

**MINUTES OF THE REGULARLY SCHEDULED MEETING
OF THE EMERALD ISLE TOWN BOARD OF COMMISSIONERS
TUESDAY, MARCH 14, 2000 – 7:00 P.M. – TOWN HALL**

The meeting was called to order by Mayor Barbara M. Harris at 7:00 P.M. Present for the meeting were the following: Mayor Barbara Harris, Commissioner John Wootten, Commissioner Emily Farmer, Commissioner Emory Trainham, Commissioner Jay Murphy, Commissioner Patricia McElraft, Town Attorney Derek Taylor, Town Manager Pete Allen, Town Clerk Carolyn Custy, Public Works Director Robert Conrad, Parks and Recreation Director Alesia Sanderson, Fire Department Captain Jeffrey Strawser, Building Inspector John Yost, and Police Chief Mark Wilson.

Commissioner Trainham gave the invocation.

APPROVAL OF MINUTES OF THE SPECIAL WORKSHOP MEETING OF FEBRUARY 5, 2000 AND THE MINUTES OF THE REGULAR MONTHLY MEETING OF FEBRUARY 8, 2000.

Commissioner Trainham moved, Commissioner Murphy seconded and the Board voted unanimously to approve the Minutes of the Special Workshop Meeting of February 5, 2000 and the Minutes of the Regular Monthly Meeting of February 8, 2000 as written.

MAYOR'S COMMENTS

Mayor Harris commented that a correction to 9e. needs to be made. Discussion of DMC needs to be removed. Discussion of wetlands will remain as an agenda item and she will ask for public comments after each agenda line item.

She also commented that there are some forms for committees that are being organized. If anyone wishes to be considered for a committee they need to sign up or if anyone does not wish to speak publicly before the Board there is also a sheet for those comments.

6. PRESENTATION ON REVEGETATION BY MR. ANDY BAKER WITH FORESTRY SERVICES AND MR. HANK VAN DORP WITH WEYERHAUSER CORPORATION.

Mr. Baker gave a brief overview of how the forestry service can help in developing an urban forestry program in Emerald Isle. There is an Urban and Community Forestry Grant program which is a joint program initiated by the NC Forest Service and the United States Forest Service. The Goal of the program is to encourage citizen involvement in creating and supporting long-term and sustained permanent community forestry programs at the local level. Mr. Baker went through the steps of the grant program which included options of developing community forestry programs which included establishing a tree board or shade tree commission, begin to develop municipal tree ordinances, develop certain tree protection ordinances, conduct an assessment of the public property and the trees on it, obtain an overview of what you have and where you need to go from there. More specific options are focus on tree planting projects, for particular streets and developing street scape designs. Additional suggestions for projects include some demonstration or site-specific projects, which include having a demonstration on planting trees, development of educational arboretums where different species of trees are planted and identified, and demonstrating of proper tree maintenance. You could also develop a non-profit program that is in accordance with the forestry program.

There are informational and training ideas where you can have a project simply focused on giving citizens training, more general public awareness events, and you can have youth programs such as scouts and any type of civic organization. Mr. Baker said the grant application is very flexible where you develop a plan for your needs. Mr. Baker went into the eligibility process that includes county government, non-profits, schools, colleges and universities and state agencies.

Mr. Baker commented, that grants can range anywhere from \$1,000 to \$10,000 with a 50/50 match. The deadline is late June on grants. Mr. Baker brought applications for the Board. The match can be done with in-kind funds or cash. There is a one-year time limit to follow through with the project after notification of approval for a grant. If a project does not get done within one year, you can apply again the following year and continue the process as you continue to develop your program. Planting has to be done on town property, not on federal land. Grants are based on reimbursement where payment is made up front and then reimbursement is done at 50 per-cent. There is a limit on the trees you can plant unless you are designated a "Tree City USA". Annual budget needs to be at least \$2.00 per capita. You would want to have an arbor day tree planting and celebration. Mr. Baker gave some factors that most successful applications have used. Explanations and information was given on this subject and contact lists were gone over.

Commissioner McElraft informed the public that a sign up sheet for a tree committee is in the back for their use. They have about five signed up now and they are looking for a chairman.

Commissioner Farmer asked about planting on State Right of Way. Mr. Baker said he did not know about that.

Commissioner McElraft introduced Jimmy Farrington of Western Carteret Landscapers. Mr. Farrington commented that landscapers of Western Carteret County and a few people in the Morehead area gave away pine trees at the St. Patrick's Day Festival. This function is a carryover from last year. Weyerhauser furnished the trees. It was a great success and the trees were gone before the festival was over. They want to keep the Crystal Coast green and growing. They will also be working with the Town in planting trees on Town property. The landscapers are excited about it and the people are excited about it.

Mr. Hank Van Dorp of The Weyerhauser Corporation spoke next. He works with the nursery for Weyerhauser and is connected with the production side of the nursery business. He is located in Washington, N.C. where an orchard furnishes 1st generation and 2nd generation Loblolly seed which in turn are planted in the nursery. Seedlings are provided for the general public. He went into some history of the orchards and nurseries starting from the late 1950's . He said they do have some hardwoods but they are grown in Arkansas and have to be shipped. He gave prices for 1st generation pine seedlings which are \$40.00/1000. Second generation are \$48.00/1000. Long leaf pines are more expensive because they are harder to grow and they are \$160.00/1000. Mr. Van Dorp donated some 5,000 trees to the Town and Mark Penry of the Emerald Isle Parks & Recreation Department will have those available after the meeting for the public to take.

A question and answer session followed after the presentations.

7. PUBLIC HEARING FOR THE PURPOSE OF TAKING COMMENT AND POSSIBLE ACTION ON AN AMENDMENT TO CHAPTER 19, SECTION 107 (2) OF THE CODIFICATION CONCERNING BUILDING HEIGHT.

Mayor Harris commented that Commissioner Farmer will read the proposed amendment. Comments

from the public will follow and then the Board will go into discussion.

Commissioner Farmer read the proposed Ordinance change for the benefit of the public. Section 107 (2) (a) of the Emerald Isle Zoning Ordinance codified as Chapter 19 of the Emerald Isle Town Code be amended to read as follows:

(a) Maximum Building Height – Forty (40) feet for wood frame structures and fifty (50) feet for concrete, steel or other non-wood framed structures

Commercial – Flat Roof – Buildings or structures with a roof pitch of 3/12 or less, a maximum wall height of thirty-five (35) feet measured from the lowest finish grade level immediately adjacent to the building foundation or pilings to the exterior wall load-bearing top plate, with a maximum of three (3) foot roof top parapet.

Pitch Roof – Fifty (50) feet average roof height and limited to three stories. The average roof height is determined from the lowest finish grade level immediately adjacent to the building foundation or pilings, to the average roof height of the highest roof ridge, exclusive of elevator shafts, air conditioning and other necessary mechanical equipment, none of which shall exceed ten (10) additional feet in height. The additional ten (10) feet cannot be used for habitation.

This Amendment shall be effective upon adoption.

Duly adopted this 14th day of March, 2000, following favorable approval by the Planning Board, advertisement for a public hearing, and the holding of a public hearing on this the 14th day of March 2,000.

Mayor Harris asked Mrs. Ceil Saunders to comment on this issue. **Mrs. Saunders** said there were some things that the Planning Board wanted to change before this gets too involved. The Multi-family is changed to 40 feet, the same as residential and the Commercial, the average of 50 feet height with a limit of three stories.

Mayor Harris stated that the 2nd paragraph is supposed to be Commercial only. They are eliminating Multi-Family altogether. **Mrs. Saunders** confirmed this. Mrs. Saunders also stated that for flat roof, wall height would be thirty-five (35) feet from below the finish grade with a three (3) foot parapet on top. If it is a pitch roof, the average pitch roof of fifty (50) feet height and with three stories.

Commissioner Farmer asked Mrs. Saunders what the Planning Board is recommending for Multi-Family? **Mrs. Saunders** said this is supposed to be the same as residential, forty (40) feet.

Commissioner Farmer asked about Motel/Hotel? **Mrs. Saunders** replied this is commercial. Mrs. Saunders said the Planning Board is trying to encourage the pitch roof. That is why they are going with the fifty (50) feet average so that they can use a pitch roof rather than a flat roof with air conditioning units and everything else on top.

Mayor Harris asked Mr. Yost what his feeling is on the word "average"? **Mr. Yost** said the average is are we measuring from the pitch on the middle of that roof or the top of that roof? **Mr. Taylor** said he is using the mean. **Mr. Yost** said if they are measuring from the mean of the roof, it is a matter of semantics and it does make a difference in building. A mean roof is not the average roof.

Commissioner Murphy confirmed "then that would be fifty (50) feet mean roof height".

Mayor Harris asked for public comment.

Mrs. Jane Deloreto asked the question "suppose the builder brings in five (5) to ten (10) feet of fill before building his structure? She said that is how they get around that. Fill is brought in and the lot is filled before a building is started.

Commissioner John Wootten pointed out that what they are talking about here in terms of building height is commercial. They all have to go through the Planning Board and the Planning Board has to approve the landscape of the lot, the water flow off the lot so all of those things get double scrutiny on the commercial side. It is not like the residential side where I have seen houses where they pile up dirt and put the houses on the top. This is a different approval screening process than we are talking about here.

Commissioner Farmer commented that she was coming back from Atlantic Beach today and went past a condominium complex on the ocean side and they have done exactly that. What would have been the first floor was actually a pile of dirt. They are only going up three stories, but actually it is four. Even the land around them is much lower, a story lower. She admitted that she does not know how we are going to do that.

Mr. Yost related that sometimes fill is necessary. He does not know how to get around that. Some lots have to be filled just to stabilize the soil. **Commissioner Farmer** said this lot was a level lot. **Mr. Yost** also commented that if it was an ocean lot, it should not be filled.

Mr. Ronnie Watson came forward and commended the Planning Board for what they have done. He commented that he has a real problem speaking as a property owner, as a developer. He thinks this thing with multi-family forty (40) feet – when you come down from ninety (90) – which he does not want to see a bunch of hi-rises and he is just as concerned about the way Emerald Isle looks as anybody sitting on the Board because his whole life has been here. You have to have something that is workable for the people who own commercial and multi-family property because they have a lot invested in this property but you need to work with them. He commented that there are not very many pieces of land left and he feels that you are not going to see a lot of hi-rises on the Island. Forty feet in multi-family will not work. If you try to do a three-story building and you want to have some gables that have a real nice appearance you cannot restrict a person to put a forty (40) foot height limitation. **Mr. Watson** related that he is concerned about the appearance of Emerald Isle. The forty (40) foot height limitation will not work in multi-family. You can make it work. You can restrict that person to where he cannot do anything with his property and that is not right. In commercial the fifty (50) foot height average roof height will work for a three-story building. You have to give the people something that is reasonable to work with and forty (40) feet will not work. If you want the appearance and you want the place to look good you need to think about that thing. The County adopted an ordinance and we supersede the County but that is fifty (50) foot on commercial and fifty (50) foot on residential. We are talking about fifty (50) foot on our commercial, which we are coming ten (10) foot below the County, average roof height. We want good looking structures here and the Board needs to think about how they are restricting the property owner – what he can do with his land. **Mr. Watson** stated further that he is all in favor of reducing that building height. He feels that the fifty (50) foot mean roof height is something that is workable. He also stated that he thinks "you are wrong – dead wrong on condos multi-family". Forty (40) feet is not much. His concern is how it is going to look. **Mr. Watson** asked for confirmation on residential. He has heard thirty-five (35) feet.

Mrs. Angus of the Inspections Department confirmed that it is forty (40) feet for residential and always has been. There is no change for this. **Mr. Watson** encouraged the Board to think about the multi-family for people who own property, who have land they can use and they want to do something real nice. They

may have a gable going up forty-five (45) feet but that is going to look a lot more attractive than having a something that does not have a lot of character to it. He is concerned about how it is going to look.

Commissioner Wootten commented that multi-family, it seems, is being equated with two stories. **Mr. Watson** said he is thinking about things like Queens Court and Pebble Beach. They might be taller than forty feet. He commented that fifty foot is not really a tall building. **Commissioner Wootten** agreed that in the commercial section, it was not. He is concerned that there are a lot of tracts of land that are zoned multi-family that have not been built out that way. You have to be concerned about re-development in this town where someone could come in and buy up two cheaper houses, combine the lots and then go to multi-family and he is not sure that is what the town wants. **Mr. Watson** said he is thinking more about the larger tracts that are left. He is not thinking about combining lots.

Mr. Yost expanded on filling lots. In A Zones, lots are required to be filled if they don't meet the flood height. If they are in an A Zone and they build on grade, they have to fill that lot up to meet that flood zone, otherwise they cannot get a permit. We do in certain instances require a lot to be filled. This is one of the flood ordinance requirements.

Commissioner Farmer asked where the building height starts. They are actually filled underneath the building. **Mr. Yost** commented that in the V Zones, if the pilings are sunk 16 feet below the original grade it is allowed. You can fill it up some for parking. The original pilings have to be sunk 16 feet from the original grade. This may be what Commissioner Farmer is seeing. Commissioner Farmer asked where do you start figuring out the building height – from the new grade or the original grade? **Mr. Yost** said in that case it would probably be the new grade. You are saying the grade adjacent to the building. **Commissioner Farmer** guesses the problem is if this was on pilings but wasn't filled, the original grade would be where the building height would be measured from. **Mr. Yost** answered "yes". **Commissioner Farmer** continued that the fact that you filled in what would have been a garage, somehow that story does not count. **Mr. Yost** said technically if it has dirt on it "no". A Zones and V Zones are where the problems are. Federal law allows people to fill their lots.

Commissioner Wootten commented "this whole discussion is residential discussion. It is not commercial. There is no problem with the discussion, it is not focused on the subject".

Mrs. Saunders commented that Pier Point is three stories and is thirty-nine and one half (39 ½) feet. This should be an example. **Mr. Yost** said the first part of this was in a C zone so there were no restrictions. The second part was also in a non-flood zone area. They chose to fill. **Commissioner Farmer's** point is that they got an extra ten (10) feet by filling.

Commissioner Farmer said "we have to deal with them all. If you just leave multi-family and motel/hotel the way it is then you are forty (40) feet. We have to deal with them all. Whether we want somebody in residential or not is another matter. They all have to be addressed because of how the ordinance now reads.

Mr. Jerry Stockdale asked a question about what is the purpose of having something different of what the County has which is ten (10) feet difference. He is not sure what is going on in the minds to make us want to be shorter.

Commissioner Farmer replied "some of this relates back to a discussion at a previous Board meeting relating to the traffic on the corridor down the road. Whether we want to widen Hwy 58 to 5 lanes through Emerald Isle which I feel cuts our town in half. If we don't want to go that route then we better start planning for the amount of density that we are going to allow here ultimately. I am also very

concerned that with multi-family and motel/hotel, not only are you covering over the land where the building is you also have to provide parking and that is a stormwater problem. I also think that this kind of development on a barrier island is not smart. A lot in harms way will make it more difficult to evacuate".

Mr. Fred Josey asked "what is a story?" He says his house is three stories but his insurance company says it is two stories and a basement. If you tell me I can put in three stories and go fifty (50) feet, I can put in four stories and be within the (50) feet. "What is a story"?

Mr. Yost replied "a story, by the town ordinances is any space greater than four feet is a story. If you have a house on pilings that is five feet above the ground, that is one story. If it is three feet above the ground, it would not be a story. This is our only definition in the ordinance."

Mrs. Saunders gave statistics from other towns and we are right in line with everyone else. Pine Knoll Shores is 35 residential 50 commercial, Newport is 35 residential 50 commercial with the exception of light industry which is 35 feet, Beaufort has just changed theirs from 35 to 40 in residential and 50 commercial, Atlantic Beach is 35 feet with only one exception residential which is 40 feet. They allow you to go up a couple of feet for every five feet of setback on the parking size of the lot. Morehead City is 50 feet, residential and commercial, and 90 feet if it is strictly commercial. Cape Carteret is 40 feet for all.

Mr. Bill Reist asked if commercial, multi-family, hotel/motel should be addressed separately so that there is no confusion. He commented that when you talk about commercial, commercial is going to be the same height of hotels/motels. He asked what was going to prevent someone to come in and build a commercial building and then have a nice big glass front like Wings and Pacific? He asked how are we going to stop that kind of thing? Do we want three-story glass? Mr. Reist's feelings are that each of these should be addressed separately. He also commented that if you have fifty (50) feet and allow them to stack air conditioners, etc., for another 10 feet, you are then up to sixty (60) feet. He suggested that it be more clearly stated, i.e., thirty-six (36) feet, three-story. It should be very specific and simple.

Commissioner Wootten commented that the three story limitation has been added. The purpose behind the Planning Boards effort with the mean heights of the roofs is to give the builder the flexibility to change the pitch of the roof and the structure within his store so he has the flexibility to design a part or a building for usefulness. Commissioner Wootten went on to say that in a lot of buildings, there is a need for a sixteen (16) foot floor just to handle all the mechanical and engineering and plumbing fixtures. You have to allow them to have the flexibility to go to as much as 16x12x12 or something along this line and still be able to put a decent roof on top. The Planning board has considered all of that and that is the reason they came up with the suggestion they have for commercial buildings.

Mr. Reist continued that some builders are not as conscientious with buildings as Mr. Watson and those people have to be taken into consideration who may want to put a pitch roof on and then put an elevator shaft on the side of the building and sticking up at the top and things of that kind of nature. His feelings are that the worst-case scenario has to be looked at rather than the best case scenario.

Commissioner Wootten suggested that maybe Mr. Reist should sit down and talk to some of the Planning Board members because he thinks they did just that.

Mr. Frank Vance, a member of the Planning Board, commented that Commissioner Wootten had said about what he was going to comment on. The Planning Board took into consideration duct work and other things.

Mr. Fred Josey asked for clarification on multi-family. He asked if duplexes on the beach front are considered multi-family? The answer given was "no".

Mrs. Saunders informed the Board that the reason the Planning Board went to the "average mean roof" was to give a little flexibility and to discourage flat roofs.

Commissioner Farmer asked Mrs. Saunders a question regarding the footages. "we are saying with a pitch roof, fifty (50)feet three stories. We are than saying they can go an additional ten (10) feet beyond that. Why, if you are limiting it to three stories would you every need the additional ten (10) feet?" **Mrs. Saunders** replied "because you are going to have the air conditioners, hot water heaters and everything up on top if they do that pitch. **Commissioner Farmer's** concern is that these could be fifty (50) foot buildings. She wonders if they can get the mechanical stuff in a three-story building with a limit of fifty (50) feet.

Mr. Watson said you have to give them the flexibility. The Planning Board is going to review it but they may end up being fifty-two (52) feet, might be fifty-three (53) feet. What they have come up with is something that is good and is workable and he feels the town should be proud of what they have come up with and he feels that everyone will be proud of what the end product will be. You cannot restrict the commercial community, not doing anything.

Commissioner Wootten said he would like to apologize to the Board and Planning Board because he was reading this thing as a commercial question. It was only later this afternoon that he realized that multi-family is also a question. From what he is hearing there should be one page or one paragraph each for motel/hotel, commercial and residential. He would feel a lot more comfortable with it.

Commissioner Farmer asked if Commissioner Wootten was concerned about putting all types with residential? **Commissioner Wootten** answered that he was. He feels that multi-type structures are and should be significantly different from the commercial structures.

Carol Angus informed the Board that when Municipal Code does an update on the codification, they put it in all the places it needs to be; i.e., Section 19-101, Section 19-102, Section 19-103, etc.

Commissioner Wootten asked if the Planning Board considered multi-family in the deliberations? **Mrs. Saunders** answered "yes". **Commissioner Wootten** asked why residential motel and hotel addressed here also? **Mrs. Saunders** answered that motel/hotel is commercial.

Mrs. Angus said you can come in with a hotel/motel if you have the acreage setback. If you do not it is not going to happen. You are only going to be dealing with residential. Today ninety per-cent of what we have is RMH could be R2. **Mr. Yost** said that does not stop a person from buying out a whole block and still qualify.

Commissioner Farmer commented that we have about 7 sound front parcels right now that have either not been developed or have mobile homes on them where a landholder owns the property and the mobile home is leased on it. We appear to be built out but we are really not as built out as it appears.

Mayor Harris asked if the Board wished to table this or go on with the amendment?

Commissioner Farmer indicated she would rather go on. **Commissioner McElraft** asked if the Board goes on are they going to address this as commercial and multi-family or is only the commercial going to be addressed? **Commissioner Wootten** said if you are building a multi-family or a residential

motel/hotel, it is a commercial enterprise. **Commissioner McElraft** asked if there is any need to scratch multi-family – would it be under the same ordinance?

Mayor Harris asked again, if the Board wished to table this or go on and make the Amendment a motion at this time?

Commissioner McElraft asked permission to ask a question before making that decision. She has not seen this forty (40) foot wood structures in the commercial. When we had the joint meeting, for commercial it was the fifty (50) foot and then it was residential forty (40) foot. When did this change? **Mrs. Saunders** replied that residential multi-family is residential. They are trying to group it together and keep it where it is supposed to be.

Commissioner McElraft, asked " in what we are trying to adopt tonight are we talking multi-family and commercial?" **Mrs. Saunders** replied "we are talking everything. We are talking residential leaving it at forty (40) feet." **Commissioner McElraft** repeated " so it's forty(40)feet for residential but anything commercial is fifty (50) feet mean average roof height but you are not classifying multi-family which is commercial as residential, which has never been classified as before." **Mrs. Saunders** confirmed this.

Mayor Harris asked for a motion.

Commissioner Farmer moved that *Section 107 (2) (a) of the Emerald Isle Zoning Ordinance codified as Chapter 19 of the Emerald Isle Town Code be amended to read as follows:*

(a)Maximum Building Height – Forty (40) feet for wood frame structures and fifty (50) feet for concrete, steel or other non-wood framed structures

Commercial – Flat Roof – Buildings or structures with a roof pitch of 3/12 or less, a maximum wall height of thirty-five (35) feet measured from the lowest finish grade level immediately adjacent to the building foundation or pilings to the exterior wall load-bearing top plate, with a maximum of three (3) foot roof top parapet.

Pitch Roof – Fifty (50) feet mean roof height and limited to three stories. The mean roof height is determined from the lowest finish grade level immediately adjacent to the building foundation or pilings, to the mean roof height of the highest roof ridge, exclusive of elevator shafts, air conditioning and other necessary mechanical equipment, none of which shall exceed ten (10) additional feet in height. The additional ten (10) feet cannot be used for habitation.

Commissioner Trainham seconded the motion. *The Board voted unanimously with a vote of 5-0.*

Mr. Yost suggested that some time in the future the residential and multi-family should be made into two separate things. Leave it like it is now.

Commissioner Farmer wants it clear that multi-family will be kept at forty (40) feet, which is not what the current ordinance reads. She quoted "in the ordinance, page 1175 reads under Section 19-101 (5) Maximum Height (a) Maximum building height – Forty (40) feet for wood-framed structures and one hundred (100) feet for concrete, steel or other non-wood-framed structures in residential MF districts. This needs to be changed to forty (40) feet."

She suggested that there is a need to extend the moratorium. **Mr. Yost** said you would have to extend

the moratorium because it would be expiring shortly. This is just a matter of extending it. That is not a problem. **Commissioner Farmer** said " we need to extend the moratorium on the multi-family and she asked about hotel/motel. **Mr. Yost** said "same thing if you are going to make a change there".

Commissioner Farmer moved to extend the moratorium on building heights for residential motel/hotel, residential multi-family and institutional to sixty (60) days except for applications where the areas are less than forty (40) feet, the moratorium does not apply. Commissioner Wootten seconded and the Board voted unanimously to approve the motion

8. OLD BUSINESS:

None.

9. NEW BUSINESS:

a. DISCUSSION AND POSSIBLE APPROVAL OF A COMMERCIAL REVIEW FOR A KWIK-MART-CITGO FACILITY LOCATED AT THE INTERSECTION OF CREW DRIVE AND EMERALD DRIVE.

A request for a Commercial Review has been received from Mr. Charles Rumbley, property owner, and Wooten Oil Company of Goldsboro for Board consideration. This project is for a Kwik-Mart-Citgo facility to be located at the corner of Crew Drive and Emerald Drive. The Planning board has reviewed this project and recommended approval to the Town Board of Commissioners .

Mr. Wooten came forward and stated that they requested a site plan for a Citgo-Kwik-Mart and they appeared before the Planning Board on 26th of January and the 28th of February. He explained that the type of building is about a 2600 to 2700 square foot rectangular convenience food store with four gas pumps out front. The only issue has been the color of the building and the color of the sign. The color has been changed and sent back to the Planning Board which they approved. The only other thing requested by the Planning Board was a landscaping plan which has been submitted and approved.

Questions were asked about the location of the green area. It will be located on the corner of Coast Guard and Hwy 58 and back in the rear where the dumpsters are and where there are storage spaces marked on the map on Hwy 58. Entrances were discussed. The entrance will be off of Coast Guard and Crew Drive. There will be no entrance off Hwy 58.

Public Comments and questions followed.

Mr. Fred Josey asked about the lighting? The Planning Board has said the lighting will be away from the traffic. **Cary Harrison**, a member of the Planning Board, elaborated on the lighting. The lights are directed to shine down from the canopy but there are lights outside on the lot that point into the street.

Mr. Wooten commented that there are a total of 24 of these lights at 320 watts each. It is bright. They are into the streets, along Coast Guard Road, along Crew Drive, etc. but a vast majority of the light is contained on the property. A map of illumination was shown to the Board.

Mr. Bill Riest asked about the landscaping? **Mr. Wooten** replied that they are bordered by a

forest, but they will be required to have at least 15 per-cent vegetation.

Commissioner Murphy asked about the chances of reducing the number of lights from 24 to 18? **Mr. Wooten** said they could be reduced. There is a security area of concern that the industry has been criticized for gasoline self service for the women and young people. It tends to be brighter when it is first developed but it tends to dim as the light bulbs burn. The candlepower does wear with time. They will try to keep it from being obnoxious but there is a need for enough for some kind of security.

Commissioner Farmer commented that there are stand alone lights around the perimeter. She does not know how Chief Wilson feels about that area but it seems to her it is pretty visible from everywhere. She does not know how big a problem with security would be there. **Chief Wilson** asked if the front part of the building would be glass and easily visibility from the road for officers? **Mr. Wooten** answered it would.

Commissioner Trainham voiced his concern about the lighting because we have had so much of the lighting problem along Hwy 58 affecting people driving down Hwy 58 in both directions. He certainly hopes that Mr. Wooten will think about the lighting. He knows how security is important but at the same time you have glass that is going to reflect and if they are like Pacific, we have a real problem driving down Hwy 58. **Mr. Wooten** said it will not be like Pacific.

Commissioner Wooten commented that if Mr. Wooten does what he says he is going to do, from the illustration of the illumination map, lighting on Hwy 58 is not a problem. **Commissioner Wooten** asked about the four stanches around the outside. How does the 110,000 lumens compare to the BP station or Veranda Square? **Mr. Wooten** indicated that he thinks it is a little less than the BP station. **Commissioner Wooten** made the statement that if they do end up with something like Pacific then there is going to be a problem. As long as they are like Veranda Square or the BP station he feels they will be all right.

Mayor Harris asked if there was a glare from the light, could Chief Wilson do anything about them. Chief Wilson indicated he knows of nothing on the books that would allow him to intervene; however, **Cary Harrison** of the Planning Board indicated that there is an ordinance (19-107 (9) page 1186.1) that stated "any lighting provided within the project shall be so located or shielded so that no offensive glare will be visible from an adjoining street or property. There is power for the inspections to intervene.

A concern was mentioned by the Planning Board regarding the rise up of Coast Guard Road at that intersection and having to look into those lights, but Mr. Wooten indicated that a little lip can be put on the canopy that will cut down on people seeing those lights.

Commissioner Wooten moved that the Board approve the plans for the Citgo-Kwik-Mart located at the corner of Crew Drive and Emerald Drive. Commissioner Murphy seconded the motion and the Board voted unanimously for approval.

b. PRESENTATION TO RETIRING TOWN BUILDING INSPECTOR, JOHN YOST.

Mayor Harris read "All About John", a copy of which has been incorporated into these minutes. She also presented Mr. Yost, who is retiring 31 March 2000 with a Certificate of Appreciation and the Town presented him with a large picture of the Carteret County area including Bogue Banks area, Cherry Point area, Morehead City, etc. These places are all where Mr. Yost has been

employed in one capacity or another.

Mr. Yost thanked the town for giving him the opportunity to serve and if the opportunity ever comes that he can assist the town, he certainly will be willing to do that.

A 10-minute break was allowed for everyone to congratulate Mr. Yost.

c. **DISCUSSION AND POSSIBLE BOARD CONSIDERATION ON THE ISSUE OF STAGGERED TERMS FOR THE BOARD MEMBERS IN UPCOMING ELECTIONS.**

Commissioner Wootten explained that looking into the situation of terms of the town and he was very surprised to find that only Atlantic Beach, Cape Carteret and Emerald Isle are not on staggered terms. He proposed to the Board that the town go to four-year terms for Commissioners that would be effective after the next election and, in order to get the staggered part, the top three vote getters in the next elections would have four-year terms and the bottom two vote getters would have two-year terms and then those terms would rotate on a four-year basis. Why is he doing this or why is he even thinking about it or asking the Board to think about it? He has looked back at the present Board, and even with Mrs. Harris available to share some experience with the new Board, he has looked at how much they know and are still learning. He became convinced of the stability of having two people on the Board to carry forth to provide continuity. Another reason for getting into this is the belief that if there were just three Commissioners up for election in a given year or two, we might just get more citizen involvement and interest in becoming a Commissioner. If there are only three seats up, there might be eight or nine people interested in running. The people in the town would have a chance to vote for the best person, not necessarily alignment with other groups or whatever. A secondary consideration, a pet peeve of his, is to try to desensitize the election process in the Town and if there were only three up, it might lower the emotional levels. If agreed on, a Resolution would have to be passed followed by a Public Hearing and making any changes in the Charter or whatever. No urgency is associated with this but the sooner this process is completed, the better off the town would be for future elections.

Cary Harrison, a member of the Planning Board, made a comment that this is the way the Planning Board terms are now and they always have experienced people on board to help out with new board members.

Ted Williamson spoke this issue has been considered previously by the Board about 10 years ago and came up for a vote by the public and was defeated. Additionally, he does not know if it had to go before the public on a public vote but it did.

Town Attorney Taylor commented, "there are three avenues for which the charter can be modified. One of them is by Ordinance that is passed through this body. This Board may determine to send it to a Referendum rather than do it by Ordinance. The third mechanism is by petition of the populace where 50 percent of the citizens can petition that it be put up for a vote.

Commissioner Wootten suggested that it be taken to a Public Hearing and if there is a resounding support from the Public Hearing that it should go to a Referendum or whatever, we will go that way.

Commissioner Wootten said he is in a great position to make this suggestion because he does not think he will be stupid enough to do this again!

Commissioner Wootten moved that the Board proceed next month with the next step of the preparation of a Resolution of Intent. Commissioner Murphy seconded the motion and the Board vote was unanimous.

d. **DISCUSSION AND POSSIBLE APPROVAL OF A RESOLUTION**

REQUESTED BY TIME WARNER CABLE RELATIVE TO MERGER WITH AMERICA ON LINE.

FCC rules require that the merger documents be presented to Franchisees when such mergers occur and the Town's franchise agreement with Time Warner which is now in its 8th year of a 15-year contract states under "Transfer of Franchise", Section 12 that "Grantee shall not sell, transfer or encumber its system or this franchise, nor shall control of fifty percent (50%) or more of the presently issued and outstanding stock of Grantee be transferred to or from any person, firm, corporation or other entity without the prior approval of the Town, which shall not be unreasonably withheld." This merger is a 50-50 merger and the Town must officially approve of it by Resolution.

This merger between these very large corporations should have no bearing on the Franchise Agreement between Time Warner and the Town of Emerald Isle.

Mr. Allen read the Resolution for the benefit of the public.

Commissioner Murphy moved, Commissioner Farmer seconded and the Board voted unanimously to approve the Resolution Providing For The Change in Control Of a Cable Television Franchisee.

e. **DISCUSSION OF WETLANDS**

Commissioner Farmer commented on the filling of wetlands. She said " I think we all know we have flooding problems in Emerald Isle especially along the Coast Guard Road area. We are also running out of building lots. A lot of the lots that are left are also wet from stormwater from building lots that is around them.

Commissioner Farmer moved that the Board amend the Emerald Isle, and the motion is to send to a Public Hearing next month, Town Code Section 16-4 Applicability of the Stormwater Ordinance that currently reads:

(a) Generally. All development including all single-family or duplex residential dwellings constructed within the town after the effective date of this chapter must comply with minimum stormwater control standards. The new language will read – Further as a minimum means of stormwater control, the town prohibits filling or other detrimental activities in any wetlands on any lot permitted for development after March 14, 2000. Hand clearing only of dead vegetation may be allowed by permit following site visit by Town permit officer. Cases where this prohibition will deny property owners use of the property must be referred to the Emerald Isle Board of Adjustment for possible variance.

Commissioner Trainham seconded the motion.

DISCUSSION: **Commissioner McElraft** said she is not ready to send this off until she talks with

CAMA people and the Corps of Engineers. She feels she is ignorant on this. It has been just kind of thrown out here and she has not really read up on it enough and she is not even prepared tonight to send it on.

Commissioner Farmer commented, you will find in your discussions with the Corps that any wetlands less than ½ acre are automatically permitted to be filled. The Corps is essentially a permitting agency for wetlands. The purpose of this is not to stop people from developing their land. The purpose of this is to make them think twice before they site a house over wetlands. There are a couple of good reasons for that. One is that houses that are built on wetlands have problems with cracking and mold, so it is not a great place to put a house anyway. Also when we loose these wetlands, we loose the area that helps contain our rainwater.

Commissioner McElraft commented that what Commissioner Farmer is suggesting is that we go above the Corps and CAMA regulations and make more stringent controls. Commissioner Farmer answered "absolutely". **Commissioner McElraft** indicated that she is not ready for that yet.

Commissioner Murphy had a question about hand removal of dead vegetation. He wanted to know if this had to be done only by hand?

Commissioner Farmer answered "yes". As soon as you go into wetlands where the bulldozers are running, not only are you getting the dead vegetation that is there but you are destroying what the bulldozer just ran over. That is a big problem.

Commissioner McElraft asked if Commissioner Farmer considers the area in Spinnakers Reach wetlands? The Corps have said that Spinnakers is wetlands.

Commissioner Wootten expressed his concern about the timing. He does not know why this has to be brought to a public hearing next month. This is a subject that people need to look at. We put this in the paper two weeks from now, we are basically saying that the residents of the Town have two weeks to decide whether they agree with this and prepare themselves to come to a Public Hearing. Commissioner Wootten feels that at a minimum, a Public Hearing should be held 60 days from now. This will give people the opportunity to get educated. Commissioner Wootten has problems with the wording of what is being done – "filling or other detrimental activities". He can see a case from someone who is a wetlands advocate, detrimental activities could end up being walking on a piece of property or cutting. If the Board of Adjustment is going to be put in the middle of this, the Board of Adjustment needs to have input as to what wording is needed in the Ordinance so that they can, in fact, make intelligent decisions as to what we are trying to do. This is a major change. For the first time, the Board is deciding if it needs something better than the Corps of Engineers or CAMA. Commissioner Wootten feels that the Board is going too fast and is being too vague. He would like to see this not come up for a Public Hearing next month.

Commissioner Murphy indicated he also would like a little more time. He feels that 60 days would give him time to get educated on this and make the right decision.

Mayor Harris asked that the Board think about the devastation that has already taken place in filling of wetlands. She asked that they look at the stormwater and the problems that we have. "We need to protect, desperately, our wetlands".

Commissioner Murphy agreed with Mayor Harris and said "but what we have here is going above CAMA regulations".

Mayor Harris commented, "CAMA regulations and the Corps have ignored everything. Do you realize that when a subdivision comes in and the wetlands are this size (big) and the Corps has said this is the designated wetlands, but then you may get a nationwide permit to fill in less than an acre. This huge wetland that protected us and did so much for this town is now this piece, this lot, this lot, etc. The Corps could care less and CAMA could care less. This is the result.

Commissioner McElraft commented, "the Board needs to hear from the property owners, the people who are going to be affected by this. They cannot even build properly on their lots now."

Commissioner Farmer said " I have made that clear. In no way does this stop people from building on their lots. In fact they go to the Board of Adjustment for a variance.

Commissioner McElraft stated she had tried to get a variance from the Board of Adjustment and it is not easy.

Commissioner Farmer stated, "I can guarantee you that if you are denied use of your property, the Board of Adjustment will very quickly give you a variance. The point is that if you build a house in one case where you want to fill in a significant portion of a wetland or even a small one, but if you moved it over three feet, you wouldn't be filling in that wetland at all is a significant difference. We cannot afford to keep losing these wetlands in Emerald Isle."

Commissioner Trainham agrees totally with this. It has been done over and over in our own areas, the creation of moving waters, the salt killing out the plant life mainly because people have filled in wetlands and done so without any kind of concern for our fishing and other aspects of wetlands. He does not see the point of putting this off. The more you put it off the worse it is going to get. It is already bad. He does not know how the Board is going to correct what is already done. The Board can certainly stop what has been done so that it will not continue to be done. He has no objections to 60 days if the rest of the Board wants that, but it has to be gotten on to right away. We cannot keep putting it off.

Commissioner Farmer amended her Motion to have a Public Hearing to consider the possibility of amending Section 16-4 of the Town of Emerald Isle Ordinances to read as follows:

Section 16-4 Applicability (a) Generally. All development including all single-family or duplex residential dwellings constructed within the town after the effective date of this chapter must comply with minimum stormwater control standards. Further, as a minimum means of stormwater control, the town will prohibit filling or other detrimental activities which may be further defined at the Public Hearing in any wetlands on any lot submitted for development. Hand clearing only will be allowed for dead vegetation by permit following a site visit by the town permit officer. Cases where this prohibition would deny property owners use of property would be referred to the Emerald Isle Board of Adjustment for possible variance. This Public Hearing will be held May 9th at the regular scheduled meeting of the Town Council.

Commissioner Trainham seconded the motion.

Commissioner McElraft is concerned that "mud holes are being called wetlands".

Mrs. Ceil Saunders said the public has been educated. There have been people coming to talk about these things. All you have to do is just ride around town.

Mr. John Grady shared his concerns about those who have already built that have wetlands and were not allowed to haul dirt in but three houses down they can haul in dirt up to 5-10 feet. All of that water is going right back to that wetland you are talking about.

Commissioner Farmer commented, this is for lots permitted for development after March 14, 2000. She feels that anyone around Mr. Grady that is filling will make it even worse. **Mr. Grady** asked what are we going to do with the water we have already got when we gave permission for them to fill in? We have a problem and have had since 1992.

Mayor Harris commented, the town does not make a decision on what is and is not wetlands. The Corps of Engineers has designated the wetlands. The Town makes no decisions about that at all.

Mrs. Honey Orlando, a newcomer, has traveled all over looking at property along the Eastern seaboard because they want to be sure about where they bought and they now own a lot in Spinnakers Reach, commented that areas like the Isle of Palms, Charleston Sullivan's Island, the whole area has had problems with wetlands and what they have done is they have gone in, dug them out and turned them into absolutely beautiful park areas. The animals and flowers are all coming back and the parks are clear and clean. She applauds Commissioner Wootten on his suggestion to give the people a chance to get some education on this. She said the areas she talked about above did not fill in. There are ways to enhance them.

Mr. Bill Reist thinks a moratorium is a great idea. It will give the people time to obtain education but it also prohibits those people who are eager to get in there and fill in real quick as soon as this word gets out. He feels the Board needs to move rapidly.

Mrs. Angus from the Inspections Office asked what was she to do if someone came tomorrow and wanted a permit if there was no "401 wetlands" just "wetlands"? The answer was that she is to write the permit.

The Board voted with a vote of 4 in favor and 1 against. Commissioner McElraft voted no.

f. WISH LIST FROM BUILDING INSPECTIONS

Mayor Harris read a list that the Building Inspections Department has been requesting for quite a few years for consideration and action on. They have requested a Public Hearing for adoption of the changes on April 11th.

Commissioner Wootten commented, his list is not as that read. This is just another example of pieces of paper with changes on them.

Mayor Harris said "this was talked about today and we changed it."

Commissioner Wootten commented, this is not the way to go about making decisions. If you expect this Board to make an intelligent decision, you cannot have changes. He recommended that this be shelved until next month so there will be a proposed amendment for the Board to look at the wording of the proposed amendment and do something about it.

Commissioner Farmer said most of this the Board is familiar with and she is not willing to shelve the whole thing. **Commissioner Trainham** commented, neither is he.

Town Manager Allen commented, that in the past with amendments to the Codification, the Town Attorney has prepared those amendments. You are asking this Board to consider items that you do not know what the wording is going to be on them.

Commissioner Wootten said what is supposed to be here is the proposed changes of what the Public Hearing was to be about and what the wording of those changes were going to be.

After much discussion it was decided that the Inspections Department would draw up the changes for the Town Attorney to draw up the Amendment.

Town Attorney Taylor commented, before you publish for your Public Hearing, you have to have sufficient information in that Public Hearing so that someone can identify what business you are going to be dealing with at that Public Hearing.

Commissioner Wootten moved that the Board have the Town Attorney adopt the list of 8 potential changes to the Code into the wording of a Codification change that will be reviewed at the next Town meeting.

Discussion took place regarding the possibility of taking this up at the Special Meeting on April 6th.

Commissioner Wootten moved that the Board instruct the Town Attorney to take the topic items "Wish List" and put them into the legal wording that would result in a Codification change which will be tentatively reviewed and approved by the Board at a meeting of April 6th. Commissioner Farmer seconded the motion and the Board's vote was unanimous.

The possibility of a moratorium on swimming pools was discussed. No action took place on this issue.

10. ROUTINE TAX REFUNDS AND RELEASES.

Commissioner Wootten moved, Commissioner Farmer seconded and the Board voted unanimously to approve the routine tax refunds and releases.

11. COMMENTS FROM THE PUBLIC.

Mr. Forest Owens of Bogue Inlet Drive commented he addressed the Board in January regarding the park for children. Three days later, the old park was taken down and now we have a great park. He thanked the Board for this. He has noticed two Birthday Parties being held there with about 40 kids running, climbing, playing and laughing.

Mr. Fred Josey of West Landing Drive complimented Commissioner Wootten and his people for the Web Page. He commented it is a good Web Page. He has accessed everything in there and the only thing he could not pull up was the Ordinances. He asked if the legal things, things like was discussed tonight, could be shown on the Web Page so the public can see those. The next thing he pulled up was Beach Renourishment. He commented that what was posted on the Web Page was strictly "pro" for the "yes" crowd. He asked if that implied that the Commissioners and Mayor are in favor of beach renourishment or are they willing to have someone come in and put up the "other side" on the Web Page also. Mayor Harris commented she did not know it was on the Web Page? **Mr. Josey** said, "it is just like it was put out in the Emerald Tidings which also implies that the Board is pro." **Commissioner Wootten**

commented, "he does not like the implications that are being presented. That piece of paper does not say anything about how the Board feels". **Mr. Josey** said, the fact that it is published in the paper and from the "pro" crowd, he does not know how it got there and he is not sure if it would be proper for someone like Mr. Grady to come up with a counter for that.

Commissioner Wootten said, " It was public information that was put on the Web Page and I can guarantee that there was no linkage that that was "pro" or "con" either way. **Mayor Harris** commented, "I would think the public did". **Mr. Josey** confirmed that this was the attachment that was included in the newsletter from the "pro" crowd. This is what he is referring to as being published on the Web Page.

Mayor Harris replied "I am sorry to say I have not seen it and I have requested that the Mayor see whatever goes on the Web Page so my apologies to you and the public."

Mr. Josey asked, "You are not one way or the other then?"

Commissioner Murphy replied "Our position was to send it forth to go before an election on March 21st.

Mayor Harris requested at this time to see whatever goes on the Web Page.

Ted Williamson from Lands End came forward saying he addressed the Board in June speaking in favor of beach nourishment and he has paid a lot of attention to the issues of beach nourishment and has learned what he can about before he endorsed it. Since that time he has tried to follow this business leading up the Referendum on March 21st and paying as much attention to all the details as he has been able to, he has come to the conclusion that the proposal being put to the public on March 21st is a very poor proposal. He could outline a number of reasons for holding that opinion but there has already been way too much talk here tonight already. **Mr. Williamson** simply encouraged anybody who is interested in this to give it very serious consideration before voting no.

Mr. Williamson came back to the speaker to clarify something. He said he believes this is an extremely poor proposal. He believes that it was hastily collected , he believes it is unconscientiously biased and he believes that everybody in Carteret County ought to vote "No".

Mrs. Dojy Marks of Sandcastle commended the Planning Board for addressing the issue of building heights in Emerald Isle. When she came here, it was just a beautiful family beach, not because it was Myrtle Beach. So many have said they came here because it was not like Myrtle Beach.

Mayor Harris read considerations from people who did not want to stand up before the public.

Mr. Doug Langston, 103 Hubert Street, has proposed that a directional sign for the new parking lot and public access be posted at Islander Drive and Highway 58. In addition, the signs at the end of the Emerald Isle Bridge should show the mileage to the other regional access parks. He pointed out that all of these signs should show the facilities that are available, using the universal symbols for handicapped, rest rooms, etc.

Patricia Polson of 117 James Street expressed her concern about the amount of unsightly debris along the highway caused from the trucks hauling trash without a cover. She suggested that each rental unit have a 90-gallon garbage can with a latch top (to keep the animals out) and that realtors also inspect the outside cleanliness at the start of each rental period. She also proposed that each owner-occupied dwelling have one 90-gallon can with latch top.

Alma Lord, 112 Bluewater Drive suggests that, regardless of the outcome of the beach renourishment vote, the community needs to do the following now: plant serious vegetation on dunes, build sand fences and enforce keep-off-dunes" regulations.

Hildergard Wilson, 6701 Marsh Cove Road is concerned about the CAMA allowing repeated bulldozing of beach sand which lowers the beach by at least one foot each time. In areas where no bulldozing has been done, new sand has built up three feet since Floyd.

REPORTS FROM DEPARTMENT HEADS

Giving Reports from their departments were Town Clerk Carolyn Custy for Administration, Mark Wilson for Police Department, Robert Conrad for Public Works, John Yost for Inspections, Alesia Sanderson for Parks & Recreations and Jeffrey Strawser for Fire Department.

COMMENTS

There were no comments from Town Manager Pete Allen, Town Clerk Carolyn Custy, Commissioner Trainham, Commissioner McElraft,

Commissioner Wootten reminded the Board the questions and answers in the Emerald Tidings were discussed at the Budget Workshop Meeting and the Board's approval was given at that time to put it in the Emerald Tidings. None of the Board put a pro or con on the aspects of that piece of paper when it was discussed.

Commissioner Farmer added she thinks part of the problem with the beach renourishment is that there has not been a really organized group that has had something that would be the other side. She encouraged everyone to vote on the 21st.

Commissioner Murphy asked if the Fire Department responded to an accident in Salter Path and could they have used the new jaws of life that night? **Jeff Strawser's** answer was "yes". Cape Carteret was called in with theirs. **Commissioner Murphy** reminded the public that on March 21st a real important referendum and regardless of how they cast their votes, they do need to vote and encourage their neighbors to do the same. **Commissioner Murphy** commented that Barbara Harris took a lot of criticism several months ago for having the room constructed in the back of the meeting room. He personally has had over 20 meetings with constitutants in that room. He has had 25 to 30 phone calls to that office. He reminded the public that there is one of the council members or the Mayor in that office 5 days a week, three to four hours, to actually meet with the public. It is an asset. He said if anyone wanted to talk to him, call him and he would meet them here at any time.

Town Attorney Taylor commented, it has been a privilege to be here tonight. See you next time.

Mayor Harris commented that the St. Patrick's Festival was great and the Parks & Recreation Department did an excellent job on it.

ADJOURN

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

The meeting was adjourned at 10:15 P.M.

Respectfully submitted,

Carolyn K. Custy
Town Clerk