

1                                   **MINUTES OF THE REGULAR SCHEDULED MEETING**  
2                                   **OF THE EMERALD ISLE BOARD OF COMMISSIONERS**  
3                                   **TUESDAY, JULY 9, 2013 – 7:00 P.M.**  
4                                   **TOWN BOARD MEETING ROOM**

5  
6  
7    **1. Call To Order**

8  
9    The regular monthly meeting of the Emerald Isle Board of Commissioners was  
10 called to order by Mayor Art Schools at 7:00 PM in the Emerald Isle Town Board  
11 Meeting Room.

12  
13   **2. Roll Call**

14  
15    Present for the meeting: Mayor Art Schools, Commissioners Nita Hedreen, Tom  
16 Hoover, Floyd Messer, John Wootten, and Maripat Wright.

17  
18    Also present during the regular meeting: Town Manager Frank Rush, Town  
19 Attorney Richard Stanley, Asst. Town Manager / Finance Officer Mitsy Overman,  
20 Town Clerk Rhonda Ferebee, Police Chief, Jeff Waters, and Fire Chief Bill  
21 Walker.

22  
23    Also in attendance: Rob Harris, Surfrider Foundation

24  
25   **3. Opening Prayer**

26  
27    Mayor Art Schools provided the opening prayer for the meeting with a prayer that  
28 he heard during the opening sessions of the House of Representatives while he  
29 was in Raleigh recently as offered by Representative Ruth Samuelson.

30  
31   **4. Pledge of Allegiance**

32  
33    All who were present recited the Pledge of Allegiance.

34  
35   **5. Adoption of Agenda**

36  
37    ***Motion was made by Commissioner Wright to adopt the Agenda. The***  
38 ***Board voted unanimously 5-0 in favor. Motion carried.***

39  
40   **6. Recognition of 25-Year Employee Service – Don Askew, Assistant Fire**  
41 **Chief**

42  
43    Mayor Schools and Fire Chief Walker recognized Assistant Fire Chief Don  
44 Askew with a service award for his 25 years of full-time service with the Town of  
45 Emerald Isle. Asst. Fire Chief Askew stated that he appreciated the opportunity  
46 to have worked and served the community.

1  
2 **7. Introduction of New Employee**  
3

4 **a. Bill Morris, Police Officer**  
5

6 Police Chief Jeff Waters introduced Bill Morris, the Town's newest full-time Police  
7 Officer to the Board and public. Chief Waters noted that Officer Morris came  
8 onboard in February as a part-time officer and was promoted to full-time in May.  
9 Chief Waters stated that Officer Morris came to Emerald Isle with 13 years of law  
10 enforcement experience. Officer Morris received a warm welcome from the  
11 Board and public.  
12

13 **8. Proclamation / Public Announcements**  
14

15 Mayor Schools noted the following announcements for the public:  
16

- 17 • **Board of Adjustment Meeting – Wednesday, July 10 – 9 am – Town**  
18 **Board Meeting Room (may be cancelled)**
- 19 • **EmeraldFest Concert – “4EverAll Trio” – Thurs. July 11 – 6:30 – 8:00**  
20 **pm – Western Ocean Regional Access**
- 21 • **Friday Free Flick – Friday, July 12 – 7 pm – Community Center –**  
22 **“Life of Pi”**
- 23 • **Youth Tennis Camp – July 15 – 19 – Blue Heron Park Tennis Courts –**  
24 **Must pre-register**
- 25 • **EmeraldFest Concert – “Big Jim Kohler” – Thurs. July 18 – 6:30 –**  
26 **8 pm – Western Ocean Regional Access**
- 27 • **Carolina Region Jr. Beach Volleyball Tournament – Sat. July 20 – 9**  
28 **am – 5 pm – Western Ocean Regional Access**
- 29 • **Planning Board Regular Meeting – Monday, July 22 – 6 pm – Town**  
30 **Board Meeting Room (may be cancelled)**
- 31 • **CPR Class – Tuesday, July 23 – 10 am – 1:30 pm – Community**  
32 **Center – Must pre-register**
- 33 • **EmeraldFest Concert – “Justin Castellano” – Thurs. July 25 – 6:30 –**  
34 **8:00 pm – Western Ocean Regional Access**
- 35 • **Co-Ed 2 v 2 Beach Volleyball Tournament – Sat. July 27 – 9 am until –**  
36 **Western Ocean Regional Access**
- 37 • **EmeraldFest Concert – “Wild Honey” – Thurs. August 1 – 6:30 –**  
38 **8:00 pm – Western Ocean Regional Access**
- 39 • **Classic Movie Night – Friday, Aug 2 – 7 pm – Community Center**
- 40 • **EmeraldFest Concert – “Big Drink” – Thurs. August 8 – 6:30 –**  
41 **8:00 pm – Western Ocean Regional Access**
- 42 • **Friday Free Flick – Friday, August 9 – 7 pm – Community Center**
- 43 • **Town Board Regular Meeting – Tuesday, August 13 – 7 pm – Town**  
44 **Board Meeting Room**

1  
2 Mayor Schools also mentioned the heroic lifesaving efforts by teenager Katie  
3 Nickels who recently used her CPR skills and saved the life of a 3 year old girl.

4  
5 **9. Public Comment**

6  
7 **Brief Summary: The public will have the opportunity to address the Board**  
8 **about any items of concern not on the Agenda.**

9  
10 There were no comments from the public.

11  
12 **10. Consent Agenda**

- 13  
14 a. Minutes – May 14, 2013 Regular Meeting  
15 b. Minutes – May 21, 2013 Special Meeting  
16 c. Minutes – June 4, 2013 Special Meeting  
17 d. Minutes – June 11, 2013 Regular Meeting  
18 e. Minutes – June 11, 2013 Closed Session  
19 f. Tax Refunds / Releases  
20 g. Cape Emerald Pond Maintenance Agreement

21  
22 *Motion was made by Commissioner Hedreen to approve the items on the*  
23 *Consent Agenda. The Board voted unanimously 5-0 in favor. Motion*  
24 *carried.*

25  
26 Town Manager Rush noted that the Board had a replacement at their places for  
27 Item 10g – Cape Emerald Pond Maintenance Agreement.

28  
29 **Clerks Note: A copy of Consent Agenda items as noted above are incorporated herein by reference**  
30 **and hereby made a part of these minutes.**

31  
32 **11. New Fire Engine**

- 33  
34 a. **Public Hearing – Waiver of Bidding Requirements and Reliance Upon**  
35 **a Competitive Bid Process by Georgetown Charter Township, MI**  
36 b. **Public Hearing on Proposed Installment Financing Agreement**  
37 c. **Resolution Authorizing Installment Financing Agreement with First**  
38 **Citizens Bank (13-07-09/R1)**  
39 d. **Resolution Authorizing Purchase of New Fire Engine from Toyne,**  
40 **Inc. (13-07-09/R2)**

41  
42 Fire Chief Bill Walker addressed the Board concerning this agenda item. The  
43 following excerpt from the Town Manager's memo to the Board is provided for  
44 additional background:

45  
46

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1  
2 The Board of Commissioners is scheduled to consider several action items pertaining to the purchase of a new Fire  
3 engine at the July 13 meeting.  
4

5 The central item for consideration is the purchase of a new Fire Engine from Toyne, Inc., Breda, IA, for a total  
6 purchase price of \$449,366. The other actions scheduled for consideration are a public hearing on the use of the  
7 "piggyback" purchasing method for the new Fire Engine, a public hearing on the issuance of \$455,000 of new debt to  
8  
9 finance the purchase of the Fire Engine and other associated equipment, and a resolution authorizing an installment  
10 financing agreement with First Citizens Bank, Raleigh, NC.  
11

12 As you know, the purchase of the new Fire engine was discussed during the budget process over the past several  
13 months. The adopted FY 13-14 budget anticipated that the Town would finance a total of \$455,000 for the new Fire  
14 Engine and associated equipment.  
15

16 A more detailed description of each action item follows.  
17

18 Public Hearing on Waiver of Bidding Requirements and Reliance Upon a Competitive Bid Process by Georgetown  
19 Charter Township, MI

20 As you know, the Emerald Isle Fire Department utilizes 4 large fire trucks, and the Town expects to receive a useful life  
21 of at least 20 years from each. In an effort to stabilize annual expenditures associated with these expensive trucks, the  
22 Town has adhered to a plan to replace one Fire engine every 5 years and to finance each purchase with a 5-year  
23 installment financing agreement.  
24

25 The last Fire engine was replaced in FY 08-09, and it is now time to replace another Fire engine in FY 13-14. The new  
26 Fire engine to be considered on July 9 will replace an existing 25-year old (1988) Seagrave pumper truck. The Town's  
27 other Fire trucks are a 1998 E-One ladder truck, a 2004 E-One pumper truck, and a 2009 E-One pumper truck.  
28

29 As utilized for previous large vehicle purchases, the Board is asked to consider authorizing the purchase of the new  
30 Fire engine via the "piggyback" purchasing method authorized by the NC General Statutes. In order to utilize the  
31 "piggyback" method, the Town is required to advertise such and conduct a public hearing before authorizing the  
32 purchase. The Town placed the appropriate notice (copy attached) in the June 29 edition of the Carteret County  
33 News-Times and on the Town's website, and has scheduled a public hearing for the July 9 meeting.  
34

35 NC General Statutes allow the waiver of the requirements of the formal bid process under the "piggyback" method if  
36 same or better terms are offered to the Town as a previous competitive bid process completed by another unit of  
37 government. The previous competitive bid process must have occurred within the past year, and can be from any  
38 Federal agency, State government, or local government in the United States, provided the process is similar to that  
39 used in North Carolina. The vendor, Toyne, Inc., identified a nearly identical Fire engine as the one specified by the  
40 Town that was sold to Georgetown Charter Township, MI in January 2013, and has offered nearly identical terms to the  
41 Town. Georgetown Charter Township completed a competitive bid process, and purchased a Fire Engine from Toyne,  
42 Inc. for \$481,307. The negotiated purchase price for Emerald Isle is \$449,366, which is slightly less than Georgetown  
43 Charter Township, due to minor adjustments to the features included on the new Fire Engine. Documentation of  
44 Georgetown Charter Township's competitive bid process is attached.  
45

46 The purpose of the required notice and the public hearing is to 1) enable the public to comment on the proposed  
47 purchase, and 2) to enable other Fire Engine vendors to become aware of the proposed purchase and theoretically  
48 offer a better price to the Town. As of July 5, the Town has not received any inquiries from other vendors in response  
49 to the June 29 notice.  
50

51 Public Hearing on Proposed Installment Financing Agreement

52 The Board is also scheduled to conduct a public hearing on the proposed installment financing agreement that is  
53 necessary to finance the purchase of the new Fire Engine and associated equipment. NC General Statutes do not  
54

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1  
2 require this public hearing, nor is the approval of the NC Local Government Commission required, however, in the  
3 interest of public participation, we have scheduled a public hearing for the July 9 meeting.  
4

5 The Town solicited financing proposals in June, and received three proposals. First Citizens Bank submitted the most  
6 attractive financing proposal, and the attached resolution would authorize an installment financing agreement with First  
7 Citizens Bank. First Citizens Bank offered an annual interest rate of 1.63% for the specified 5-year term. The other  
8 financing proposals included annual interest rates of 1.70% (BB&T) and 2.95% (Sound Bank).  
9

10  
11 As noted above, the Town would finance a total of \$455,000. This amount includes the proposed purchase price of  
12 \$449,366 plus an additional \$5,634 for associated equipment. Annual principal and interest payments of  
13 approximately \$95,498 would begin in August 2014 and continue until August 2018. The first debt service payment  
14 would be due in FY 14-15, as anticipated in the Town's 5-year Capital Replacement / Improvement Plan and future  
15 budget projections. The Town's future budget projections anticipated that the total annual payment beginning in FY  
16 14-15 would be approximately \$95,833, thus the actual installment financing agreement is just slightly less than  
17 projected.  
18

19 Resolution Authorizing Installment Financing Agreement With First Citizens Bank

20 This attached resolution formally authorizes the Town Manager and other Town officials to execute the installment  
21 financing agreement described above with First Citizens Bank.  
22

23 This attached resolution indicates that the installment financing agreement will be consistent with First Citizens Bank's  
24 proposal dated July 2, 2013, and also notes that the installment financing agreement is a qualified, tax-exempt  
25 obligation (i.e., the Town will not issue more than \$10 million of debt in 2013, which would jeopardize the tax-exempt  
26 nature of this installment financing agreement). The debt will be secured by the new Fire engine.  
27

28 Closing on the installment financing agreement would occur sometime in August, and financing proceeds will be held in  
29 escrow until payment is due to Toyne, Inc. in spring 2014.  
30

31 Resolution Authorizing Purchase of New Fire Engine from Toyne, Inc.

32 The attached resolution formally authorizes a purchase contract with Toyne, Inc. for \$449,366, as described above.  
33

34 As noted earlier, the new Toyne Fire engine will replace a 1988 Seagrave Fire engine that is beyond its useful life to  
35 the Emerald Isle Fire Department. The 1988 Seagrave has approximately 115,000 miles on it, and has served the  
36 Town well over the past 25 years. The 1988 Fire engine will be auctioned in 2014, most likely to a small volunteer Fire  
37 Department.  
38

39 The attached memo from Fire Chief Bill Walker includes a detailed explanation of the need for and the benefits of the  
40 new Fire engine. The purchase contract calls for delivery of the new Fire engine within 270-300 days, and we expect  
41 the new Fire engine to be in use in Emerald Isle by spring 2014. Chief Walker will attend the July 9 meeting and  
42 provide additional details on the proposed new Fire engine.  
43

44 Fire Chief Walker responded to a question from Mayor Schools about brands of  
45 trucks, noting fire trucks were built to specifications. Chief Walker said that this  
46 truck from vendor Toyne, Inc. was similar to the last fire truck purchased from E-  
47 One except it would have a shorter cab to fit the short area available in the Fire  
48 Station. Commissioner Hoover asked whether this new truck would improve the  
49 town's ISO rating. Fire Chief Walker said that the ISO ratings would not be  
50 improved because of the age of the fire trucks however it requires that the trucks  
51 pass service tests. Town Manager Rush added that the replacement truck will  
52 allow the Town to maintain the current ISO rating. Fire Chief Walker explained

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1  
2 the process they used to determine the best truck for the department's needs.  
3 Town Manager Rush said they were using a provision in the general statutes that  
4 allowed the Town to "piggyback" on a competitive bid process used by another  
5 unit of government; this particular truck and the purchase price had already gone  
6 through a competitive bidding process by a community in Michigan. The Town  
7 was taking advantage of the provision in the statutes which included a public  
8 hearing as advertised and scheduled for tonight as one of the required  
9 procedures.

10  
11 Town Manager Rush also briefed the Board on the financing aspect of this item,  
12 noting the low interest rate quote of 1.63% from First Citizens Bank with a 5-year  
13 financing agreement. Town Manager Rush noted that while there was no legal  
14 requirement for a public hearing on the financing it was the Town's practice to  
15 hold a public hearing as a matter of open government and that had also been  
16 advertised for tonight.

17  
18 ***Motion was made by Commissioner Messer to open the public hearing on***  
19 ***the waiver of bidding requirements and the reliance upon a competitive bid***  
20 ***process by Georgetown Charter Township, Michigan. The Board voted***  
21 ***unanimously 5-0 in favor.***

22  
23 There were no comments from the public.

24  
25 ***Motion was made by Commissioner Wooten to close the public hearing.***  
26 ***The Board voted unanimously 5-0 in favor. Motion carried.***

27  
28 ***Motion was made by Commissioner Hoover to open the public hearing on***  
29 ***the proposed installment financing agreement. The Board voted***  
30 ***unanimously 5-0 in favor. Motion carried.***

31  
32 There were no comments from the public.

33  
34 ***Motion was made by Commissioner Hedreen to close the public hearing.***  
35 ***The Board voted unanimously 5-0 in favor. Motion carried.***

36  
37 ***Motion was made by Commissioner Wright to approve the Resolution***  
38 ***Authorizing an Installment Financing Agreement with First Citizens Bank.***  
39 ***The Board voted unanimously 5-0 in favor. Motion carried.***

40  
41 ***Motion was made by Commissioner Hoover to approve the Resolution***  
42 ***Authorizing the Purchase of a New Fire Engine from Toyne, Inc. The Board***  
43 ***voted unanimously 5-0 in favor. Motion carried.***

44  
45 **Clerks Note: A copy of Resolutions 13-07-09/R1, and 13-07-09/R2 as noted above are incorporated**  
46 **herein by reference and hereby made a part of these minutes.**

1  
2 **12. Ordinance Amending Chapter 3 – Alarm Systems – and Chapter 14 –**  
3 **Police Department – of the Code of Ordinances and Redesignating as**  
4 **Chapter 3 – Police Department (Comprehensive Review) (13-07-09/O1)**  
5

6 Town Manager Frank Rush and Police Chief Jeff Waters addressed the Board  
7 concerning this agenda item. The following excerpt from the Town Manager's  
8 memo to the Board is provided for additional background:  
9

10 As part of the Town's ongoing comprehensive review of all Town ordinances, the Board of Commissioners is  
11 scheduled to consider proposed amendments to Chapter 3 – Alarm Systems and Chapter 14 – Police Department - of  
12 the Code of Ordinances at the July 9 meeting. Because the current Chapter 3 pertains primarily to the Police  
13 Department, and because most of the current Chapter 3 is proposed to be eliminated, the attached ordinance  
14 amendment also includes proposed amendments to Chapter 14 – Police Department and the redesignation of the  
15 ordinances in Chapter 14 as a new Chapter 3 – Police Department.  
16

17 As you know, the Town is undertaking a comprehensive process that is intended to review, clarify, and condense the  
18 entire Code of Ordinances of the Town of Emerald Isle. The Town is now more than 56 years old, and numerous  
19 ordinance amendments have been made over the years with input by many different groups and individuals, all likely  
20 with good intentions, and sometimes there are unintended impacts on or conflicts with other ordinance provisions.  
21 State law and common practice also change over time, and this sometimes leads to out of date provisions or  
22 confusion. In other cases, it may be helpful for the Town to critically ask itself if it really needs certain ordinance  
23 provisions.  
24

25 As discussed previously, my goal is for Town staff and me to complete a comprehensive review of all Town ordinances  
26 with a critical eye. During this review, conflicting or confusing provisions are being targeted for clarification,  
27 unnecessary provisions are being targeted for elimination, and in some cases out of date or un-enforced provisions are  
28 being targeted for elimination. The Board previously reviewed and approved comprehensive amendments to the Town  
29 Charter, Chapter 1, and Chapter 2, and comprehensive amendments to Chapters 3, 8, and 14 are on the Board's July  
30 9 meeting agenda. Although we have strayed from the original goal to consider one chapter each month, my goal  
31 going forward is still to present at least one of the 11 chapters for comprehensive review and amendments each month  
32 in the future. If we stay on schedule, one chapter will be presented each month, and at the end of the 12 month period  
33 the entire Code of Ordinances will have been thoroughly reviewed and updated – ideally in a simpler, leaner, more  
34 user-friendly, easier-to-understand format.  
35

36 As was the case for previous amendments, the proposed amendments to Chapters 3 and 14 are presented in two  
37 attached documents. One draft is presented in typical ordinance format utilizing the underline and ~~strike through~~  
38 features to make it easier to examine the changes, and the other draft is a "clean" copy of the proposed new version to  
39 make it easier to read in its entirety.  
40

41 The most significant proposed amendments to Chapters 3 and 14 include the following:  
42

- 43 • the complete elimination of the current provisions of Chapter 3 (adopted in 1983 and never amended since  
44 that time)
  - 45 ○ these provisions are significantly outdated and pertain primarily to alarm systems tied directly to the  
46 Police and Fire Department that no longer exist
  - 47 ○ the Town no longer provides 911 dispatch services
  - 48
  - 49
  - 50
  - 51
  - 52

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- the current practice is for alarm systems to route to a private alarm company, and the private company then notifies the County 911 center for emergency dispatch
- minor clarifications to several sections in the current Chapter 14 to reflect actual current practice (also adopted in 1983 and never amended since that time)
  - the Board should note that most of the items included in the current Chapter 14 are also covered by the NC General Statutes
- the elimination of provisions regarding auxiliary (volunteer) police officers that have not been utilized by the Town in many years
- the inclusion of a section pertaining to false burglar alarms to provide incentive for owners of faulty private alarm systems to repair and/or replace such systems
  - the language included in the attached ordinance amendment is very similar to the language included for an existing Town ordinance regarding false fire alarms
  - the section regarding false burglar alarms allows the Police Department to levy a civil penalty of \$100 - \$500 for each false alarm after the 2<sup>nd</sup> false alarm within a 30 day period
  - in practice, the Town has and will continue to work cooperatively with property owners experiencing false alarms to have the issues resolved, and it would be a very rare for a civil penalty to be assessed
- the redesignation of the remaining provisions of current Chapter 14 as a new Chapter 3 – Police Department
  - this sequencing will maintain a logical order for the various chapters of the Town's Code of Ordinances.

The new version will result in the reduction of Chapters 3 and 14 from approximately 9 pages to 2 pages.

Police Chief Jeff Waters and I look forward to discussing the attached ordinance amendment with the Board at the July 9 meeting. If the Board is comfortable with the proposed amendments, the Board may consider adoption at the July 9 meeting. If the Board would like more time to review the proposed amendments, formal Board action can certainly be delayed until the August meeting.

Mayor Schools asked for comments from the public.

There were no comments from the public.

Town Attorney Stanley stated that the proposed changes to the ordinances were standard.

***Motion was made by Commissioner Wootten to approve the Ordinance Amending Chapter 3 – Alarm Systems – and Chapter 14 – Police Department of the Code of Ordinances and Redesignating as Chapter 3 – Police Department. The Board voted unanimously 5-0 in favor. Motion carried.***

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1  
2 **Clerks Note: A copy of Ordinance Amendment 13-07-09/O1 as noted above is incorporated herein by**  
3 **reference and hereby made a part of these minutes.**  
4

5 **13. Ordinance Amending Chapter 8 – Fire Prevention and Protection – of**  
6 **the Code of Ordinances and Redesignating as Chapter 4 – Fire Department**  
7 **(Comprehensive Review) (13-07-09/O2)**  
8

9 Town Manager Frank Rush and Fire Chief Bill Walker addressed the Board  
10 concerning this agenda item. The following excerpt from the Town Manager’s  
11 memo to the Board is provided for additional background:  
12

13 As part of the Town’s ongoing comprehensive review of all Town ordinances, the Board of Commissioners is  
14 scheduled to consider proposed amendments to Chapter 8 – Fire Prevention and Protection - of the Code of  
15 Ordinances at the July 9 meeting. In an effort to implement more logical sequencing of the Code of Ordinances, the  
16 proposed amendments would also be redesignated as Chapter 4 – Fire Department.  
17

18 As you know, the Town is undertaking a comprehensive process that is intended to review, clarify, and condense the  
19 entire Code of Ordinances of the Town of Emerald Isle. The Town is now more than 56 years old, and numerous  
20 ordinance amendments have been made over the years with input by many different groups and individuals, all likely  
21 with good intentions, and sometimes there are unintended impacts on or conflicts with other ordinance provisions.  
22 State law and common practice also change over time, and this sometimes leads to out of date provisions or  
23 confusion. In other cases, it may be helpful for the Town to critically ask itself if it really needs certain ordinance  
24 provisions.  
25

26 As discussed previously, my goal is for Town staff and me to complete a comprehensive review of all Town ordinances  
27 with a critical eye. During this review, conflicting or confusing provisions are being targeted for clarification,  
28 unnecessary provisions are being targeted for elimination, and in some cases out of date or un-enforced provisions are  
29 being targeted for elimination. The Board previously reviewed and approved comprehensive amendments to the Town  
30 Charter, Chapter 1, and Chapter 2, and comprehensive amendments to Chapters 3, 8, and 14 are on the Board’s July  
31 9 meeting agenda. Although we have strayed from the original goal to consider one chapter each month, my goal  
32 going forward is still to present at least one of the 11 chapters for comprehensive review and amendments each month  
33 in the future. If we stay on schedule, one chapter will be presented each month, and at the end of the 12 month period  
34 the entire Code of Ordinances will have been thoroughly reviewed and updated – ideally in a simpler, leaner, more  
35 user-friendly, easier-to-understand format.  
36

37 As was the case for previous amendments, the proposed amendments to Chapter 8 are presented in two attached  
38 documents. One draft is presented in typical ordinance format utilizing the underline and ~~strikethrough~~ features to  
39 make it easier to examine the changes, and the other draft is a “clean” copy of the proposed new version to make it  
40 easier to read in its entirety.  
41

42  
43 A comprehensive review and amendment to Chapter 8 was completed in August 2007, thus this chapter is relatively up  
44 to date and there are few significant amendments proposed at this time. The most significant proposed amendments  
45 to Chapter 8 include the following:  
46

- 47 • delegation of authority to the Town Manager to approve mutual aid agreements with other Fire departments  
48 and/or State and/or Federal agencies
- 49 ○ the Emerald Isle Fire Department has agreements with other nearby municipal fire departments,  
50 the State, and nearby Marine Corps bases  
51  
52

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- 1
- 2
- 3 • reference to the new 2012 version of the North Carolina Fire Code
- 4
- 5 • explicit statement of the EI Fire Department's goal to complete all required fire inspections annually
- 6
- 7 • minor revisions to the ordinance pertaining to false fire alarms in order to be consistent with the new
- 8 language for false burglar alarms in Chapter 3
- 9
- 10 • a reduction of the maximum penalty for repetitive false fire alarms from \$1000 to \$500 to be consistent with
- 11 NC General Statutes
- 12
- 13 ○ in practice, the Town has and will continue to work cooperatively with property owners
- 14 experiencing false alarms to have the issues resolved, and it would be a very rare for a civil penalty
- 15 to be assessed
- 16
- 17 • elimination of procedural language regarding civil penalties that also appears in Chapter 1 – General
- 18 Provisions
- 19
- 20 • establishment of a \$100 civil penalty for unauthorized burning in the Town, including on the beach strand,
- 21 and that such violations may be enforced by Fire Department personnel
- 22
- 23 • a reduction of the maximum penalty for misdemeanor violations from \$1000 to \$500 to be consistent with NC
- 24 General Statutes
- 25
- 26 • redesignation of Chapter 8 as Chapter 4 – Fire Department.
- 27

28 Fire Chief Bill Walker and I look forward to discussing the attached ordinance amendment with the Board at the July 9  
29 meeting. If the Board is comfortable with the proposed amendments, the Board may consider adoption at the July 9  
30 meeting. If the Board would like more time to review the proposed amendments, formal Board action can certainly be  
31 delayed until the August meeting.

32  
33 Fire Chief Walker briefly described the key changes. Chief Walker also noted a  
34 change to be added regarding alarm systems – the current ordinance stated if  
35 you had a false alarm and the system could not be reset that you must post fire  
36 watch on the building while the alarm was out of service. Chief Walker said they  
37 didn't want to put an additional burden on private residents for their fire alarm  
38 system being down and would like to change the language in Section 4-36  
39 paragraph (d) of the version that the Board had in hand and clarify that a fire  
40 watch would be required when alarm systems could not be reset only for  
41 buildings covered under the NC Fire Code. Town Manager Rush said the  
42 amendment to Section 4-36 paragraph (d) would be amended as follows and  
43 requested that if the Board was comfortable with the ordinance amendments as  
44 proposed that they also make this change.

45  
46  
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48  
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- 1  
2 (d) The property owner or An alarm user or his representative shall reset an  
3 alarm in an expedient manner when notified that such alarm has been  
4 activated. If the alarm can not be reset it shall be taken out of service,  
5 and the responsible party shall post a fire watch until the system is put  
6 back in service. In buildings required by the NC Fire Code the responsible  
7 party shall post a fire watch until the system is put back in service.  
8  
9

10 Mayor Schools asked for public comment.

11  
12 There were no comments from the public.  
13

14 Fire Chief Walker discussed other fire related issues such as fire pits on the  
15 beach strand with the Board and how those issues were addressed by State  
16 Administrative Code in response to questions posed by Commissioner Wootten.  
17 Town Manager Rush said there was currently a provision in Chapter 5 of the  
18 Town Ordinances that prohibited fires on the beach strand, this ordinance  
19 proposed would just make Chapter 8 (which would become Chapter 4) be  
20 consistent by including that same language about fires on the beach strand.  
21 That ordinance had been in place for many years. Manager Rush noted that up  
22 to this point the Boards through the ordinances had said they didn't want to allow  
23 fires on the beach. Commissioner Wootten said he agreed with that but also  
24 didn't want an owner on the oceanfront not be able to have a fire pit on their own  
25 property when someone 3 blocks in could have one. Town Manager Rush said  
26 that the current ordinance and the ordinance as presented tonight says that you  
27 cannot have a fire on the beach strand under our perceived authority to regulate  
28 activities on the beach strand so that would continue to be the case unless the  
29 Board wanted to make a change to that and the State Fire Code would permit  
30 that to occur. Fire Chief Walker added that if they became aware of a fire on the  
31 beach strand they would require it be extinguished.  
32

33 Town Attorney Stanley stated that between the high water mark and the toe of  
34 the dune was public domain, even though it was privately owned, it was subject  
35 to use by the public and you were protecting the public by not having them walk  
36 through fire or hot coals.  
37

38 ***Motion was made by Commissioner Hoover to approve the Ordinance***  
39 ***Amending Chapter 8 – Fire Prevention and Protection – of the code of***  
40 ***Ordinances and Redesignating as Chapter 4 – Fire Department - including***  
41 ***the suggested changes to Section 4-36(d) regarding the fire watch only***  
42 ***applying to buildings required by NC Fire Code. The Board voted***  
43 ***unanimously 5-0 in favor. Motion carried.***  
44  
45

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1  
2 **Clerks Note: A copy of Ordinance Amendment 13-07-09/O2 as noted above is incorporated herein by**  
3 **reference and hereby made a part of these minutes.**  
4

5 **14. Ordinance Amending Chapter 5 – Beach and Shore Regulations – of**  
6 **the Code of Ordinances to Increase the Penalty for Littering on the Beach**  
7 **Strand (13-07-09/O3)**  
8

9 Town Manager Frank Rush introduced Rob Harris, member of the Bogue Banks  
10 Chapter of the Surfrider Foundation who would address the Board concerning  
11 this Agenda item. The following excerpt from the Town Manager's memo to the  
12 Board is provided for additional background:  
13

14 The Board of Commissioners is scheduled to consider the attached ordinance amendment that would clarify that  
15 littering violations on the beach strand are subject to a civil penalty and also increase the penalty to \$250.00.  
16

17 The increase in the penalty amount is requested by the Bogue Banks Chapter of the Surfrider Foundation to further  
18 deter littering on the beach strand, and is supported by Town staff. Rob Harris, a member of the Surfrider Foundation,  
19 will attend the Board meeting on July 9 to address this issue and also provide general information about the Bogue  
20 Banks Chapter of the Surfrider Foundation. The Bogue Banks Chapter is relatively new, and clean beaches are a key  
21

22  
23 goal for the group. The Town enjoys a good working relationship with the group, and we hope to continue and expand  
24 that relationship in the future.  
25

26 The Town Code has long included an ordinance prohibiting littering on the beach strand (and other public areas in  
27 Emerald Isle), and the penalty outlined is somewhat confusing but has been perceived by Town staff as a \$50 civil  
28 penalty. The Police Department also has the authority to charge an offender with a violation of NC General Statutes,  
29 which outline a penalty of \$250 or more, depending on the circumstances. In reality, it is difficult to catch someone in  
30 the act of littering, and additionally the Town prefers to take an educational approach to such violations, and there are  
31 rarely any citations issued for littering.  
32

33 The attached ordinance amendment would accomplish two objectives: 1) it would clarify that the penalty for a violation  
34 of the Town ordinance is a \$250 civil penalty, and would result in any fines being remitted to the Town (as opposed to  
35 the State), and 2) it would increase the amount of the penalty to \$250, hopefully providing a more significant deterrent  
36 to littering and also making the Town's penalty consistent with the penalty outlined in the NC General Statutes. It is  
37 important to note that the Police Department would still retain the authority and discretion to charge a violator with a  
38 violation of State law if the circumstances of the violation warrant.  
39

40 As noted above, it is rare that an actual citation would be issued for litter violations, and that will likely continue to be  
41 the case. As you know, the Town often attempts a friendly, educational approach on these types of issues, and I  
42 envision that approach continuing. If the attached ordinance amendment is approved by the Board, we intend to alter  
43 Town signage to clearly indicate the \$250 penalty, and are hopeful that will serve as a more effective deterrent to  
44 littering on the beach strand. In cases of egregious violations, both in terms of the scope of the offense and the  
45 demeanor of the violator, a citation would certainly be issued.  
46

47 If the Board believes a higher penalty is warranted, the attached ordinance amendment can be adjusted to indicate any  
48 civil penalty up to \$500.  
49

50 Town Manager Rush stated that the ordinance before the Board tonight would  
51 increase the penalty for littering from a \$50 civil penalty to a \$250 civil penalty,  
52 relatively consistent with the penalty outlined in the general statutes.

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1  
2 Rob Harris, treasurer, Surfrider Foundation spoke about the Bogue Banks  
3 chapter of the Surfrider Foundation consisting of beach goers who had gotten  
4 together and organized with a website, social media, and had held several beach  
5 and public access cleanups. Mr. Harris spoke of the group's efforts to educate  
6 the public about the importance of keeping the beach nice and clean. Mr. Harris  
7 said they felt that raising the littering fee from \$50 to \$250 would help. Mr. Harris  
8 felt that having additional signs at the pier, and eastern and western accesses  
9 would also help with enforcement. Mr. Harris thanked the Board for their  
10 consideration of this change.

11  
12 Commissioner Wright said it made sense to her to make the penalty match the  
13 penalty allowed by State statute.

14  
15 Mr. Harris noted that Topsail Beach had a \$1,000 littering fine so they would  
16 know what some of the surrounding beach towns were doing.

17  
18 Commissioner Hoover asked how often citations were issued for littering. Town  
19 Manager Rush said they rarely issued citations and he didn't expect that to  
20 change – the goal was to post the signage and make it a deterrent to people who  
21 might consider littering. He felt most people did the right thing and for those who  
22 don't, seeing a sign with the penalty may make them think twice about it.  
23 Manager Rush said in current practice, and he imagined in future practice, when  
24 the officers saw someone littering and told them to put their litter in the trash cans  
25 most would comply. With limited staff resources they couldn't be everywhere  
26 every time someone littered and it was hoped that this was one more thing that  
27 would make people think twice about littering, and in some very serious  
28 egregious situation the penalty could be applied. Mr. Rush said the goal would  
29 be to put this language on key beach access signs at western and eastern  
30 regional access, the pier, and perhaps a few other locations.

31  
32 Commissioner Wootten said why not raise it to \$1,000 if it was not going to be  
33 enforced. He felt that raising the fine would not change any attitudes.  
34 Commissioner Wootten would support this amendment to support the Surfriders  
35 Foundation and felt it was due to the Public Works Department and groups like  
36 the Surfriders that the beach was as clean as it was now.

37  
38 Mr. Harris said it would make them happy to see someone littering get a ticket  
39 and then tell everyone that they got a ticket for \$250 but that just to get the fine  
40 raised would be an improvement.

41  
42 Town Manager Rush said the goal was to change the person's behavior and not  
43 to fine people. They didn't want to hurt people but wanted people to learn the  
44 lesson to change their behavior.

45

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1  
2 Mayor Schools added that there were a whole lot of people who clean the beach,  
3 people walk the beach every day with bags picking things up so he  
4 complimented Public Works, Surfriders, Turtle volunteers, and just individual  
5 citizens. Mayor Schools said he received comments from visitors that this was  
6 the cleanest beach they had seen.

7  
8 ***Motion was made by Commissioner Wright to approve the Ordinance***  
9 ***Amending Chapter 5 – Beach and Shore Regulations – of the Code of***  
10 ***Ordinances to Increase the Penalty for Littering on the Beach Strand. The***  
11 ***Board voted unanimously 5-0 in favor. Motion carried.***

12  
13 Mayor Schools mentioned seeing an article in the early 80's in the Raleigh News  
14 and Observers that described the Town of Emerald Isle as the Town of No  
15 because there were so many No signs all over the place. Mayor Schools hoped  
16 they could manage this so they were not proliferated again by No signs all over  
17 the place.

18  
19 Town Manager Rush said he was very cognizant of that concern and they would  
20 work to condense the signage to be as visually appealing and attractive as  
21 possible for our community.

22  
23 **Clerks Note: A copy of Ordinance Amendment 13-07-09/O3 as noted above is incorporated herein by**  
24 **reference and hereby made a part of these minutes.**

25  
26 **15. Appointment – Emerald Isle Parks & Recreation Association, Inc.**

27  
28 Town Manager Frank Rush addressed the Board concerning the Agenda item.  
29 The following excerpt from the Town Manager's memo to the Board is provided  
30 for additional background:

31  
32 The term of Emerald Isle Parks and Recreation Association, Inc. member Clay Olsen expires in August 2013, and the  
33 Board should appoint 1 individual to a new 3-year term.

34  
35 There are a total of 3 members on the Emerald Isle Parks and Recreation Association, Inc. The other two members  
36 are Bernie Whalley (term expires in August 2014) and Linda Hughs (term expires in August 2015).

37  
38 The Emerald Isle Parks and Recreation Association, Inc. is a Town-created non-profit corporation that holds title to  
39 approximately 7 acres (of the total 23 acres) that comprise the eastern portion of the Emerald Isle public boating  
40 access area (where the actual ramps and single-car parking lot are located). The land has subsequently been leased  
41 to the Town and subleased to the NC Wildlife Resources Commission for the new public boating access area. The  
42 Town's agreement with the NC Wildlife Resources Commission allows the Town and the EI Parks and Recreation  
43 Association, Inc. to utilize the remaining land at the public boating access area for other park amenities in the future.

44  
45 Clay Olsen has expressed interest in being reappointed to the EIPRA, Inc. for another 3-year term if the Board so  
46 desires.

47  
48  
49

1  
2 ***Motion was made by Commissioner Hoover to appoint Clay Olsen to a term***  
3 ***on the Emerald Isle Parks and Recreation Association, Inc. that expires in***  
4 ***August 2016. The Board voted unanimously 5-0 in favor. Motion carried.***  
5

6 **16. Comments from Town Clerk, Town Attorney, and Town Manager**  
7

8 There were no comments from the Town Clerk or Town Attorney.  
9

10 Town Manager Rush said he was happy to report that the 90-gallon recycling  
11 containers were finally here and available at Sound Ace Hardware, 40-gallon  
12 should be available within the next week or two. Mr. Rush also noted they had  
13 started working on the logistics of the community improvements package. Mr.  
14 Rush noted that the room tax was increased by the General Assembly and the  
15 County Commissioners would soon be considering the implementation date for  
16 that increase. Mr. Rush also noted the Corps of Engineers would be dredging  
17 the Intracoastal Waterway this winter and would put the spoils on the beach at  
18 the Point. Commissioner Hoover thought it would be worth looking at whether  
19 the spoils from the dredging could be distributed across the western part of the  
20 beach.  
21

22 The following is an excerpt from the Town Manager Comments memo to the  
23 Board providing additional background information for all items of importance:  
24

25 **Recycling Containers Finally Here**

26 After considerable delay, the 90 gallon recycling containers are now on-site and are being made available to SoundAce  
27 Hardware for sale to our property owners. The 40 gallon containers are supposedly in production, and we expect them  
28 to arrive within the next week.  
29

30 As noted before, we will not be enforcing the new requirements until we are certain that everyone has had ample time  
31 to secure a new container. I don't expect to enforce the requirements until late in 2013 or early in 2014.  
32

33 **County Room Tax Increase Approved by NC General Assembly**

34 Session Law 2013-223 grants authority to the County Commissioners to increase the County room tax from 5% to 6%,  
35 and also changes the distribution of proceeds such that 50% (or a 3% rate) will be specifically earmarked for beach  
36 nourishment activities. This increase is expected to yield approximately \$900,000 more annually for beach  
37 nourishment efforts in Atlantic Beach, Pine Knoll Shores, Indian Beach, and Emerald Isle. Emerald Isle will likely  
38 realize an average of \$500,000 - \$600,000 annually from this source in the future, which is nearly (but not quite)  
39 enough to theoretically replace the previously anticipated State funding. As you know, the Town's long term financing  
40 plan relies on approximately \$700,000 annually from the State to meet projected future beach nourishment needs. This  
41 new law is nonetheless a very positive development for Emerald Isle.  
42

43 The County Commissioners are expected to consider formal action to increase the room occupancy tax rate later this  
44 summer or fall, with a likely effective date of January 1, 2014.  
45

46 **Community Improvements Package Implementation**

47 I have begun initial work on the implementation of the "community improvements package", and hope to begin  
48 presenting items for formal Board consideration in August or September, including financing approvals and initial  
49 construction contracts.  
50

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1  
2 We are currently exploring the potential to utilize a "design-build" approach for the NC 58 bicycle path project, which  
3 would involve bidding the project based on general specifications, with the contractor tasked with subcontracting the  
4 engineering portion and figuring out the most cost-effective way to design and construct the project. Because bicycle  
5 path projects are relatively straightforward, we are hopeful that this approach would expedite construction and result in  
6 lower overall project costs. There are outstanding questions about how this approach would affect the NCDOT  
7 encroachment agreement (their approval to build the path in the NC 58 right of way) and permitting issues, but I am  
8 hopeful we can work through these issues.  
9

10 It is a very optimistic goal, but we will be working hard to construct all projects included in the community improvements  
11 package prior to Memorial Day 2014.  
12

13 **Tasers for Police Department Use**

14 The Police Department has purchased and taken delivery of 8 taser units, and will soon order an additional 4 units.  
15 This will result in all 12 full-time road officers being equipped with tasers, and should improve officer safety, efficiency,  
16 and reduce workers comp injuries in the future. The Police Department is developing a policy for taser use, and will  
17 also complete training before implementing the use of tasers.  
18

19 **Release of Remaining WAMI Grant Funds**

20 We are still awaiting the formal release of these grant funds (~\$700,000) from the State Budget Office and NCDENR,  
21 but I expect the process to move forward upon the conclusion of the State's FY 13-14 budget process later this month.  
22

23 **H300 – Cities / Public Trust Rights**

24 This bill, introduced by Representative McElraft to clarify the rights of Emerald Isle and other oceanfront municipalities  
25 to regulate activities and structures on the public trust beach, has been approved by the NC House. Representative  
26 McElraft expects the bill to be approved by the NC Senate prior to adjournment of the 2013 session.  
27

28 **50-Year Shore Protection Project Draft Feasibility Study Complete**

29 The Corps of Engineers has (finally) completed a draft of the Feasibility Study for the Federal 50-year beach  
30 nourishment project, and expects all executive branch approvals to be granted by mid-2014. The completion of this  
31 process would then allow the project to be considered by the US Congress in a new Water Resources Development  
32 Act in the future. The new WRDA would authorize the project, which would then need to receive Federal  
33 appropriations in future years in order to be constructed.  
34

35 The completion of the Feasibility Study (initiated in 1999 and 2001) is a positive step for Emerald Isle and Bogue  
36 Banks, but the availability of Federal funding for beach nourishment is still several years away, if it ever occurs (due to  
37 continued Federal budget challenges). At any rate, it is still helpful to have this process continuing, but the Town and  
38 the County continue to work toward a locally-sponsored long-term beach nourishment project through the County  
39 Beach Commission and Shore Protection Office. The locally-sponsored "master plan" and "50-year EIS and permitting  
40 authority" are likely to become a reality within the next 1-2 years - much sooner than the Federal project.  
41

42 **AIWW Crossing Dredging Planned for Winter 2014**

43 The Corps of Engineers recently informed the Town that they will be dredging the AIWW crossing this coming winter,  
44 and will place the spoils on the beach at The Point. We will be working on appropriate permits to have this sand  
45 placed in the areas likely to provide the most benefit at the time. Fortunately, the entire area at The Point is in very  
46 good shape, and the additional spoils will likely be used to increase elevations in this area.  
47

48 **Bogue Inlet - Remaining State Dredging Funds**

49 There is currently approximately \$224,000 of State – local funds remaining in the Bogue Inlet account for future  
50 sidecast dredging efforts. This amount is likely sufficient to fund approximately 15 days of dredging, which will likely  
51 last until sometime this summer or fall.  
52

53 There was an additional \$54,000 available in the FY 12-13 State budget for dredging in Bogue Inlet if area local  
54 governments can match it with \$54,000, and we should probably begin to work on a partnership to come up with these

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1  
2 funds locally. (These State funds are expected to be carried forward to FY 13-14.) This would provide an additional  
3 \$108,000 total, which would likely cover an additional 7 days of dredging.

4  
5 Overall, Bogue Inlet is currently in good condition, with no significant shoaling issues at present. The Corps' sidecast  
6 dredge Merritt is currently scheduled to be in Bogue Inlet from August 14 – 17, and this will reduce the amount of  
7 available funding by approximately \$60,000.

8  
9 **New Deer Population Estimate**

10 With fall soon approaching, we will be scheduling a new deer population estimate by the NC Wildlife Resources  
11 Commission for September or October. The Board will consider potential strategies for addressing the deer population  
12 again at the November meeting.

13  
14 As noted in the attached "monthly statistical report", the number of deer-related vehicle accidents in FY 12-13 was 28,  
15 up from 19 in FY 11-12.

16  
17 **New Soundside Pier at Public Boating Access**

18 We expect to solicit construction bids for this project in August, and have a contract award on the Board's September  
19 meeting agenda. Our goal is to complete construction of the new pier prior to the end of the calendar year.

20  
21 **NC 58 Bicycle Path Extension – Hurst to Fairfax**

22 Our contractor, SunLand, began work on June 17, and has made good progress thus far. Initial clearing work is  
23 complete, and they have begun placement of the rock base for the new path. SunLand did not work during the week of  
24 July 1 – 5 due to the holiday, but is expected back on site on July 8. We hope to have this project completed by late  
25 July / early August.

26  
27 **Yard Debris Collection**

28 Demand seems to have decreased somewhat, and we are hopeful that we can return to a weekly collection schedule  
29 in July. We are currently evaluating whether or not to discontinue the need for property owners to call in the collection  
30 vs. a fixed weekly route, and I expect to make a decision on that issue later in July.

31  
32 **Live Oak Pedestrian Bridge**

33 The majority of construction work is now complete, with only minor construction items and site improvements (access  
34 paths) remaining. We hope to make the new bridge open to the public by mid-July.

35  
36 **State Tax Reform Impacts**

37 The impact of State tax reform on Emerald Isle remains uncertain, but is coming into somewhat clearer focus. The NC  
38 House and NC Senate are expected to resolve differences in their respective plans in the next couple of weeks, and it  
39 is increasingly likely that the impacts on local government will be relatively minor, if not completely avoided. Any  
40 impacts that may occur should not impact the FY 13-14 budget.

41  
42 **Information Technology Improvements**

43 I recently met again with VC3 (the IT company previously approved by the Board in January 2013) to discuss  
44 alternative IT service options for Town staff. I am hopeful that we can devise an affordable plan for the Town  
45 organization in the coming weeks, and I may present a new contract resolution to the Board at the August meeting. As  
46 discussed previously, I truly believe the Town organization is in great need of better IT services for our staff and our  
47 customers.

48  
49 **Police Department Structure**

50 Chief Waters and I are currently evaluating the best organizational structure for the Police Department moving forward,  
51 and plan to implement the new structure within the next month. I will provide information to the Board in the coming  
52 weeks.

53  
54

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1  
2 Twitter

3 The Town has been sending out daily Twitter messages in an effort to try one more approach to keep our residents,  
4 property owners, and visitors informed about the Town's activities. The Town's official Twitter location is  
5 @townemeraldisle .  
6

7 **17. Comments from Board of Commissioners and Mayor**

8  
9 Mayor Schools noted from the Board of Elections those filing for Mayor to date  
10 were Don Wells, filing for Commissioner were John Cowan, Nita Hedreen, John  
11 Wootten, and Maripat Wright.

12  
13 Commissioner Wootten noted how busy the boat ramp had been the past  
14 weekend and felt the planned pier would work really well.

15  
16 There were no further comments from the Board of Commissioners.

17 **18. Closed Session – Pursuant to NCGS 143-318.11(3), for the Purpose of**  
18 **Maintaining Attorney-Client Privilege and Pursuant to NCGS 143-318.11(5)**  
19 **for Potential Real Estate Acquisition**

20  
21 ***Motion was made by Commissioner Hedreen to enter Closed Session. The***  
22 ***Board voted unanimously 5-0 in favor. Motion carried.***

23  
24 ***Motion was made by Commissioner Hedreen to return to Open Session.***  
25 ***The Board voted unanimously 5-0 in favor. Motion carried.***

26  
27 No action was taken as a result of closed session upon returning to Open  
28 Session.

29  
30 ***Motion was made by Commissioner Messer to adjourn the meeting. The***  
31 ***Board voted unanimously 5-0 in favor. Motion carried.***

32  
33  
34 ***The meeting was adjourned at 8:30pm.***

35  
36 Respectfully submitted:

37  
38  
39  
40 Rhonda C. Ferebee, CMC, NCCMC  
41 Town Clerk  
42  
43  
44  
45  
46