



Nice Matters!

Town of Emerald Isle
7500 Emerald Drive
Emerald Isle, NC 28594

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www.emeraldisle-nc.org

Mayor
Eddie Barber

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Board of Commissioners
Candace Dooley
Steve Finch
Jim Normile
Mark Taylor

Town Manager
Frank A. Rush, Jr.
frush@emeraldisle-nc.org



June 12, 2018

MEMO TO: Mayor Barber and Board of Commissioners

FROM: Frank A. Rush, Jr., Town Manager

SUBJECT: Resolution Naming McLean-Spell Park and Imposing Restrictions Regarding Ownership and Use

COPY

The Board of Commissioners is asked to approve the attached resolution formally naming the (recently acquired) 29.7 acre Surfside Realty, Inc. tract as McLean-Spell Park, in honor of two of the original founders of Emerald Isle. The attached resolution also formally restricts the use of this land to park and recreation purposes only, and specifically prohibits any future commercial and/or residential development on the property.

The Town agreed to these conditions during negotiations to purchase the property in winter / spring 2017, and the attached resolution formalizes this agreement with the previous owners of the property and will be recorded at the Carteret County Register of Deeds after Board approval. The Board should note that the attached resolution reinforces the restrictions placed on the property by the Town's grant funding partners - the US Department of Defense (Department of the Navy; the Readiness and Environmental Protection Integration Program), the NC Clean Water Management Trust Fund, and the NC Parks and Recreation Trust Fund – that collectively provided \$2.545 million toward the \$3 million purchase price.

I have attached copies of the following documents that describe the restrictions on the Town's use of the property:

- Special Warranty Deed, recorded on May 14, 2018, that includes the required restrictions of the NC Parks and Recreation Trust Fund (highlighted in yellow). This restriction is similar to the attached resolution, and only requires the property to be used as a public park in perpetuity, and places no additional restrictions on the use of the property. As per these restrictions (and the attached resolution), the Town may use any portion of the property or the entire property for any public park features desired, passive and/or active - in any combination desired.
- Grant of Restrictive Easement, recorded on May 14, 2018, provided to the US Department of the Navy. This "military easement" is more restrictive than the attached resolution and the NC Parks and Recreation Trust Fund restrictions. The "military easement" prohibits the construction of any significant buildings on the property (small storage buildings, restroom facilities, etc. are permitted), and also prohibits the installation of any other features (buildings, antennae, lighting, towers, wire, etc. that are higher than 50 feet above ground level. The "military easement" requires approximately 20 acres of the property to be maintained as a natural area, and specifically allows the future development of active recreation facilities on up to 10 acres of the property. The "military easement" also limits the total impervious coverage on the property to 10% of the total land area, or approximately 3 acres (for sidewalks, impervious walkways, buildings, shelters, tennis courts, skate park facilities, etc. that may be constructed in the future). The "military easement" does allow the use of the property for public utilities if desired in the future.
- Declaration of Restrictions and Covenants, recorded on May 14, 2018, provided to the NC Clean Water Management Trust Fund. This "declaration" includes very similar restrictions as the "military easement" regarding the allocation of approximately 20 acres as natural area and up to 10 acres for future active recreation facilities. This "declaration" also

requires all features in the new park to be at least 50 feet from the banks of Archers Creek, where practicable.

As discussed several times in the past year+, the Town pursued the acquisition of this land to prevent the future residential development of the property (since 1977, up to 237 condominium units were permitted by right under the Town's zoning ordinance), to assist MCAS Cherry Point and MCALF Bogue with their goal of preventing additional development in the MCALF Bogue flight path, and to secure strategic and valuable land (adjacent to the Town Government Complex) at minimal cost to the Town's taxpayers for future park and recreation facilities. This land acquisition is primarily an investment in the future of Emerald Isle, and is intended to preserve approximately 20 acres of maritime forest for enjoyment by current and future generations, and also make it possible (on up to 10 acres) for the leaders of the Town to provide active recreation facilities that may be desired by current and future generations.

The future development of active recreation facilities (on up to 10 acres) will be determined by the Board of Commissioners, with public input, as plans materialize in the coming months and years. At this time, McLean-Spell Park includes a network of nature trails and incidental signage and amenities only, with two secondary park entrances (no automobile parking) established on Sound Drive and one behind Fire Station 1. A new pedestrian walkway is planned to cross Archers Creek and link the Community Center (and associated automobile parking) to McLean-Spell Park, and this new walkway will become the primary park entrance. We expect to construct the new walkway later this summer, and there are currently no other specific park development plans. The Town's new Dog Park Development Committee has indicated its preference to include a dog park at McLean-Spell Park in the future, but has not yet made a formal recommendation for consideration by the Board of Commissioners. Any future development of active recreation facilities (on up to 10 acres) will be carefully considered, and constructed in an environmentally-friendly manner that integrates with the remaining approximately 20 acres of McLean-Spell Park. Although not required by any of the aforementioned restrictions, I imagine that the Town will also work diligently to provide a significant buffer between any future active recreation facilities and nearby residential properties.

As you know, the Town worked diligently with our funding partners (also including The Conservation Fund of NC and NC Representative Pat McElraft) to secure the necessary grant funding for this land acquisition, which would not have occurred without the Town's proactive efforts and the support and cooperation of many committed individuals and organizations. I am thankful for the cooperation of the previous land owners (Surfside Realty, Inc., led by Emerald Isle resident Georgia Ricks) on this land acquisition, and also thankful for the timing. With the increasing demand and price escalation in the local real estate market, it is likely that this property would have been developed in the near future had the Town not acted to acquire the property in early 2017.

I recommend approval of the attached resolution.



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**RESOLUTION NAMING MCLEAN-SPELL PARK AND IMPOSING RESTRICTIONS
REGARDING OWNERSHIP AND USE**

Whereas, Surfside Realty, Inc. offered to sell to the Town a 29.7 acre tract on the north side of NC 58 (Emerald Drive) adjoining the current Community Center, Police Station, Town Board Meeting Room, Public Works facility, and Blue Heron Park, shown on a plat recorded in Map Book 31, page 646, Carteret County Registry; and

Whereas, the Town was able to fund the purchase through grants from the United States Department of Defense (particularly the Department of the Navy), the North Carolina Clean Water Management Trust Fund, and the North Carolina Parks and Recreation Trust Fund; and

Whereas, the Town intends to hold the tract as a natural area, buffer, park, and recreation area with walking trails, fields, and active recreation facilities, for the benefit of the general public, and now desires to restrict the area to uses other than residential, commercial, or business; and

Whereas, the Town has agreed to and desires to honor the McLean and Spell families for their significant and lasting contributions to the development, history, and culture of the Town by naming the park area as "McLean-Spell Park";

Now, therefore, be it resolved by the Emerald Isle Board of Commissioners that:

1. The Park area is hereby designated as "McLean-Spell Park" in honor of W.B. McLean and George Spell and their families and descendants, to be appropriately designated and marked with signage;
2. The Park area is restricted from commercial and/or residential development and is to be used as a natural area, buffer, park, and recreation area, or other non-commercial public purposes for the benefit of the general public, subject to the right of the Town to either sell or use a portion of the property for utility, storm water, drainage, or other non-commercial public purposes, as determined from time to time by the Board of Commissioners to be in the best interest of the Town, subject to the condition that such use or uses do not materially interfere with the primary use of the property as a natural area, buffer, park, and recreation area.
3. Subsequent conveyances of the property shall be subject to these restrictions and are binding on the Town and its successors and assigns and run with such real property.

Adopted this the ____ day of _____, 2018.

ATTEST:

Eddie Barber, Mayor

Rhonda Ferebee, Town Clerk. CMC