

1 **MINUTES OF THE REGULAR SCHEDULED MEETING**
2 **OF THE EMERALD ISLE BOARD OF COMMISSIONERS**
3 **TUESDAY, NOVEMBER 13, 2012 – 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, Town Clerk Rhonda Ferebee, and Planning Director
20 Kevin Reed.

21
22 **3. Opening Prayer**

23
24 Opening prayer was offered by Bernie Whalley, Emerald Isle resident and local
25 businessman.

26
27 **4. Pledge of Allegiance**

28
29 All who were present recited the Pledge of Allegiance.

30
31 **5. Adoption of Agenda**

32
33 Mayor Schools made the public aware that there had been articles in the news
34 recently that indicated that the Board would be discussing deer during the
35 meeting tonight and the Board had not planned to discuss deer. Mayor Schools
36 noted that there was a study being done by NC Wildlife Resources Commission
37 along with Bald Head Island for a contraception program for deer. Mayor
38 Schools said that he would continue to stay informed on their progress for a
39 successful program to be developed that may be suitable for Emerald Isle, and
40 welcomed the public to contact him at a later time to discuss in more detail.

41
42 Mayor Schools requested that the Board remove Item 8g. Amendment – Fiscal
43 Policy from the Consent Agenda and place for discussion as a separate item
44 immediately following the Consent Agenda.

45
46

1
2 ***Motion was made by Commissioner Messer to adopt the Agenda moving***
3 ***Item 8g Amendment – Fiscal Policy to the regular agenda. The Board voted***
4 ***unanimously 5-0 in favor. Motion carried.***

5
6 **6. Proclamations / Public Announcements**
7

8 Mayor Schools noted the following announcements for the public:
9

- 10 • **Open Play Wii Bowling – Wednesday, Nov. 14, 21, 28, and Dec. 5 –**
- 11 **6pm – 8pm – Community Center**
- 12 • **Croatan High School Band Auction – Saturday, November 17 – 10 am**
- 13 **Croatan High School**
- 14 • **Thanksgiving Holiday – Thursday, November 22 and Friday,**
- 15 **November 23 – Town Offices Closed**
- 16 • **Thanksgiving Holiday – Community Center Closed Thursday,**
- 17 **November 22 but open Friday, November 23**
- 18 • **No trash collection on Thursday, November 22 and Friday,**
- 19 **November 23**
- 20 • **Emerald Isle Christmas Parade – Saturday, November 24 – 3 pm –**
- 21 **NC 58**
- 22 • **Planning Board Regular Meeting – Monday, November 26 – 6 pm –**
- 23 **Town Board Meeting Room**
- 24 • **Photos With Santa – November 27, 28, 29 – 12 pm – 7 pm –**
- 25 **Community Center (appointment required)**
- 26 • **Classic Movie Night – Friday, December 7 – 6 pm – Community**
- 27 **Center**
- 28 • **Breakfast With Santa – Saturday, December 8 – 10 am – Community**
- 29 **Center (must pre-register by Dec 7)**
- 30 • **Bicycle and Pedestrian Advisory Committee Meeting – Tuesday,**
- 31 **December 11 – 9 am – Community Center**
- 32 • **Board of Commissioners Regular Meeting – Tuesday, December 11 –**
- 33 **7 pm – Town Board Meeting Room**
- 34 • **Crystal Coast Countdown – Multiple Events – December 28 –**
- 35 **January 1 – Multiple Locations**
- 36 • **iPad 3 Raffle to Benefit Coast Guard Road Multi-Use Path – Contact**
- 37 **Community Center**

38
39 **7. Public Comment**
40

41 **Brief Summary:** The public will have the opportunity to address the Board about
42 any items of concern not on the agenda.

43
44 There were no comments from the public.

1
2 **8. Consent Agenda**
3

- 4 a. Tax Refunds / Releases
5 b. Regular Meeting Minutes – October 9, 2012
6 c. Resolution Authorizing Beach Access Walkway Replacement
7 Construction Contracts (12-11-13/R1)
8 d. Resolution Accepting CAMA Public Water Access Grant for
9 Soundside Pier Construction at Emerald Isle Public Boating Access
10 Area (12-11-13/R2)
11 e. Resolution Accepting Bulletproof Vest Grant (12-11-13/R3)
12 f. Fee Schedule Amendment – Free Beach Driving Permits for Purple
13 Heart Recipients
14 ~~g. Amendment – Fiscal Policy Removed from Consent Agenda~~
15 h. Amendment – Bicycle and Pedestrian Transportation Plan
16

17 *Motion was made by Commissioner Wright to approve the items on the*
18 *Consent Agenda. The Board voted unanimously 5-0 in favor. Motion*
19 *carried.*

20
21 Clerks Note: A copy of Resolutions 12-11-13/R1, 12-11-13/R2, 12-11-13/R3 and all other Consent
22 Agenda items as noted above are incorporated herein by reference and hereby made a part of these
23 minutes.
24

25 **Item 8g. Amendment – Fiscal Policy – removed from Consent Agenda**
26

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

31 The Board of Commissioners is asked to approve the attached amendment to the Town's formally adopted Fiscal
32 Policy at the November 13 meeting. The proposed amendments are primarily "housekeeping"-type amendments, and
33 do not make any significant policy changes from those previously adopted by the Board of Commissioners.
34

35 The proposed amendments are indicated by the ~~strike through~~ and underline feature. The amendments all reflect the
36 actual practice of Town staff and the Board in recent years. The most significant change is the deletion of references
37 to the Beach Nourishment Debt Service / Reserve Fund, which will be discontinued later this year after the final beach
38 nourishment bond payment in February 2013. A new paragraph has been added regarding the new Future Beach
39 Nourishment Fund and the planned use of fund balance in this fund for future beach nourishment activities.
40

41 Mayor Schools referencing page 4, paragraph D.2 of the proposed amended
42 Fiscal Policy suggested that the underlined proposed sentence at the end of that
43 paragraph "The Town shall utilize a different independent certified public
44 accounting firm at least every 3 years, if not more frequently." be omitted. Mayor
45 Schools said he was in favor of changing CPA firms from time to time but didn't
46 like to see an absolute requirement to change every 3 years. He felt the
47 sentence should be left out with the understanding that the wishes of the Board
48 was not to stay with one CPA firm all the time.

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012
Page 4 of 24

1
2 Commissioner Wootten said his business philosophy had always been to have
3 firms compete for the best cost yet he felt they could reword in some way to give
4 more flexibility, such as saying the Town “should” or something to that effect.

5
6 Town Manager Rush said that the intent was to avoid the auditing firm becoming
7 too familiar with Town staff and having a fresh set of eyes looking at the Town’s
8 financial statements. Historically, the Town had switched firms every 3 years,
9 and there was nothing magical about 3 years, it could be 4 or 5. He felt the basic
10 intent was just that every so often the Town should consider switching audit firms
11 really to avoid complacency or friendly relations developing.

12
13 Following discussion, the Board concurred to change the sentence to say the
14 Town shall change audit firms periodically.

15
16 ***Motion was made by Commissioner Wootten to approve the Fiscal Policy***
17 ***with the proviso that the wording about the independent CPA changing***
18 ***every 3 years was modified as discussed. The Board vote unanimously 5-0***
19 ***in favor. Motion carried.***

20
21 **Clerks Note:** A copy of amended Fiscal Policy as noted above is incorporated herein by reference
22 and hereby made a part of these minutes.

23
24 **9. Commercial Review – Proposed Dollar General Store – 3201 Emerald**
25 **Drive**

26
27 Planning Director Kevin Reed addressed the Board concerning this agenda item.
28 Mr. Reed provided a PowerPoint presentation of the site plan/building elevations.
29 The following excerpt from his memo to the Town Manager is provided for
30 additional background:

31
32 A request has been submitted by Glandon Forest Equity LLC, on behalf of The Little Bank, for commercial review for
33 the proposed Dollar General Store to be located at 3201 Emerald Drive. The properties are currently zoned Business
34 (B) and the proposed retail store is a permitted use in the Business (B) Zoning District. The applicants are proposing
35 to construct a 9,100 square foot retail building on two parcels of land that, once combined, will contain approximately
36 1.44 acres. The building will be accessed via a driveway onto Emerald Drive that will contain one entrance lane and
37 two exit lanes. The driveway connection will have to be approved by the N.C. Department of Transportation. You will
38 find attached a copy of a site plan and supporting plans for the project; proposed building elevations including colors; a
39 lighting plan and details on the lights to be installed; and, details on the two proposed signs for the project. Sheet C-3
40 of the plan set shows most of the required information relative to how the site will be developed.

41
42 The proposed Dollar General Store will contain approximately 9,100 square feet of gross floor area and will have four
43 (4) employees on its largest shift. This will require the applicants to provide 35 parking spaces based on the UDO’s
44 requirement of one (1) space per 300 square feet of gross floor area and one (1) space per employee. The applicants
45 are proposing that a total of 35 parking spaces will be provided which meets the requirements of the UDO.

46
47 The UDO requires a natural area of 15% for all commercial development which may include the septic area. The
48 applicants are proposing that a minimum of 10,850 square feet of natural area (17.3%) will be provided which will met
49 the requirement set forth in the UDO. The Town’s Unified Development Ordinance (UDO) requires that the proposed

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012
Page 5 of 24

1
2 commercial development be screened along its southern boundary from the adjacent residential properties. The
3 screen can be either a vegetative screen or a six-foot opaque fence. The applicants are proposing to install a six-foot
4 opaque fence to meet this requirement. The location of the fence is shown on Sheet C-3 of the plans and details of the
5 fence are shown on Sheet C-8.
6

7 The applicants are proposing to install two sets of freestanding lights in the parking lot to provide illumination for the
8 parking area and building grounds. The lights will be mounted at a height of 30 feet. The lighting plan does not
9 indicate any unnecessary spillover to adjacent properties and the lights will be adjusted, if necessary, so as to not provide
10 any offensive glare to adjacent properties. The applicants are also proposing the installation of wall pack lights on the
11 structure; however, they do not impact the lighting plan.
12

13 The applicants are proposing to construct a dumpster pad, which can accommodate two dumpsters, on the east side of
14 the project for solid waste collection and disposal. The pad and dumpsters will be screened on all sides from public
15 view (details on Sheet C-8). The mechanical equipment on the south side of the building will also be screened from
16 public view (details on Sheet C-7). Signage for the proposed development is limited to 32 square feet on the building.
17 In addition, one freestanding sign is permitted which may be a maximum of 50 square feet in size with a maximum
18 overall height of 15 feet. Attached are drawings which indicate the type and size of each sign that will meet the
19 requirements of the UDO.
20

21 The UDO (Section 6.1.3(4)(B)) requires that all exterior wall faces of commercial buildings which are viewable from a
22 street have a visual break every 20 feet. The UDO requires these visual breaks in the wall "in order to avoid a box-like
23 appearance". The north, west and east elevations of the proposed building will all be viewable from Emerald Drive.
24 The applicants are proposing to use building finishes, a covered entrance, Bermuda shutters and color variations to
25 meet this requirement. Additionally, the UDO limits the amount of glazed openings on any wall surface to a maximum
26 of 35%. Only one wall segment (north elevation) will contain glass and it accounts for 8% of the wall surface which is
27 well below the 35% limitation.
28

29 The applicants have not provided a copy of a septic permit issued by the Carteret County Health Department for the
30 proposed building. The applicants have provided letters from Bogue Banks Water Corporation and Carteret-Craven
31 Electric Cooperative that they can serve the proposed development. In addition, since the proposed development will
32 disturb more than one (1) acre of land, a State Erosion and Sediment Control Permit will be required and to date, no
33 such permit has been received. The Town's consulting engineer has reviewed the stormwater plan for the proposed
34 development and found it to be consistent with the Town's requirements.
35

36 The Town's Technical Review Committee (TRC) reviewed the project at its meeting held on October 3, 2012.
37 Following that meeting, Town staff requested several revisions to the plan and additional information. The Planning
38 Board considered this request at its meeting held on October 22, 2012. The Planning Board did ask the applicants to
39 adjust the building colors in order to show the raised pilasters and similar areas of the wall segments in a contrasting
40 color to the remainder of the wall segments. Following its consideration of the request, the Planning Board voted
41 unanimously (6 to 0) to recommend to the Board of Commissioners that the commercial review be approved subject to
42 the following conditions:
43

- 44 1. Revise building elevations to incorporate contrasting colors for the pilaster and other raised portions of the
45 wall segments on the west, north and east elevations.
- 46 2. Approval and recordation of survey combining the two parcels into a single parcel.
- 47 3. Copy of authorization to construct the on-site septic system from the Carteret County Health Department.
- 48 4. Copy of driveway permit from the N.C. Department of Transportation.
- 49 5. Copy of the State Erosion and Sediment Control Permit.
50

51 Since the Planning Board meeting on October 22, the applicants have submitted revised building elevations that
52 incorporate the color changes requested by the Planning Board. Town staff is comfortable in concluding that the
53 current plan and other submitted materials are consistent with the Town's requirements for screening, parking, solid
54 waste collection/screening, lighting, signage, building design, building colors, stormwater control measures and

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012
Page 6 of 24

1
2 natural area requirements. If the Board decides to grant approval of the request, it may wish to consider Numbers 2-5
3 above as conditions of such approval.

4
5 Mr. Reed stated that George Barnes, representing the developer, as well as Matt
6 Lowder, representing the design firm, were both in attendance.

7
8 Mayor Schools asked for Board comments.

9
10 Commissioner Hedreen said it looked boxy to her, and that was one of the things
11 they fought to avoid when they revised the ordinance a few years ago to require
12 the 4 feet of depth for projection away from the building every 20 feet.

13 Commissioner Hedreen felt the reason it looked so boxy was that everything was
14 either a square or rectangle, looking at the elevation drawing; everything was a
15 right angle shape. She suggested putting some kind of curve or circle to round
16 out the left and right corners in those four spots. She felt it gave a little more wall
17 space between the top of the roof line. She felt if they could make this type of
18 change she would be prepared to support it with that condition tonight.

19
20 Commissioner Wootten said he would make one modification and make those
21 changes on the east and west sides of the building because they would be the
22 sides seen more so than the front of the building. Commissioner Hedreen said it
23 should be done to all sides to be consistent.

24
25 George Barnes, representing the developer, stated that he was open to the idea;
26 he felt it was a good idea, but just needed to talk to Dollar General about it. Mr.
27 Barnes didn't see that as being a problem or increasing the cost.

28
29 Commissioner Wootten said he thought it would be helpful if they knew that the
30 Town had put a lot of time and effort into avoiding the box look. He said while
31 they would love to have Dollar General come to Town they didn't want the box
32 look.

33
34 Mayor Schools asked for any comments from the public.

35
36 One resident from the audience asked the location. Mayor Schools noted that it
37 was next to where the old Flip Flops had been located.

38
39 Mr. Barnes stated that as the owner and landlord of the building; Dollar General
40 being his tenant; he wanted the building to look nice and be something of which
41 he and the Town could be proud, and while they were his tenant, as they were a
42 national retailer they made their rules and he would need to run this by them for
43 their approval.

44
45 Commissioner Hedreen noted that a few years ago the Board had an opportunity
46 to convert almost all of that commercially zoned property to residential, and the

1
2 Board didn't because they believed that one day someone would come along
3 and want to put more business there, so they were delighted that they wanted to
4 join our community.

5
6 Mayor Schools asked whether the Board wanted to approve this with some kind
7 of conditions or for them to come back with drawings and have a special meeting
8 at that time.

9
10 Mr. Barnes said he thought it would take maybe a week to have a decision and
11 new drawings. Mr. Barnes was supportive of that and would like to go back to
12 the architect and come up with a couple of options and suggested if Kevin Reed,
13 Planning Director had clear direction of what it should look like and it could be
14 approved administratively or maybe another small session where it could be
15 approved.

16
17 The Board discussed dates for a special meeting and then discussed approving
18 conditionally.

19
20 ***Motion was made by Commissioner Wootten to approve the plan submitted***
21 ***subject to the modifications of the elevations and the permits. The Board***
22 ***voted unanimously 5-0 in favor. Motion carried.***

23
24 **10. FEMA Irene Beach Nourishment Project**

- 25
26 a. **Resolution Authorizing Construction Contract with Great Lakes**
27 **Dredge & Dock (12-11-13/R4)**
28 b. **Interlocal Agreement – Town of Emerald Isle / Town of Pine Knoll**
29 **Shores**
30 c. **Capital Project Ordinance Amendment**

31
32 Town Manager Frank Rush addressed the Board concerning this agenda item.
33 The following excerpt from his memo to the Board is provided for additional
34 background:

35
36 The Board of Commissioners is scheduled to consider three actions pertaining to the construction of the FEMA Irene
37 Beach Nourishment Project at its November 13 meeting.

38
39 If approved, construction is expected to begin in Emerald Isle sometime in February and be complete by March 31.
40 The project involves the placement of 629,297 cubic yards of sand along 4.2 miles of the Town's ocean beach.

41
42 Resolution Authorizing Construction Contract with Great Lakes Dredge and Dock, Inc.

43 The attached resolution authorizes a construction contract with Great Lakes Dredge and Dock, Inc., Oak Brook, IL
44 (Great Lakes), the lone bidder for this project. The total authorized contract amount is \$9,370,099 for mobilization,
45 demobilization, and sand placement, with an additional \$388,674 contingency authorized for potential additional costs.
46 The total contract amount authorized in the attached resolution is \$9,758,773.
47

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012
Page 8 of 24

1
2 As you know, the Town of Pine Knoll Shores and the Town of Emerald Isle partnered together on the bid process for
3 this project in order to secure the most cost-effective bids for work in each town. Combined bids were requested for all
4 work in both towns, and the pro-rated cost for each town was also requested. The bid documents stipulated that
5 mobilization and demobilization costs are to be shared equally between the two towns, and that each town will pay the
6 same unit price per cubic yard (cy) of sand dredged and placed.

7
8 The initial bid opening date was scheduled for Thursday, October 4. Only one bid was received at that time, and the
9 two towns re-advertised for bids for this project, as required by NC General Statutes. The second bid opening was
10 held on Tuesday, October 16, and again only one bid was received. The bid was opened and read aloud at that time.
11 Great Lakes submitted a bid with total costs of \$11,298,820 for mobilization, demobilization, and placement of 676,000
12 cy of sand in the Town of Emerald Isle. Mobilization and demobilization cost was \$1,787,500 (Emerald Isle's 50%
13 share), and the unit cost for sand placement was \$14.07 per cubic yard. Great Lakes also submitted a daily
14 suspension cost of \$215,000 per day, a daily sea turtle trawling cost of \$3,350 per day, and a daily beach tilling cost of
15 \$3,350 per day, if applicable (based on regulatory requirements). This bid exceeded the Town's project budget by
16 approximately \$1.6 million.

17
18 Under NC General Statutes, the Town is permitted to negotiate with the low bidder in a competitive bid process.
19 Following the October 16 bid opening, the two towns, Carteret County, and Moffatt & Nichol (the project engineer)
20 negotiated with Great Lakes to reduce the Town of Emerald Isle's total contract cost to the \$9,758,773 amount
21 indicated earlier. In exchange for adjustments to the originally specified liquidated damages provisions (and other
22 minor adjustments to the contract terms), Great Lakes agreed to reduce the unit cost per cubic yard from \$14.07 to
23 \$11.95, in conjunction with a slight increase in the mobilization and demobilization cost from \$1,787,500 to \$1,850,000.

24
25 In order to remain within the Town's original project budget, the total volume of sand has been reduced from 676,000
26 cubic yards in the original bid to 629,297 cubic yards in the proposed negotiated contract. This volume reduction is
27 equal to nearly 7% of the originally planned volume, but will not impact the project boundaries. The project authorized
28 in the attached resolution includes the nourishment of two distinct reaches in Emerald Isle:

29
30 Eastern Emerald Isle Reach:

- 31 • 5th Street to Pier Pointe condominiums
- 32 • 12,504 linear feet, or 2.4 miles
- 33 • 428,005 cy of sand (compared to 454,800 cy in the original bid)
- 34 • average placement rate of 34.2 cy / ft. (compared to 36.4 cy / ft. in the original bid)

35
36 Western Emerald Isle Reach:

- 37 • Myrtle Drive to Ocean Oaks Drive
- 38 • 9,485 linear feet, or 1.8 miles
- 39 • 201,292 cy of sand (compared to 221,200 cy in the original bid)
- 40 • average placement rate of 21.2 cy / ft. (compared to 23.2 cy / ft. in the original bid).

41
42 Although the average placement rate has been slightly decreased in each reach, the project is still expected to widen
43 the flat, dry sand portion of the beach by approximately 50 – 75 feet. The underwater portion of the fill is expected to
44 extend approximately 150 ft beyond the new high water mark at a gentle slope.

45
46 As discussed at length over the past few months, the project boundaries and design template are intended to address
47 the areas 1) with the greatest need for nourishment, and 2) that experienced the most erosion during Hurricane Irene.
48 In addition, the practical limitations of beach construction have also been considered, as it is simply not practical to
49 construct a beach with average fill quantities less than ~ 20 cy / ft.

50
51 The attached resolution authorizes the Town Manager to execute a stand-alone contract with Great Lakes for the
52 negotiated prices indicated above. The Town of Pine Knoll Shores will enter into a separate but identical contract with
53 Great Lakes for the total volume of sand placed in their jurisdiction (283,868 cy). As you know, the Town's mobilization
54 and demobilization cost (\$1,850,000) is expected to be 100% reimbursed by the Federal Emergency Management

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012
Page 9 of 24

1
2 Agency (FEMA). FEMA is also expected to reimburse 100% of the sand placement costs for 157,073 cy to be placed
3 in the eastern Emerald Isle reach (\$1,877,022). These agencies are also expected to reimburse the Town for any
4 associated suspension costs, sea turtle trawling, and/or beach tilling costs incurred while working in the eastern
5 Emerald Isle reach. Remaining contract costs will be funded by the Carteret County Beach Commission (\$4.5 million)
6 and the Town (\$1.505 million), and these amounts are both identical to the original budget amounts established for the
7 FEMA Irene Beach Nourishment Project.
8

9 The sand for this project will be dredged with hopper dredges from the US Army Corps of Engineers' Offshore Dredged
10 Materials Disposal Site (ODMDS) located just west of Beaufort Inlet off the coast of Atlantic Beach, and is of excellent
11 quality. This sand source was previously used for the Town's 2004 and 2007 beach nourishment projects that
12 replaced sand lost during Hurricane Isabel and Hurricane Ophelia, respectively. The sand will be transported via
13 hopper dredges to pump stations located just offshore of the beach in Emerald Isle. The sand will then be pumped to
14 the beach and placed by mechanical equipment to construct a widened beach strand.
15

16 The Board should note that the contract will stipulate that all work in the two towns be completed between January 1
17 and March 31 in order to minimize the potential for taking sea turtles, and in accordance with regulatory agency
18 requirements. Great Lakes has indicated that they intend to begin work in late January, but has committed to complete
19 the work by the March 31 deadline. Although the schedule is tighter than desired, we believe that all work can be
20 completed in this time frame. Great Lakes plans to eventually allocate 3 hopper dredges for our project, and expects
21 to complete the project by mid-March. The Board should note that the contract will stipulate that work begin in Pine
22 Knoll Shores, then move to the eastern Emerald Isle reach, and then move to the western Emerald Isle reach. Based
23 on the production capabilities of the 3 dredges, we believe that Great Lakes will be able to meet the March 31 deadline
24 and complete all work in Emerald Isle. In the event that Great Lakes does not complete the work by the March 31
25 deadline, there are significant contract provisions to either require Great Lakes to return to our area next winter to
26 complete the job and/or there are significant liquidated damages.
27

28 The Board should note that the Eastern Ocean Regional Access and Western Ocean Regional Access are designated
29 as the staging areas for pipe and equipment in Emerald Isle. At this time, we expect Great Lakes to primarily utilize the
30 Eastern Ocean Regional Access, with only limited use of the Western Ocean Regional Access. Portions of these
31 facilities may be closed during construction, however, the public should still be able to access the beach from these
32 facilities. Additionally, certain sections of the beach strand will be closed to beach driving during construction, but will
33 reopen after the project is complete.
34

35 Interlocal Agreement – Town of Emerald Isle / Town of Pine Knoll Shores

36 The attached agreement outlines the partnership between the Town of Emerald Isle and the Town of Pine Knoll
37 Shores, is consistent with the contract documents to be executed with Great Lakes, and is also similar to the interlocal
38 agreement entered into for the FEMA Ophelia Beach Nourishment Project constructed in 2007.
39

40 The attached agreement stipulates the sequence of the work, and notes that the mobilization and demobilization costs
41 will be split 50% - 50%. Each town will pay the unit cost per cubic yard of sand placed within its jurisdiction, and each
42 town will also be responsible for any suspension costs, sea turtle trawling costs, and beach tilling costs that occur while
43 work is completed within its jurisdiction.
44

45 In the event of unforeseen circumstances, the two towns will negotiate in good faith to determine an equitable cost-
46 sharing arrangement. We are fortunate to enjoy an excellent working relationship with the Town of Pine Knoll Shores
47 (and Brian Kramer, their Town Manager), thus I would expect a fair resolution to any unexpected challenges.
48

49 Capital Project Ordinance Amendment – FEMA Irene Beach Nourishment Project

50 The attached capital project ordinance amendment formally amends the project budget to reflect the Great Lakes
51 contract costs and adjust anticipated FEMA reimbursements.
52

53 The total project budget included in the attached capital project ordinance amendment is \$10,058,875, an increase of
54 \$205,329 over the previous project budget. The entire increase is expected to be reimbursed by FEMA, bringing the

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012
Page 10 of 24

1
2 total expected FEMA reimbursement for this project to \$4,053,875. The Carteret County share (\$4.5 million) and the
3 Town of Emerald Isle share (\$1.505 million) are unchanged.

4
5 The capital project ordinance includes a total of \$9,370,099 for mobilization and demobilization and sand placement,
6 and also includes a contingency of \$388,674 for any associated suspension costs, sea turtle trawling, and/or beach
7 tilling costs. If this contingency is ultimately not utilized, these funds may be used to place additional sand in the
8 western Emerald Isle reach and/or saved for future beach nourishment projects.

9
10 The Board should note that the FEMA Irene Beach Nourishment Project would not be possible without the tremendous
11 assistance of the Carteret County Beach Commission and the Carteret County Shore Protection Office, and without
12 excellent work by Moffatt & Nichol Engineers. The Town is fortunate that the Beach Commission filled the funding void
13 created by the lack of a State appropriation for our project, allocating a total of \$4.5 million for this project. Greg "Rudi"
14 Rudolph, Carteret County Shore Protection Office, provided excellent coordination and assistance on all aspects of this
15 project. Moffatt & Nichol Engineers, with Johnny Martin as their Project Manager, worked tirelessly on our behalf to
16 formulate an acceptable project, negotiate with Great Lakes, and help us achieve our project goals.

17
18 Town Manager Rush said that he, along with Pine Knoll Shores Town Manager
19 Brian Kramer, and Carteret County Shore Protection Manager Rudi Rudolph, had
20 discussed the possibility of delaying the project until 2014 because they weren't
21 at a completely critical situation as of yet and hoped they could get a better price.
22 Mr. Rush said that after Hurricane Sandy came through and impacted the
23 northeast as much as it did they expected there would be a lot of beach
24 nourishment work in New Jersey and Long Island in the next year and with there
25 being very little competition in that industry they felt it was prudent to go ahead
26 and negotiate the best contract they could this year, get the sand on the beach in
27 the February – March timeframe.

28
29 Mayor Schools asked for comments from the public.

30
31 Paul Schwartz, Wyndtree Drive, wondered if Salter Path not being involved
32 would affect the way sand moved from east to west in the nourishment plan.
33 Mayor Schools said that it could possibly affect things but they had no choice
34 since they had decided they were not going to nourish and that was their option.

35
36 Commissioner Wootten felt the biggest risk was the company getting the 3
37 dredges in place, but he liked the provisions that were in place in case they
38 experienced problems with the liquidated damages, and having to come back
39 the next year.

40
41 Town Manager Rush said that the Pine Knoll Shores Board had approved the
42 agreement at their meeting the previous week.

43
44 ***Motion was made by Commissioner Hoover to approve the Resolution***
45 ***Authorizing Construction Contract with Great Lakes Dredge & Dock, Inc.***
46 ***The Board voted unanimously 5-0 in favor. Motion carried.***

47
48

1
2 ***Motion was made by Commissioner Wright to approve the Interlocal***
3 ***Agreement between the Town of Pine Knoll Shore and Town of Emerald***
4 ***Isle. The Board voted unanimously 5-0 in favor. Motion carried.***

5
6 ***Motion was made by Commissioner Messer to approve the Capital Project***
7 ***Ordinance Amendment. The Board voted unanimously 5-0 in favor. Motion***
8 ***carried.***

9
10 **Clerks Note: A copy of Resolution 12-11-13/R4, Interlocal Agreement, and Capital Project Ordinance**
11 **Amendment as noted above are all incorporated herein by reference and hereby made a part of**
12 **these minutes.**

13
14 **11. Ordinance Amending Chapter 15 – Solid Waste Management – of the**
15 **Code of Ordinances Regarding Trash and Recycling Container**
16 **Requirements**

17
18 Town Manager Frank Rush addressed the Board concerning this agenda item.
19 The following excerpt from his memo to the Board is provided for additional
20 background:

21
22 The Board of Commissioners is scheduled to consider the attached ordinance amendment that would 1) require the
23 use of larger recycling containers for curbside recycling, 2) eliminate the use of open-top 18-gallon recycling bins, and
24 3) expand the time allowed for the placement of trash and recycling containers at the curbside on the day before
25 collection. The attached ordinance amendment was drafted after a recent meeting in October between Town officials
26 (Mayor Schools, Mayor Pro-Tem Messer, Commissioner Hoover, and I) and Emerald Isle vacation rental agencies to
27 discuss various items.

28
29 The Town established minimum container volume requirements for trash and recycling in its solid waste ordinance in
30 2003. The current ordinance requires vacation rental units to utilize at least one (1) 35/40 gallon roll-out recycling
31 container per unit, and this requirement served the Town relatively well for several years. As recycling participation
32 and volumes have increased in recent years (from approximately 480 tons annually in the mid / late 2000s to
33 approximately 650 tons last year), the Town has experienced more instances of overflowing recyclables at vacation
34 rental units. There was unanimous agreement among the vacation rental agencies present at the October meeting
35 that the Town should require larger recycling containers. The attached ordinance amendment would require vacation
36 rental units to utilize one (1) 90/95 gallon roll-out recycling container for each 3 bedrooms in the vacation rental unit.
37 This volume requirement is identical to that currently required for regular trash at vacation rental units. Several
38 participants in the October meeting noted that many units often generate as much recyclables as regular trash (or
39 more), and that recyclables typically don't compress in the same manner as regular trash.

40
41 The group at the October meeting also discussed issues associated with the use of the open-top 18-gallon recycling
42 bins. Under the Town's solid waste ordinance, these bins can only be used by permanent residents and second home
43 owners. Overflow concerns were noted, in addition to the relatively frequent occurrence of recyclables being easily
44 blown from the open-top containers. The group recommended that the Town require permanent residents and second
45 homeowners to utilize at least a 35/40-gallon roll-out recycling container, and the attached ordinance amendment also
46 includes that provision.

47
48 Town officials also noted the tendency for both trash and recycling containers to be rolled out to the curbside earlier
49 and earlier during periods of peak visitation during the summer. The Town's solid waste ordinance stipulates that
50 containers should not be rolled out earlier than 3:00 pm the day before collection, however, there are certain times
51 when containers are rolled out as early as 9:00 am or 10:00 am the day before collection due to the large nature of the

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012
Page 12 of 24

1
2 job during periods of peak visitation. Because of the large nature of the job and my desire to maintain a cooperative
3 relationship with the vacation rental agencies, Town staff have been lenient on this issue during periods of peak
4 visitation. In recent years, however, containers have been placed earlier and earlier, and the number and degree of
5 citizen complaints has increased. Town officials requested that the vacation rental agencies work harder to limit the
6 time that containers are placed at curbside. During the discussion, the vacation rental agencies requested a slight
7 adjustment to the 3:00 pm timeframe, and Town officials present at the meeting were comfortable with an adjustment
8 to 12:00 pm the day before collection. The vacation rental agencies indicated that they would work hard to meet a
9 12:00 pm timeframe. The attached ordinance amendment includes this change.

10
11 The Board should note that the attached ordinance amendment will require many property owners to bear an additional
12 expense for the purchase of new recycling containers. These containers can be expensive, with retail prices in the \$80
13 - \$100 range or more. If the Board adopts the attached ordinance amendment, the Town may wish to consider a bulk
14 purchase of both the 35/40 gallon and 90/95 gallon roll-out recycling containers and make the containers available for
15 sale at the Town Administration Building (and perhaps through a cooperative arrangement with Sound Ace Hardware)
16 for our cost. The Town can purchase approximately 800 containers of the 35/40 gallon size for approximately \$40-\$45
17 each, and can purchase approximately 800 containers of the 90/95 gallon size for approximately \$50-\$55 each.

18
19 The Board may also recall that the potential elimination of the open-top 18-gallon recycling bins for permanent
20 residents and second homeowners was discussed in the past, and the Board was not comfortable making that change
21 at that time. If the Board is comfortable with the other changes in the attached ordinance amendment, but not the 18-
22 gallon recycling bin change, then I would recommend that the Board indicate that Section 15-6, Subsection 1 of the
23 Town's solid waste ordinance simply remain unchanged.

24
25 Finally, as you know, we are always seeking ways to improve our services, and there has been recent discussion
26 about the possibility of providing a Saturday collection for vacation rental properties. Due to limited operating hours for
27 the landfill / transfer station, current contractual limitations, and heavy motor vehicle traffic volumes in Emerald Isle
28 during the summer that would reduce efficiency, I can not identify a cost-effective way to implement a Saturday
29 collection (although I agree that would be a great service for Emerald Isle). As an alternative, in order to have the
30 ocean-side trash collected closer to the weekend, the Board may wish to consider adjusting our current trash collection
31 schedule to switch the collection day for ocean-side and sound-side trash for the second collection of each week. This
32 would result in ocean-side trash collection on Monday (right after the weekend; current schedule), sound-side
33 collection on Tuesday (current schedule), Town-wide recycling collection on Wednesday (current schedule), sound-
34 side collection again on Thursday (currently on Friday), and ocean-side collection again on Friday (currently on
35 Thursday). This change would at least partially address concerns about full trash containers awaiting new check-ins at
36 vacation rentals over the weekend, and could easily be implemented within the parameters of the Town's current
37 contract with Simmons & Simmons. The only negative to this approach is the short time period between sound-side
38 trash collection days – each week on Tuesday and then again on Thursday, and this may not be desirable. If the
39 Board wishes to consider this schedule change for the 2013 tourism season, it would be helpful to resolve this issue
40 within the next month or so.

41
42 **Town Manager Rush highlighted and discussed the 3 proposed changes to the**
43 **Town's Solid Waste Ordinance:**

- 44
45 1) require the use of larger recycling containers for curbside recycling,
46
47 2) eliminate the use of open-top 18-gallon recycling bins, and
48
49 3) expand the time allowed for the placement of trash and recycling
50 containers at the curbside on the day before collection
51
52

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012
Page 13 of 24

1
2 Mr. Rush said the current ordinance that had been in place since 2003 required
3 each vacation rental unit to utilize a minimum of one 40 gallon roll-out container
4 for recycling. The proposed amendment would basically change the ordinance to
5 be similar to requirements for trash containers and require one 90 gallon roll-out
6 recycling container for each 3 bedrooms within the rental unit, which is the same
7 containment capacity currently required for trash at the vacation rental units. Mr.
8 Rush said that 4 of the 7 rental agencies were present at their recent meeting
9 with vacation rental agencies and all four were comfortable with this change, and
10 he had since shared that idea with the other 3 vacation rental companies and
11 had not received any negative feedback.

12
13 Another issue discussed at that meeting was that permanent residents and
14 second home owners were currently allowed to use 18 gallon open recycling
15 containers; that ordinance also being in place since 2003. Mr. Rush said the
16 issue that came up with these containers was that as open containers there were
17 scattered recyclables following wind events and overflowing issues. The
18 proposed amendment would require all permanent residents and second home
19 owners to use a minimum of one 40 gallon roll-out recycling container, so if this
20 ordinance was approved they would not be able to use the open 18 gallon
21 containers any longer.

22
23 The third proposed change in the ordinance would change the time that trash
24 and recycling containers would be allowed to be placed curbside. The current
25 ordinance also going back to 2003 required containers should not be rolled out to
26 the street any earlier than 3 pm the day before collection; the proposed
27 amendment would change that time to 12 pm (noon) the day before collection,
28 providing an additional 3 hours primarily for vacation rental companies to get the
29 trash and recycling containers out to the street. This was viewed as a
30 compromise as there had been some problems in the peak of the summer
31 season where containers were at the street at 9 am or 10 am the morning before
32 collection. The vacation rental companies indicated they would make a greater
33 effort to meet the 12 noon timeframe.

34
35 Mr. Rush said that in the past the Board had discussed changing the
36 requirements for single family homes and second homeowners, and about a year
37 ago the Board decided not to move forward with a similar change regarding the
38 18 gallon bins, and if the Board was not comfortable moving forward with that
39 change he would simply recommend they remove the language proposed in
40 section 15.6.1.

41
42 Mr. Rush said the containers when purchased from a store cost between \$80-
43 \$100 depending on the type of container bought, the Board may wish to consider
44 a Town sponsored bulk purchase to provide containers at cost or slightly above
45 cost for residents who needed to make the change whether it be the 90 gallon

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012
Page 14 of 24

1
2 recycle containers for the rental units or the 40 gallon recycling containers for the
3 permanent residents or second home owners.

4
5 Lastly, Mr. Rush said one of the issues mentioned by the vacation rental
6 agencies was the problem of vacation rental guests checking in on Saturday,
7 often times with the trash containers already full because the last oceanside
8 collection took place on Thursday. Mr. Rush said that he had not identified a
9 cost-effective feasible way to provide Saturday trash collection, but thought the
10 Board may want to consider switching the second collection days of the week
11 with the oceanside being collected on Friday and the soundside on Thursday.
12 Mr. Rush said there would need to be ample public education if that change was
13 made and felt it was a good idea. He felt the one concern was that the
14 soundside would be collected on Tuesday and then again on Thursday. If the
15 Board thought they would like to pursue this he felt they could make it happen, if
16 not they would continue with the way they had been operating.

17
18 Mayor Schools asked for any comments from the public.

19
20 One resident in the audience said they liked the idea because she had seen
21 people check in with totally full trash containers. Another resident didn't like the
22 idea of changing collection days because it would cause trash containers to be
23 out 5 days a week.

24
25 Commissioner Wootten recognized the problem of the number of recycling
26 containers at the rental properties as being clearly a problem, and felt that more
27 containers was the answer; but the part of the ordinance he didn't like was
28 requiring permanent and second homeowners to go out and buy a bigger
29 container. Commissioner Wootten didn't feel that was the role of government to
30 be telling people that they had to have some bigger container unless there was
31 some huge problem and he didn't see it as being a huge problem. He felt
32 permanent and second homeowners were all adults and could decide whether
33 their 18 gallon container was sufficient. Commissioner Wootten said he would
34 like to eliminate that requirement.

35
36 Mayor Schools said they had a lot of second home owners on their street and
37 from Sunday night until Wednesday there were always containers overflowing
38 and they were always picking up trash until he convinced all of his neighbors to
39 purchase 40 gallon containers.

40
41 Commissioner Wootten felt they could do a PR campaign to convince people to
42 do the smart thing if there were problems.

43
44
45

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012
Page 15 of 24

1
2 Commissioner Messer said it wasn't a problem for them because they were gone
3 and that was when they had to pick up the neighborhood recyclables that had
4 flown out and be put into his 40 gallon container.

5
6 Commissioner Hoover said the Town should quit selling the 18 gallon and
7 encourage people to get the 40 gallon containers.

8
9 Commissioner Hedreen asked if the rental companies could just require those
10 with overflow to purchase the extra 40 gallon containers.

11
12 Commissioner Hoover said they wanted the Town to make the law so that they
13 could then enforce.

14
15 Jay Thomas, 115 Lee, said the problem with small containers was that when they
16 got full then people put recyclables in with the regular garbage.

17
18 ***Motion was made by Commissioner Wootten to approve the Ordinance***
19 ***Amending Chapter 15 – Solid Waste Management – of the Code of***
20 ***Ordinances Regarding Trash and Recycling Container Requirements with***
21 ***the exception of Section 15.6.1. The Board voted a split vote of 2-3,***
22 ***Commissioners Hoover and Wootten in favor, Commissioners Hedreen,***
23 ***Messer and Wright opposed. Motion failed.***

24
25 ***Motion was made by Commissioner Hedreen to approve the Ordinance***
26 ***Amending Chapter 15 – Solid Waste Management – of the Code of***
27 ***Ordinances Regarding Trash and Recycling Container Requirements. The***
28 ***Board voted a split vote of 3-2, Commissioner Hedreen, Messer and Wright***
29 ***in favor, Commissioners Hoover and Wootten opposed. Motion carried.***

30
31 ***(Note: This ordinance amendment requires a 4/5 majority on first reading***
32 ***to be enacted, based on 3-2 vote a 2nd reading will be required only***
33 ***requiring a 2/3 majority for adoption at that time).***

34
35 Commissioner Wright suggested that the Town provide bulk purchasing of the
36 bigger 40 gallon containers because that would reduce the cost by about half.

37
38 Mr. Rush said the goal would be to not enforce the changes until next summer
39 and provide enough time for public education and container purchases.

40
41 The Board agreed to try switching the garbage collection dates to oceanside
42 pickup on Monday and Friday, and soundside pickup to Tuesday and Thursday
43 for the upcoming season.

44

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012

Page 16 of 24

1 Commissioner Wootten suggested that adding more garbage containers to be
2 required for rental units would be a simpler approach to solving the problem than
3 changing the collection days.

4
5
6
7 **12. Ordinance Amending Chapter 1 – General Provisions – of the Code of**
8 **Ordinances (Comprehensive Review) (12-11-13/O1)**

9
10 Town Manager Frank Rush addressed the Board concerning this agenda item.
11 The following excerpt from his memo to the Board is provided for additional
12 background:

13
14 The Board of Commissioners is scheduled to consider proposed amendments to Chapter 1 – General Provisions – of
15 the Code of Ordinances at the November 13 meeting.

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 55 years old, and numerous ordinance
19 amendments have been made over the years with input by many different groups and individuals, all likely with good
20 intentions, and sometimes there are unintended impacts on or conflicts with other ordinance provisions. State law and
21 common practice also change over time, and this sometimes leads to out of date provisions or confusion. In other
22 cases, it may be helpful for the Town to critically ask itself if it really needs certain ordinance provisions.

23
24 As discussed previously, my goal is for Town staff and me to complete a comprehensive review of all Town ordinances
25 with a critical eye. During this review, conflicting or confusing provisions will be targeted for clarification, unnecessary
26 provisions will be targeted for elimination, and in some cases out of date or un-enforced provisions will be targeted for
27 elimination. My goal is to present comprehensive amendments to each of the 16 current chapters of the Code of
28 Ordinances over the next 16 months. One chapter will be presented each month, and at the end of the 16 month
29 period the entire Code of Ordinances will have been thoroughly reviewed and updated – ideally in a simpler, leaner,
30 more user-friendly, easier-to-understand format. As you know, the Town Charter was recently reviewed and an
31 updated version was approved by the Board at the October 13 meeting. Chapter 1 – General Provisions – is the first
32 actual chapter to be presented to the Board under this comprehensive review process.

33
34 The proposed amendments to Chapter 1 are presented in two attached documents. One draft is presented in typical
35 ordinance format utilizing the underline and ~~strike through~~ features to make it easy to examine the changes, and the
36 other draft is a “clean” copy of the proposed new version to make it easier to read in its entirety.

37
38 There are actually relatively few proposed amendments to Chapter 1, with the exception of Section 1-6, which outlines
39 penalties for violations of Town ordinances. The current provisions in Section 1-6 are rather long and confusing, and
40 the primary goal of the proposed amendment is to simplify and condense the language. The specific penalty for a
41 particular ordinance violation is almost always prescribed in the specific chapter and section of the Town Code defining
42 the offense, and the new language in Section 1-6 is intended to be more generic in nature.

43
44 As noted in Section 1-6, the Town utilizes misdemeanor penalties outlined in NCGS 14-4 for some violations, and civil
45 citations for other violations. Misdemeanor penalties are processed through the State court system, and also involve
46 payment of court costs. Revenues derived from these penalties are retained by the State. Civil citations are
47 processed by Town staff, and revenues derived from these penalties are retained by the Town. In recent years, the
48 Town has relied more on civil citations when new ordinances are adopted or old ordinances are amended, due
49 primarily to the fact that the Town retains the revenues derived from these penalties. Section 1-6 also indicates that
50 the Town may use other alternative remedies prescribed in the specific section of the Town Code defining the offense
51 (for example, confiscation of unattended beach equipment, notices to abate public nuisances, eventual abatement by
52 Town staff and recovery of costs, etc.), in addition to any court-ordered remedies.

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012
Page 17 of 24

1
2 The Board should note that for less egregious offenses, as a matter of practice, Town staff is encouraged to provide
3 verbal or written warning citations to first-time offenders in an effort to use the encounter as a public education tool.
4 This "friendly enforcement" approach usually serves the Town well and usually accomplishes the main goal, which is
5 the prevention of any future offenses. For repeat offenders, and for more serious offenses, misdemeanor penalties are
6 assessed or an actual civil citation is issued. The Board should also note that for certain higher profile or more
7
8 dangerous offenses, the Police Department will likely charge an offender with a violation of a corresponding State law if
9 one exists (for example, reckless driving on the beach strand would result in a violation of a State motor vehicle law to
10 make the penalty more severe).

11
12 Mr. Rush pointed out one change that had been pointed out to him in the text
13 under Section 1-2 – Definitions and rules of construction – the definition of Board
14 of Commissioners included reference to the Mayor and that was clearly incorrect
15 and the word mayor should be removed from the definition.
16

17 Mr. Rush indicated that the Board could review the proposed changes this month
18 and then delay consideration to the following month since this was a
19 comprehensive process and he wanted to be sure the Board was comfortable
20 with the changes being made; the Board could take that approach with Chapter 1
21 tonight and just review and put on the December agenda or they could go ahead
22 and adopt tonight as these changes were relatively benign and uneventful.
23

24 ***Motion was made by Commissioner Messer to approve the Ordinance***
25 ***Amending Chapter 1 – General Provisions – of the Code of Ordinances***
26 ***including removing the word "mayor". The Board voted unanimously 5-0***
27 ***in favor. Motion carried.***
28

29 **Clerks Note: A copy of Ordinance Amendment 12-11-13/O1 as noted above is incorporated herein by**
30 **reference and hereby made a part of these minutes.**
31

32 **13. Real Property Purchase Contract – Lot 1 Shell Cove North**
33

34 Town Manager Frank Rush addressed the Board concerning this agenda item.
35 The following excerpt from his memo to the Board is provided for additional
36 background:
37

38 The Board of Commissioners is scheduled to consider the attached contract for the purchase of Lot 1 Shell Cove
39 North, a vacant 2-acre tract of land adjacent to the Emerald Isle Public Boating Access Area. Lot 1 is located on the
40 western boundary of the Public Boating Access Area, and would be combined with Lot 2 (vacant lot already owned by
41 the Town) for future park development. The tax parcel card, including a map, for Lot 1 Shell Cove North is attached.
42

43 The total purchase price is \$172,154, and the contract is contingent upon the Town's receipt of at least \$86,077 in
44 State grant funds for the land purchase. As you know, the Board authorized a 2013 grant application to the NC Parks
45 and Recreation Trust Fund at its October meeting, and Town staff will submit the grant application (for \$87,500) prior to
46 the January 31 application deadline. The Town expects to learn the outcome of the grant application in May 2013 or
47 July 2013, and the attached contract contemplates an August 31, 2013 closing date.
48

49 The attached contract calls for the Town to remit \$86,077 at closing (from State grant funds), and the owners, William
50 and Terri Farrington, will provide seller-financing to the Town for the remaining balance of \$86,077. The terms of the

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012

Page 18 of 24

1 seller-financing agreement are 10 years at 0.82%, which equates to a monthly payment of \$750, or \$9,000. The Town
2 will have the opportunity to cancel the contract prior to August 1, 2013 if the requested grant funds are not awarded to
3 the Town, or the Town could arrange alternative financing at that time and proceed with the purchase.

4
5 As you know, the Town's goal is to develop the Emerald Isle Public Boating Access Area as a comprehensive
6 soundfront park facility with both passive and active recreational amenities. Boat ramps and associated parking are in

7
8 place, a new Veterans Memorial and picnic shelter have recently been constructed, and a new soundside pier is
9 planned within the next several months. Potential future recreational amenities considered for this facility include an
10 athletic field, walking trail, playground equipment, and/or tennis courts. Toward the realization of this goal, the Town
11 acquired the adjacent vacant Lot 2 - Shell Cove North in January 2012, with a goal to also eventually acquire Lot 1 for
12 the development of future park amenities.

13
14 Lot 1 and Lot 2 each consist of approximately 2 acres total, with approximately ½ acre of upland area on each lot.
15 Combined, the two lots would yield a usable upland area of approximately 150 feet x 325 feet, and this land area
16 would be suitable for the development of a youth soccer field or other all-purpose athletic field that could be utilized by
17 our residents and visitors. As you know, the Town currently has no athletic fields of any kind, nor owns any land that
18 would be suitable for an athletic field. If the Town completes the acquisition of Lot 1, the entire upland area could be
19 graded and sodded for use as an all-purpose athletic field, potentially with soccer goals, and could also be used for any
20 number of field sports. Additionally, the open grassy area could potentially be used as a soundfront venue for outdoor
21 concerts, or other formal or informal gatherings. I envision that much of this work could be completed by Town staff at
22 relatively minimal expense in the future, as funds and time permit. The combination of Lot 1 and Lot 2 could also be
23 used for other desired park amenities as determined by the Board of Commissioners and/or the Emerald Isle Parks
24 and Recreation Association, Inc.

25
26 The Board should note that the owners previously provided a verbal indication that they would accept the terms
27 included in the attached contract, however, as of November 8, I have not yet received an executed copy of the
28 contract. I hope to receive an executed copy prior to the November 13 meeting.

29
30 Mayor Schools asked for any comments from the public.

31
32 There were no comments from the public.

33
34 ***Motion was made by Commissioner Wootten to approve the Real Property***
35 ***Purchase Contract for Lot 1 Shell Cove North. The Board voted***
36 ***unanimously 5-0 in favor. Motion carried.***

37
38 **14. Comments from Town Clerk, Town Attorney, and Town Manager**

39
40 There were no comments from the Town Clerk or Town Attorney.

41
42 Town Manager Rush updated the Board on the upcoming repair work to the
43 Emerald Isle Bridge and outlined the project scope and planned lane closure
44 schedules. The planned completion of the project it was noted was still
45 scheduled for May 2013. Mr. Rush stated that the Town would do the best job
46 possible to keep people informed about lane closures and try to get regular
47 updates from NCDOT about their progress. He encouraged everyone to plan for
48 delays. Mr. Rush said if they did not finish by May 2013 there were liquidated
49 damages of \$1,000 per day for the contractor and they would also be required to

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012

Page 19 of 24

1 come back after October 15, 2013; under no circumstances would there be work
2 during the period from May 23 through October 15.

3
4 The following is an excerpt from the Town Manager Comments memo to the
5 Board providing additional background information for all items of importance:

6
7
8 **2012 Deer Population Estimate**

9 Two regional biologists (Robbie Norville and his new replacement, Jonathan Shaw) with the NC Wildlife Resources
10 Commission and Police Lt. Jeff Waters completed the 2012 deer population estimate in September. The group spent
11 two nights in the Coast Guard Road area, and reported a deer population estimate of 141 deer along Coast Guard
12 Road from the bridge to The Pointe. I have summarized previous years' deer population estimates below, along with
13 the Town's actions:

<u>Year</u>	<u>Deer Population Estimate</u>	<u>Town's Actions</u>
Fall 2005	65 – 91 deer	No action taken, as this population density was generally considered to be an acceptable range for a community such as Emerald Isle.
Fall 2009	149 deer	The Town investigated and considered non-lethal deer management approaches, including use of deer contraceptives, sterilization, and tranquilization / relocation of deer at this time, but was advised by the NC WRC biologist that these approaches are not effective, are costly, and may also result in deer fatalities anyway. After consideration, the Town applied for and received a "depredation permit" from NC WRC, and undertook an effort to reduce the deer population with targeted bow hunting by Police Officers in Emerald Isle Woods Park in January – February 2010. This effort resulted in the elimination of 11 deer, with the deer meat donated to feed the hungry.
Fall 2010	102 – 108 deer	No action taken, as this population density was more in line with the 2005 estimate. Some in the community disputed the 2010 population estimate, as personal observations and conventional wisdom in the community suggested that the deer population estimate had not decreased from 2009 to 2010. The Town did work with Carolina Home and Garden and Yardworks Landscaping to present a workshop on deer-tolerant plant species. While very informative, the workshop was only lightly attended.
Fall 2011	174 deer	The Town secured a "depredation permit" from NC WRC and organized a controlled hunt in January and February. The Town's 2012 controlled deer hunt resulted in the elimination of 17 deer. Volunteer bowhunters took deer from the Royall Oaks, Emerald Isle Woods Park, and Bell Cove Estates locations. No deer were taken from the Lands End or Wyndward Court / Coast Guard Road locations, and hunting only occurred on a few days at those two locations. The 17 deer taken were carrying a total of 17 deer fetuses. Mayor Schools also made a significant

**MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012**

Page 21 of 24

1 We are currently securing quotes for the construction of the path, and also evaluating the cost-effectiveness of two
2 construction strategies. One strategy involves the continuation of the path in the undisturbed right of way along the
3 south side of Coast Guard Road, and the other involves widening the road on the north side and then using existing
4 asphalt on the south side of Coast Guard Road for the new bike path. There are pros and cons associated with each
5 option.
6

7 I hope to present a construction contract recommendation to the Board sometime this spring, with a goal to complete
8 the new path segment prior to Memorial Day weekend. If not, we will seek to construct the new segment in fall 2013.
9

10 **Bogue Inlet Navigation Dredging Funding**

11 The US Army Corps of Engineers is currently holding approximately \$159,000 of State-local funds raised in 2006 for
12 future sidecast dredging in Bogue Inlet in 2013. The NC Division of Water Resources is currently holding all of the
13 \$182,000 of State-local funds raised in 2011 for Bogue Inlet dredging, and these funds will be used after the Corps
14 exhausts the 2006 funds.
15

16 There is again no funding for Bogue Inlet in the federal budget, however, we appear to have sufficient funding in place
17 to meet the needs in 2013. When these funds run out, it may be necessary to organize a new State-local fundraising
18 effort. In the meantime, there is some discussion about the State establishing a dedicated State funding source for
19 inlet dredging, and we will be monitoring this issue closely in the 2013 legislative session.
20

21 **Proposed 1% Beach Preservation (Local Option Sales and Use) Tax**

22 The NC General Assembly's Revenue Laws Study Committee met on Thursday, November 8, but our proposal was
23 not on the Committee's agenda. I remain hopeful that our proposal will be on an upcoming Committee meeting
24 agenda prior to the start of the 2013 legislative session. I plan to attend if / when our proposal is discussed.
25

26 There is also some ongoing discussion about a potential amendment to the Carteret County room occupancy tax that
27 could potentially result in additional local beach nourishment funding. Depending on the ultimate outcome of these
28 discussions, such a change may accomplish much of what the Town hopes to generate with the proposed new 1%
29 beach preservation tax, however, it is unlikely to generate the full additional \$700,00 - \$800,000 needed annually by
30 the Town for future beach nourishment efforts. I will continue to monitor this issue and update the Board accordingly.
31

32 **Sale of Old Yard Debris Truck**

33 After resolving an unexpected performance issue soon after delivery, the Town's new yard debris truck is functioning
34 well and is in regular use by the Public Works Department. We are now planning to move forward with the sale of the
35 old truck, and will first offer it to other nearby towns.
36

37 The Town of Cedar Point has expressed some interest in the truck. If Cedar Point is interested in purchasing the truck,
38 I will present a proposal for Board consideration at an upcoming meeting. The Town's FY 12-13 budget assumes
39 surplus sale revenues of \$15,000 associated with this truck, and that appears to be a reasonable sales price. The
40 Town of Pine Knoll Shores recently purchased an older and smaller used truck from the Town of Atlantic Beach for
41 \$10,000. If Cedar Point is not interested, we will post the truck on the Town's internet auction website.
42

43 **Fixed Piping from Island Circle Pump Station to El Woods Park**

44 As you know, the Town previously received a quote of \$450,000 from a horizontal directional-drilling firm to install
45 approximately 7500 linear feet of fixed piping from the Island Circle pump station to the Town's existing fixed pipe near
46 Dolphin Ridge that leads to El Woods Park. I am currently investigating the potential cost savings associated with
47 utilizing an "open-cut" installation along 6000 linear feet or more of this distance on the south side of Coast Guard
48 Road, and hope to present a new cost estimate to the Board at the February budget planning workshop.
49

50 There appears to be sufficient right of way on the south side of Coast Guard Road in this area, with relatively few
51 obstructions, and it may be possible to install the new fixed pipe with minimal disruption to the community. I am
52 striving to identify a way to include funding for this project in the FY 13-14 Recommended Budget without impacting the
53 Town's General Fund tax rate.
54

**MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012**

Page 22 of 24

1 Eastern Emerald Isle Storm Water Outfall Removals

2 Work is nearly complete at the 10th location (4th Street), and will leave a total of 7 locations remaining over the next 7
3 months. Public Works will be working on one location per month. The NC Clean Water Management Trust Fund's
4 deadline to complete the project is May 31, 2013.

5 Eastern Ocean Drive Storm Water Improvements / Planned Resurfacing

6 Public Works recently completed drainage improvements at the intersection of 12th Street and Ocean Drive, and will be
7 working on several other low areas of Ocean Drive this winter in an effort to address chronic short-term flooding issues.
8

9
10 I am hopeful we can get these improvements completed this year prior to any comprehensive street resurfacing
11 planned for spring 2012 or spring 2013.

12 Information Technology (IT) Services Proposal

13 I am still working on a funding strategy for the IT services proposal I shared with the Board in the August 14
14 "Comments from Town Manager" memo, and hope to present a plan to the Board at an upcoming meeting. The
15 organization is in great need of a better solution for our IT needs.
16

17 Live Oak Street Pedestrian Bridge

18 Alesia Sanderson, Parks and Recreation Director, is currently awaiting the receipt of engineered plans for the
19 construction of the new walkway. Once we receive the plans, they will be presented to local volunteers to determine
20 their interest in / ability to provide construction labor for the project. We also plan to meet with nearby property owners
21 to address any concerns about the project.
22

23
24 We hope to have these issues resolved by January, and hope to begin construction later this winter. We hope to have
25 the new walkway constructed and open to the public by March or April.
26

27 Landscaping Improvements at Emerald Isle Public Boating Access Area

28 Parks and Recreation staff recently met with the NC Wildlife Resources Commission's new Landscape Architect, and
29 he is developing a plan to replace and add landscaping at the facility. I hope to secure funding from the NC Wildlife
30 Resources Commission to purchase the trees and shrubs and have Parks and Recreation staff install them later this
31 fall or spring.
32

33 Emerald Isle EMS, Inc. Fund Balance

34 I am awaiting the receipt of the June 30, 2012 audited financial statements for EI EMS, Inc., and will forward those on
35 to the Board after I receive them. I expect EI EMS, Inc. to end FY 11-12 with a total fund balance of approximately
36 \$128,000. You may recall that our projections assumed a total fund balance of approximately \$125,000, and these
37 funds will be used to purchase a replacement ambulance in 2013.
38

39 Planned Website Improvements

40 I have tasked Rhonda Ferebee, Town Clerk and also our website manager, with developing an Emerald Isle-specific
41 tourism page that can be used to refer visitors to for information about Emerald Isle accommodations, restaurants,
42 shops, and activities. We will also be working to give the Town's website a more visitor-friendly appeal, yet still
43 maintain a wealth of local government information for our residents, property owners, and visitors.
44

45 Cape Emerald Ponds

46 Cape Emerald is a private, gated subdivision with private streets, but, as you know, has a public storm water pipe
47 running from the ocean-side through the subdivision that empties into a series of ponds near the soundfront. These
48 ponds eventually drain into Bogue Sound. The Town has historically maintained the storm water pipe and the outfall
49 leading from the ponds to Bogue Sound, however, pond maintenance has historically been shared. Generally
50 speaking, Cape Emerald POA has maintained the fountains in the ponds, however, the Town has completed dredging
51 of the ponds on at least one prior occasion and Cape Emerald is now requesting additional pond dredging. The Cape
52 Emerald POA Board is currently working on a proposed "pond agreement" that stipulates the POA's and the Town's
53 responsibilities in the future. I expect to review the "pond agreement" after the first of the year, and may present a
54 formal agreement to the Board after that time.

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012
Page 23 of 24

1
2 I have also committed to assist Cape Emerald with at least a portion of the cost of resurfacing Ocean Oaks Drive
3 adjacent to the Town's storm water pipe. I made this commitment due to the repeated sinkhole and pothole problems
4 caused by the Town's failing pipe joints prior to significant pipe repairs in April 2012. I am waiting to learn more about
5 Cape Emerald POA's street resurfacing plans before making a final commitment.
6
7
8
9

10 **Point Emerald Villas Standpipe / Pump System**

11 The Fire Department has been working for approximately 2 years now with the POA for Point Emerald Villas regarding
12 the need (or not) to repair an existing Fire standpipe / pump system to serve the entire condominium complex.
13 Although it was not required by the Fire Code in the 1980s when the complex was constructed, the standpipe / pump
14 system was installed. It has not functioned properly in recent years, and there has been some confusion about
15 whether or not the system was required to be repaired or could be abandoned.
16

17 The Fire Department initially advised Point Emerald Villas that the system had to be repaired to function according to
18 current Fire Code requirements, however, after much dialogue and conflicting interpretations from the State Fire
19 Marshal, the State Fire Marshal has now indicated that the system is not required and can be abandoned. Fire Chief
20 Walker has informed Point Emerald Villas of this decision, although Chief Walker continues to have firefighting
21 concerns in this area and has encouraged Point Emerald Villas to maintain the system in place and restore its
22 functionality. Due to excessive cost, it is likely that Point Emerald Villas will abandon the system.
23

24 Point Emerald Villas made previous attempts to fix the system after the Fire Department's initial guidance 2 years ago,
25 and incurred significant expense for unsuccessful repairs.
26

27 **Dog Leash Issues**

28 The Police Department has expressed concern about dog owners attempting to utilize "electronic" dog leashes on the
29 beach strand, and the PD has been instructed to advise dog owners that "electronic" dog leashes are not permitted –
30 that the dog must be tethered on a real leash. There are also some dog owners utilizing very long (100 ft.?) dog
31 leashes on the beach strand, and Police Chief Hargett has requested that the Town amend its ordinance to establish a
32 maximum leash length of 20 ft. I may present such an amendment to the Board at an upcoming Board meeting.
33

34 **Fee Charged for Use of Community Center for Non-Profit Groups and Events**

35 The Town's fee schedule includes a fee of \$50 per hour for non-profit groups and events using the gymnasium at the
36 Community Center, with a minimum 2-hour charge. This fee is intended to generate funds to cover the cost of staff
37 assistance before, during, and after the event, including cleaning. The fee for for-profit groups and events is \$100 per
38 hour, with a minimum 2-hour charge.
39

40 The Town was recently approached by a group organizing a fundraiser for the Crystal Coast Hospice House, a very
41 good cause, and we will likely make a donation to this group to cover the fee.
42

43 **"Downtown" Streetscape Improvements**

44 I am currently working on a proposal for significant "downtown" streetscape improvements to present to the Board in
45 the next few months.
46

47 The bicycle path and sidewalk are terrific improvements to the main business district, and I would like to see the Town
48 do more in the future to create more of a "quaint, downtown" feel. I am specifically investigating 1) the cost and
49 feasibility of replacing the current creosote traffic signal poles and wires with fixed metal poles (similar to those used at
50 the intersection of NC 24 and Taylor Notion Road), 2) the cost and feasibility of installing decorative street lights on
51 both sides of NC 58 from Merchants Park to the Town Hall complex (similar poles as currently installed along the bike
52 path between Merchants Park and Coast Guard Road), and 3) the cost and feasibility of installing significant street
53 trees in the in the right of way in the main business district.
54

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE BOARD OF COMMISSIONERS
NOVEMBER 13, 2012

Page 24 of 24

1 Please let me know if you have other ideas you'd like us to consider to improve the aesthetics of the "downtown" area.

2
3 **Sponsor a Beach Wheelchair Program?**

4 The Emerald Isle Fire Department offers 6 beach wheelchairs for free public use on a first come, first served basis.
5 This program is very popular and is always very appreciated by the individuals and families that utilize them. The
6 beach wheelchairs cost nearly \$3,000 each, and we are considering implementing a "sponsor a beach wheelchair"
7 program, whereby local businesses could contribute to the cost of a new wheelchair in exchange for displaying their
8 business logo on the wheelchair. Please let me know your thoughts on this idea.

9
10 **15. Comments from Board of Commissioners and Mayor**

11
12 There were no further comments from the Board of Commissioners or Mayor.

13
14 **16. Adjourn**

15
16 ***Motion was made by Commissioner Messer to adjourn the meeting. The Board voted unanimously 5-0 in favor. Motion carried.***

17
18
19 ***The meeting was adjourned at 8:30 pm.***

20
21 Respectfully submitted:

22
23
24
25 Rhonda C. Ferebee, CMC
26 Town Clerk
27
28
29
30
31
32