, "No." **Mr. Brownlow** said that Pine Knoll Shores has an ordinance that we might need to follow on dead and/or diseased trees. There is a problem with removing more than 50 % of the vegetation – it is a large cost plus when you remove that many, the understructure when the trees drop is disturbed. So far, the town has been successful in asking people politely to do it.

Mayor Harris instructed the board to read things over, delete items, prioritize, make suggestions, etc. She then mentioned the proposal on building heights brought up by Planning Board's Ceil Saunders. **Commissioner Farmer** suggested the commissioners need time to read it over and to put it on the agenda for the March meeting and asked if it may be possible to have a public hearing in March because the moratorium will expire March 12? **Mr. David Schock** said accepting it as a suggestion from the Planning Board does not bind the commissioners to vote yes or no – all it does is put it before the public for public comment.

Commissioner Murphy moved, Commissioner Farmer seconded and the board voted unanimously that the moratorium on building heights be extended for two days until March 14, 2000.

Mr. Brownlow asked when the draft that the Planning Board submitted would go to the attorney for drafting into ordinance language. **Mr. Allen** replied as soon as the board approves it, and it would be permissible to approve a draft copy. **Commissioner Wootten** said the draft could go to the attorney now, then if changes are made on the March 14, it could still be legal. **Mr. Allen** said the only time to worry is when dealing with Section 19, the Zoning Ordinance. That is the only time a public hearing is required.

PUBLIC COMMENTS

Mr. Jerry Stockdale questioned public hearings, such as the one on building heights. Do you have to publish that the Town Board is considering the change before you have the hearing? The ordinance would have to be drafted and published in the paper before the hearing so that the public would know what the hearing is about. **Commissioner Wootten** said the Planning Board has put forth the proposal to make no changes to the residential heights and change the maximum height of commercial buildings to 50 feet, but there are things to be worked out about roof structure, etc. **Mr. Allen** said it will be in block form in the newspaper and **Commissioner Farmer** suggested it also be on the web site.

Mr. Bill Reist asked if drafts of proposed ordinances could be posted on the bulletin board. **Mayor Harris** replied that if the draft is posted, residents may think that it has already been adopted. **Mr. Allen** said what they will put in the newspaper will be posted on the bulletin board a week to 10 days before the meeting.

Ms. Ceil Saunders of the Planning Board commented that the ordinance/code books are not complete. **Town Clerk Carolyn Custy** said they should be up to date, cost \$146 each if 4 or more are ordered, and said she could check the books to compare with the master. **Commissioner McElraft** offered her book, which is brand new, when she is out of town.

Mr. Jerry Stockdale made a comment about cell towers. He suggested the board consider that even though the towers are ugly, that in making a decision about them, make sure the decision doesn't detrimentally affect the citizens. **Mayor Harris** responded that the antennas will be on the water towers.

Commissioner Trainham thanked the Planning Board and commented that there is "No likeness at all between this board and others in the past. We're so delighted.—it's a pleasure to see you articulate your points and you're off to a wonderful start."

ADJOURN

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

The meeting was adjourned at 9:10 P.M.

Respectfully Submitted,

Carolyn K. Custy
Town Clerk