

1                                   **MINUTES OF THE REGULAR SCHEDULED MEETING**  
2                                   **OF THE EMERALD ISLE BOARD OF COMMISSIONERS**  
3                                   **TUESDAY, MAY 8, 2012 – 7:00 P.M.**  
4                                   **TOWN BOARD MEETING ROOM**  
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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, and John Wootten.  
17

18                  Absent for the meeting: Commissioner Maripat Wright.  
19

20                  ***Motion was made by Commissioner Messer to excuse the absence of***  
21                  ***Commissioner Wright. The Board voted unanimously 4-0 in favor. Motion***  
22                  ***carried.***  
23

24                  Also present during the regular meeting: Town Manager Frank Rush, Town  
25                  Attorney Richard Stanley, Asst. Town Manager/Finance Officer Mitsy Overman,  
26                  Town Clerk Rhonda Ferebee, Planning Director Kevin Reed, and Fire Chief Bill  
27                  Walker.  
28

29                  **3. Opening Prayer**  
30

31                  Opening prayer was offered by Ricky Farrington, youth member of Emerald Isle  
32                  Baptist Church.  
33

34                  **4. Pledge of Allegiance**  
35

36                  All who were present recited the Pledge of Allegiance.  
37

38                  **5. Adoption of Agenda**  
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40                  ***Motion was made by Commissioner Hoover to adopt the Agenda. The***  
41                  ***Board voted unanimously 4-0 in favor. Motion carried.***  
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2 **6. Proclamations / Public Announcements**  
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4 • **Recognition – 25 Years of Service – Fire Chief William Walker**  
5

6 Mayor Schools presented Fire Chief Bill Walker with a Service Award Plaque and  
7 gift certificate on behalf of the Mayor, Board of Commissioners, staff, and citizens  
8 of the Town of Emerald Isle for his 25 years of dedicated service to the Emerald  
9 Isle Fire Department. Chief Walker received his award joined by his wife Susan.  
10 In addition, the entire Fire Department staff turned out in a show of support for  
11 their Chief as he received this special service recognition.  
12

13 Mayor Schools also noted the following proclamations and public  
14 announcements for the public:  
15

- 16 • **Proclamation - National Police Week (12-05-08/P1)**
- 17 • **Proclamation – National Public Works Week (12-05-08/P2)**
- 18 • **Proclamation – Emergency Medical Services Week (12-05-08/P3)**
- 19 • **Friday Free Flick – Friday, May 11 – 7 pm – Community Center**
- 20 • **Bicycle and Pedestrian Advisory Committee Meeting – Tuesday,**  
21 **May 15 – 9 am – Community Center**
- 22 • **Reverse Raffle Fundraiser for Donald Willis – Friday, May 18 –**  
23 **6:30 pm – Swansboro Rotary Building**
- 24 • **Race the Waves 8k Road Race and 5k Fun Run – Saturday, May**  
25 **19 – 8 am – Eastern Ocean Regional Access**
- 26 • **Planning Board Regular Meeting – Monday, May 21 – 6 pm – Town**  
27 **Board Meeting Room**
- 28 • **Special Board Meeting – FY 12-13 Budget Workshop – Tuesday,**  
29 **May 22 – 6 pm – Town Board Meeting Room**
- 30 • **Veterans Memorial Dedication – Friday, May 25 – 10 am – Emerald**  
31 **Isle Public Boating Access Area**
- 32 • **Memorial Day Holiday – Monday, May 28 – Town Offices Closed,**  
33 **Community Center Closed**
- 34 • **Gordie McAdams Picnic Shelter Dedication – Sunday, June 3 – 2**  
35 **pm – El Public Boating Access Area**
- 36 • **Special Board Meeting – FY 12-13 Budget Public Hearing –**  
37 **Tuesday, June 5 – 6 pm – Town Board Meeting Room**
- 38 • **EmeraldFest Concert Series – Thursday, June 7 – 6:30 pm – 8 pm**  
39 **– Western Ocean Regional Access**
- 40 • **Friday Free Flick – Friday, June 8 – 7 pm – Community Center**
- 41 • **Youth Fishing Derby – Saturday, June 9 – 9 am – 11 am**
- 42 • **Board of Commissioners Regular Meeting – Tuesday, June 12 –**  
43 **7 pm – Town Board Meeting Room**  
44

1  
2 **Clerks Note:** A copy of Proclamations 12-05-08/P1, 12-05-08/P2, and 12-05-08/P3 as noted above are  
3 incorporated herein by reference and hereby made a part of these minutes.  
4

5 **7. Public Comment**  
6

7 **Brief Summary:** The public will have the opportunity to address the Board about  
8 any items of concern not on the agenda.  
9

10 Alan Watts, 9811 Sandy Court, spoke about the planned beach nourishment in  
11 the near future with FEMA sand and stated that people who get FEMA sand  
12 would lose their property rights and he felt the Town should notify every  
13 individual who gets the sand of the consequences of having sand placed on their  
14 property. Mr. Watts said he had a survey done every year of his property and he  
15 had more sand after Hurricane Irene than before so his land had accreted and he  
16 didn't need sand right now. He didn't believe the Town had the right to put sand  
17 on someone's property without their authorization because it would take their  
18 property rights away from them.  
19

20 Commissioner John Wootten, 103 Eagles Nest, commented that he and his wife  
21 had a very successful career in the Navy for 20+ years and noted that one of the  
22 Navy traditions was called "Dining Out", a formal affair that took place aboard a  
23 ship or on shore, with special uniforms just for the occasion, decorum was  
24 relaxed and toned down and was very much like a roasting of each other, they  
25 were able to criticize and fine each other, a tradition that spanned back over 200  
26 years. Commissioner Wootten stated that just recently the Naval Hospital at  
27 Camp Lejeune had a "Dining Out" and he found out that Commissioner Nita  
28 Hedreen had been invited which he said was unheard of for a civilian to be  
29 invited to a "Dining Out" affair with all of the officers, but she was, and  
30 Commissioner Wootten felt it was a testament to her abilities and personality that  
31 she was included in this traditional event. Commissioner Wootten felt everyone  
32 should know about this special person – Commissioner Nita Hedreen – who had  
33 received that kind of privilege because it was truly a very big deal to be invited.  
34 Commissioner Wootten also surprised Commissioner Hedreen with photos of her  
35 attendance at the "Dining Out" event for the Board and public as well.  
36

37 Commissioner Hedreen said that she was very honored and added that her  
38 husband was with her and traditionally they could only fine active duty and they  
39 intentionally wore uniform violations such as a purple boa over their uniform, etc.  
40 Commissioner Hedreen said her husband wore a European tuxedo and the  
41 Skipper fined him and said next time he came to a "Dining Out" to wear a real  
42 tuxedo with a bow tie. You pay for your fines and all the money raised went to  
43 the Navy and Marine Corps Relief so it was a good time and a good cause.  
44  
45  
46

1  
2 **8. Consent Agenda**

- 3  
4 a. Tax Refunds / Releases  
5 b. Minutes – March 13, 2012 Regular Meeting  
6 c. Minutes – March 13, 2012 Closed Session Meeting  
7 d. Minutes – April 10, 2012 Regular Meeting  
8 e. Budget Amendment – General Fund – Fire Dept. ATVs  
9

10 ***Motion was made by Commissioner Wootten to approve the items on the***  
11 ***Consent Agenda. The Board voted unanimously 4-0 in favor. Motion***  
12 ***carried.***

13  
14 **Clerks Note: A copy of all Consent Agenda items as noted above are incorporated herein by**  
15 **reference and hereby made a part of these minutes.**

16  
17 **9. Commercial Review – Proposed Expansion of Village Market / Reel**  
18 **Outdoors**

19  
20 Kevin Reed, Planning Director, addressed the Board regarding this agenda item  
21 including a PowerPoint presentation of the site plan. The following excerpt from  
22 his memo to the Town Manager is provided for additional background:

23  
24 A request has been submitted by Greg Dennis, on behalf of Sunspray Properties, LLC, and Joseph R. Nance, for  
25 commercial review for the proposed expansion of the Village Market/Reel Outdoors located at 7802 and 7804 Emerald  
26 Drive. The properties are currently zoned Business (B) and the proposed expansion of the existing retail and food  
27 service facilities are permitted uses in the Business (B) Zoning District. The applicant is proposing an expansion of the  
28 existing commercial building at 7802 Emerald Drive which will require the existing car wash at 7804 Emerald Drive to  
29 be demolished and the property redeveloped as part of the construction process. The existing driveway on Loblolly  
30 Street will be closed and there will be two driveways providing access to Emerald Drive.  
31

32 You will find attached a copy of a site plan for the project and a copy of the proposed building elevations including  
33 colors which will match the existing building. Also attached is a floor plan for the building reflecting the proposed  
34 addition and the existing commercial space. As previously mentioned, the existing car wash at 7804 Emerald Drive will  
35 be demolished as part of this commercial development which will require the two parcels to be combined into a single  
36 parcel. The address for the "new" parcel will be 7802 Emerald Drive. The proposed addition to the existing building  
37 will contain approximately 2,150 heated square feet and will be the new location for the Village Market. The Reel  
38 Outdoors will expand into the existing space currently occupied by the Village Market and will contain approximately  
39 3,900 square feet.  
40

41 The Town's Unified Development Ordinance (UDO) requires that the development be screened along its northern  
42 boundary from the adjacent residential property. The owners are proposing to use an existing six-foot opaque fence  
43 and vegetated screening to meet this requirement. The "new" Reel Outdoors will contain approximately 3,900 square  
44 feet of retail space which will require 15 parking spaces based on the UDO's requirement of 1 space per 300 square  
45 feet of gross floor area (13 spaces) and 1 per employee (2 spaces) for retail uses. The "new" Village Market will  
46 contain 20 customer seats, 600 square feet of retail space and 3 employees, which will require a total of 10 parking  
47 spaces based on the UDO's requirement of 1 space per 300 square feet of retail (2 spaces), 1 space for every 4  
48 customer seats (5 spaces) and 1 space per employee (3 spaces). The applicant is proposing that a total of 29 parking  
49 spaces will be provided which exceeds the UDO's requirement of 25 spaces. The UDO requires a natural area of 15%  
50 for commercial development which may include the septic area. The applicant is proposing that 8,950 square feet of

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2 natural area will be provided which will meet the requirement set forth in the UDO. No exterior lighting is planned except  
3 for matching the existing lighting on the building which illuminates the areas on the wall face where signage is located  
4 and other indirect lighting on the facade. The applicant is proposing that a covered walkway and façade treatments be  
5 used to meet the commercial building design standards set forth in the UDO. The applicant has provided a copy of a  
6 new septic permit issued by the Carteret County Health Department for the proposed building expansion. The  
7 applicant has also provided letters from Bogue Banks Water Corporation and Carteret-Craven Electric Cooperative that  
8 they can serve the proposed development.  
9

10 The Town's Technical Review Committee (TRC) reviewed the project at its meeting held on March 7, 2012. Following  
11 that meeting, Town staff requested several revisions to the plan and additional information. Town staff is comfortable  
12 in concluding that the current plan and other submitted materials are consistent with the Town's requirements for  
13 screening, parking, building design and natural area requirements. The Town's consulting engineer is currently  
14 reviewing the stormwater plan for the proposed development.  
15

16 The Planning Board considered this request at its meeting held on April 23, 2012. Following its discussion of the  
17 matter the Board voted unanimously to recommend to the Board of Commissioners that the commercial review be  
18 approved subject to the following conditions:  
19

- 20 1. Approval from the Town's consulting engineer that the stormwater plan prepared for the project is consistent  
21 with the Town's stormwater regulations.
- 22 2. The combination of 7802 Emerald Drive and 7804 Emerald Drive into a single parcel.  
23

24 Mayor Schools asked for public comment.  
25

26 There were no comments from the public.  
27

28 ***Motion was made by Commissioner Messer to approve the site plan and***  
29 ***building elevations for the Village Market / Reel Outdoors expansion,***  
30 ***contingent upon 1) approval of the storm water plan by the Town's***  
31 ***engineer (to be consistent with the Town's storm water management***  
32 ***ordinance), and 2) the combination of 7802 Emerald Drive and 7804***  
33 ***Emerald Drive into a single parcel. The Board voted unanimously 4-0 in***  
34 ***favor. Motion carried.***  
35

36 **10. Ordinance Amending Chapter 11 – Motor Vehicles and Traffic –**  
37 **Regarding Operation of Permitted Golf Carts at Night (12-05-08/01)**  
38

39 Frank Rush Town Manager addressed the Board regarding this agenda item.  
40 The following excerpt from his memo to the Board is provided for additional  
41 background:  
42

43 The Board of Commissioners is scheduled to consider the attached ordinance amendment that would allow Town-  
44 permitted golf carts to be operated at night on public streets.  
45

46 The Board of Commissioners adopted an ordinance establishing a local golf cart program to allow the operation of golf  
47 carts on public streets in October 2010, and the Town implemented the program in January 2010. The program has  
48 been well-received by our residents, property owners, and visitors, and there have been few problems associated with  
49 the local golf cart program. To date, approximately 175 golf carts have been registered with the Town.  
50

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2 The Town's current golf cart ordinance was adopted with a clear emphasis on safety, and outlines several "registration  
3 and permit requirements" and "standards of operation". In order to secure a Town golf cart permit, a golf cart is  
4 required to be equipped with front headlights, rear tail lights, brake lights, turn signals, side reflectors, and other safety  
5 equipment. The Town's current golf cart ordinance only allows registered golf carts to be operated from ½ hour before  
6 sunrise to ½ hour after sunset, thus driving at night is prohibited.

7  
8 The Town has received recent requests to allow the operation of golf carts on public streets at night, and these  
9 requests often cite the Town's requirements for headlights, tail lights, and other safety features that are likely adequate  
10 to address any safety concerns associated with operating golf carts at night. I have discussed this potential ordinance  
11 amendment with the Police Department and also reviewed golf-cart related citations since the inception of the local golf  
12 cart program. We do not foresee any problems allowing golf carts to operate at night, provided that the golf cart and  
13 operator complies with all other "registration and permit requirements" and "standards of operation".

14  
15 The attached ordinance amendment is very simple, and simply deletes the current prohibition on operating a golf cart  
16 between ½ hour after sunset and ½ hour before sunrise.

17  
18 Mayor Schools asked for public comment.

19  
20 There were no comments from the public.

21  
22 ***Motion was made by Commissioner Hedreen to adopt the Ordinance***  
23 ***Amending Chapter 11 – Motor Vehicles and Traffic – Regarding Operation***  
24 ***of Permitted Golf Carts at Night. The Board voted unanimously 4-0 in***  
25 ***favor. Motion carried.***

26  
27 **Clerks Note: A copy of Ordinance Amendment 12-05-08/O1 as noted above is incorporated herein by**  
28 **reference and hereby made a part of these minutes.**

29  
30 **11. Resolution Requesting Legislation Authorizing the Creation of a 1%**  
31 **"Beach Preservation Tax" on All Sales and Use Transactions in the Town**  
32 **of Emerald Isle, Provided Such Tax is Approved in a Town Referendum**  
33 **(12-05-08/R1)**

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

38  
39 The Board of Commissioners is scheduled to consider the attached resolution formally requesting that the NC General  
40 Assembly approve special local legislation authorizing the Town to levy a new 1% "beach preservation tax" on all sales  
41 and use transactions in Emerald Isle, provided such tax is approved by the voters of the Town in a referendum. If  
42 approved by the NC General Assembly, the Board of Commissioners, and voters of the Town, the estimated \$700,000  
43 - \$800,000 of annual tax proceeds would be used exclusively for the Town's future beach nourishment activities.

44  
45 Commitment to Beach Nourishment

46 The Town recognizes the significant quality of life and economic value of its ocean beaches, and is committed to beach  
47 nourishment as the preferred strategy to address beach erosion. The Town has completed four beach nourishment  
48 projects since 2003 (two large projects and two hurricane "touch-up" projects), is an active participant in the Carteret  
49 County Beach Commission, is working with the Beach Commission on a 50-year beach nourishment permit  
50 mechanism, and has established reliable and equitable local funding sources to meet 75% of Emerald Isle's projected  
51 future beach nourishment costs.

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2  
3 From my perspective, beach nourishment is a long-term necessity in a community like Emerald Isle, and has become  
4 an ongoing and routine service provided by the Town for our residents, property owners, and visitors. Although some  
5 in our community may disagree on the most equitable financing method for beach nourishment activities, there  
6 appears to be widespread support for the concept of beach nourishment and recognition of the need for an active  
7 beach nourishment program in Emerald Isle.  
8

9 Future Beach Nourishment Plans / Long-Term Financing Plan

10 The Town works closely with the Carteret County Beach Commission on beach nourishment activities. The Town and  
11 County have developed previous beach nourishment plans and are currently in the process of further developing those  
12 plans and seeking long-term permits for future beach nourishment activities. To summarize simply and briefly, the  
13 Town envisions nourishing the ocean beaches on an as-needed, where-needed, and when-needed basis in the future,  
14 with a goal of balancing storm protection value, recreational beach width, and permitting constraints with the amount of  
15 available funding. In short, the Town seeks to nourish the beach as needed before reaching crisis mode, but ideally  
16 hopes to complete nourishment as infrequently as possible.  
17

18 The Town's long-term financing plan for beach nourishment, adopted by the Board of Commissioners in January 2010  
19 and endorsed by the NC Division of Coastal Management in March 2010, relies on a combination of State and local  
20 funding sources to meet future needs. The long-term financing plan includes a total beach nourishment cost estimate  
21 of approximately \$84 million over a 30-year period. Approximately \$42 million, or 50%, will be provided by the existing  
22 Carteret County room occupancy tax that is statutorily restricted to beach nourishment activities. The Carteret County  
23 Beach Commission, through its Shore Protection Office, has indicated that these funds are reliable and available, and  
24 this revenue source is considered solid for the future. Approximately \$21 million, or 25% of future beach nourishment  
25 costs will be funded by proceeds from special district property taxes levied by the Town. The Town currently levies a  
26 4.5 cent additional property tax rate on all oceanfront and inlet-front properties, and an additional 1.5 cents on all other  
27 properties in the Town. These special district taxes generate nearly \$700,000 annually, which equates to 25% of the  
28 average annual estimated cost of future beach nourishment activities. This revenue source is considered solid for the  
29 future.  
30

31 The Town's long-term financing plan relies on the State of North Carolina for the remaining 25% of future beach  
32 nourishment costs. This equates to an average of approximately \$700,000 annually, however, any future State funding  
33 would almost certainly come in the form of periodic larger sums at the time of construction (i.e., \$3 million in one year,  
34 then another \$4 million 6 years later, etc.). The State has historically been a relatively reliable funding partner with  
35 local governments for beach nourishment, and the NC Division of Water Resources has statutory authority to provide  
36 up to 75% of total project funding. The Board may recall that the Town received a \$3.8 million State contribution for its  
37 2005 beach nourishment project that also involved the realignment of Bogue Inlet. Significant State contributions were  
38 also made for the Federal 933 beach nourishment project in Pine Knoll Shores and Indian Beach in the mid-2000s, and  
39 the State has historically provided significant funding for beach nourishment projects along the southeastern NC coast.  
40 Additionally, the State's 2011 Beach and Inlet Management Plan suggested an ongoing State contribution for future  
41 beach nourishment projects as Federal funding becomes more limited and more NC oceanfront communities actively  
42 engage in beach nourishment. For all of these reasons, the Town's long-term financing plan includes a 25% future  
43 State contribution. This contribution was actually considered to be a conservative "worst-case scenario" for State  
44 funding at the time, as other alternatives in the long-term financing plan speculated on 40% and 45% State  
45 contributions.  
46

47 Current State Budget Challenges / Dedicated State Funding Source?

48 The State's recent and current budget challenges have been well-documented over the past few years, and it is likely  
49 to be increasingly difficult, if not impossible, to secure meaningful State funding for the Town's future beach  
50 nourishment activities. The Town requested \$2.1 million from the State in 2011 for a beach nourishment project in  
51 eastern Emerald Isle, but was denied due to a lack of State funding. The Town has submitted a new \$3 million State  
52 funding request in 2012 for its planned FEMA Irene Beach Nourishment Project. The outcome of this funding request  
53 will be known in the next several weeks, although a similar outcome as 2011 is expected.  
54

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2  
3 In light of the State's ongoing budget challenges, which are not likely to abate any time soon, and the typical difficulty  
4 convincing inland State legislators of the value of beach nourishment, the Town has been informally considering and  
5 discussing alternative dedicated revenue sources (either at the State level or local level) for beach nourishment over  
6 the past couple of years. Informal discussions have been held with other NC oceanfront municipal officials, our local  
7 State legislators, and others, and a wide range of ideas has been discussed. Each of the ideas has merit, however, all  
8 of the ideas involving a State-wide or coast-wide revenue source quickly became bogged down by various political  
9 concerns in different jurisdictions. In short, political concerns in Wilmington or Nags Head may be much different than  
10 concerns in Emerald Isle or Holden Beach, for example. A common idea that emerged on a local level is an increase  
11 in the existing Carteret County room occupancy tax. On the surface, this would appear to be a good solution, however,  
12 the political complexities of a room occupancy tax amendment both in Carteret County and at the State level (special  
13 local legislation is required to amend the room occupancy tax) make this solution difficult to achieve at best, and  
14 perhaps impossible.

15  
16 For the reasons above, the Town's focus shifted earlier this year toward a new, "Emerald Isle-only" revenue source  
17 that would be restricted to beach nourishment activities.

18  
19 Proposed 1% "Beach Preservation Tax"

20 The attached resolution is the result of much discussion and contemplation over the past few years about the best way  
21 to fund the Town's future beach nourishment activities. The proposed 1% "beach preservation tax" is the product of all  
22 of the issues described above.

23  
24 The attached resolution formally requests that the NC General Assembly adopt special local legislation in the 2012  
25 Short Session that would authorize the Emerald Isle Board of Commissioners to levy a new 1% tax on all sales and  
26 use transactions within the Town, provided that such new tax is approved by the voters in a Town referendum. The  
27 Board should note that the new tax would apply to all items subject to existing sales and use tax, including vacation  
28 rental accommodations, restaurant tabs, gift shop transactions, etc., but is not intended to apply to groceries, non-  
29 prepared food items, etc.

30  
31 The new 1% "beach preservation tax" would be statutorily restricted to beach nourishment activities only, and could not  
32 be used for any other purpose. We estimate that the new "beach preservation tax" would generate approximately  
33 \$700,000 - \$800,000 annually, which would be sufficient to replace the anticipated State funding described above. The  
34 Board should note that there is some uncertainty in this estimate, as there is currently no reliable data available to  
35 estimate sales and use tax collections in Emerald Isle only. However, we do have reliable data that indicates that a 1%  
36 tax on vacation rental accommodations alone generates approximately \$500,000, and we also know that 1% in all of  
37 Carteret County generates approximately \$9 - \$10 million annually.

38  
39 If ultimately approved by the NC General Assembly, the Emerald Isle Board of Commissioners, and the voters of  
40 Emerald Isle, the new tax would ideally be remitted by merchants to the NC Department of Revenue in the same  
41 manner that sales and use taxes are currently remitted. Ideally, the NC Department of Revenue would process the  
42 receipts and then disperse the appropriate collections to the Town of Emerald Isle in much the same manner that  
43 existing sales and use taxes are remitted.

44  
45 Likely Issues of Concern in Securing NC General Assembly Approval

46 No one likes anything called a "tax", particularly a new tax, and that will be an obvious hurdle in securing General  
47 Assembly approval. I am hopeful that we can overcome this hurdle, however, due to the fact that:

- 48  
49 1) The Town would make the argument that if the State can't help us fund beach nourishment activities, the  
50 General Assembly should at least provide the tools to enable the Town to fund them ourselves.  
51  
52 2) The Town would theoretically be eliminating a potential budget burden for the State, thus making it easier for  
53 the General Assembly to balance the State budget.  
54

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- 3) Many inland legislators would likely prefer that beach nourishment not be funded by State tax dollars partially collected by their constituents ("pay for it yourselves"), and Emerald Isle would be doing exactly as they suggest.
- 4) Ultimately, the voters of Emerald Isle will make the decision on the new tax, and the Town is merely seeking the authority subject to the outcome of a referendum.

Another likely hurdle at the State level is that there are currently no municipal sales and use taxes in North Carolina. All sales and use taxes are levied by counties, and there are complex formulas for counties to share those revenues with municipalities. The creation of the Emerald Isle "beach preservation tax" will set a precedent, and will likely result in other municipalities (including other beach municipalities) seeking similar authority in the future. The Town of Emerald Isle, however, would make the case that beach nourishment is truly a unique need (only a handful of other local governments have the same need), and that our new "beach preservation tax" is not a general sales and use tax. The current membership of the NC General Assembly also appears to be open to new approaches, and may not be constrained by historical apprehensions of the General Assembly.

Additionally, there may also be some opposition to the new Emerald Isle "beach preservation tax" by the NC Department of Revenue because they are not currently set up to collect a municipal sales and use tax. The new Emerald Isle tax would likely require some new coding of tax collections and software adjustments, but these would not appear to be terribly difficult to implement. I would hope that intelligent individuals could resolve these issues in a cost-effective manner.

Prospects for Voter Approval in Emerald Isle

Again, no one likes a tax, especially a new tax, and I suspect that many in Emerald Isle will have that initial reaction. However, when the Emerald Isle voter seriously considers the options available, I am hopeful that he / she will come to the conclusion that the 1% "beach preservation tax" is the best option for Emerald Isle in the long-term.

Essentially, if one assumes that State funding will not be reliable in the future, the Town has 3 options for dealing with this issue in the future:

- 1) The Town could simply forego the anticipated State contribution, and have an average of \$700,000 less annually for future beach nourishment activities. Essentially, the Town would use 75% of the total amount needed, and would simply do the "best it can" with the funds available. This would simply result in less frequent nourishment, less total volume of sand placed, and make the beach more vulnerable and likely to reach a crisis stage. Additionally, I suspect that future beach nourishment costs will tend to increase more than we would all like. Although I don't think this is the best option for the long-term future of Emerald Isle, it is a reasonable option to consider.
- 2) The Town could simply double the current 4.5 cent and 1.5 cent special district property tax rates to 9 cents and 3 cents. This would generate an additional nearly \$700,000 annually, and would effectively replace the originally anticipated State funding. The obvious negative of this approach is a higher property tax burden for our property taxpayers, particularly those on the oceanfront, and I do not believe that this is the best approach for our community. I suspect that most property taxpayers would prefer that the 1% "beach preservation tax" be implemented, which would obviously share the burden with visitors to Emerald Isle, to a large degree.
- 3) The Town could implement the 1% "beach preservation tax". This new revenue source would effectively replace the originally anticipated State funding, would provide ample funding for the Town's future beach nourishment activities, and would not place as great of a burden on the Town's taxpayers. One potential negative is that the new 1% "beach preservation tax" would make the cost of visiting Emerald Isle 1% more expensive compared to other choices, however, there is a reasonable belief that this will not have a significant impact on visitor decision-making.

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2  
3 Thus far, I have discussed the proposed new 1% "beach preservation tax" with 12 key business leaders in Emerald  
4 Isle, and all but one indicated that the "beach preservation tax" is the best option for the Town to meet its future beach  
5 nourishment needs. The other individual was somewhat concerned that the additional 1% cost might cause some of  
6 his customers to shop in another jurisdiction, but then also indicated that his prices were much lower than his main  
7 competitors anyway, and did not appear to be as concerned about this aspect. Several of the business leaders I spoke  
8 with were very supportive, and indicated that they would work to gain passage in a referendum. I still plan to speak to  
9 as many more business leaders as possible, but thus far the response from the business community has been very  
10 positive.

11  
12 We have also discussed the 1% "beach preservation tax" with Senator Jean Preston and Representative Pat McElraft  
13 several times, and I believe they are both strong supporters of beach nourishment and are supportive of this idea.  
14 Ultimately, it is their decision on whether or not to introduce special local legislation, and I remain hopeful that they will  
15 pursue this issue for the Town at the General Assembly. I have attached a draft local bill to assist them and the Bill  
16 Drafting staff at the General Assembly in writing a formal bill for introduction in the opening days of the 2012 Short  
17 Session.

18  
19 Potential Timetable for Implementation

20 If the Board approves the attached resolution, and Senator Preston and Representative McElraft agree to introduce a  
21 bill, I would expect it to be introduced in mid-May when the General Assembly convenes. If the General Assembly  
22 approves the bill before June 30, I believe that there would still be adequate time to schedule a referendum for the  
23 November 2012 ballot. (I need to confirm this, but believe this to be correct.)

24  
25 If the voters approve the referendum in November 2012, I would recommend making the new 1% "beach preservation  
26 tax" effective on or after February 1, 2013 to provide ample time for the Emerald Isle business community and the NC  
27 Department of Revenue to adjust to the change. This timetable can be adjusted as desired by the Board of  
28 Commissioners, and also as desired by the General Assembly. If the timetable for approval is pushed back later than  
29 the dates indicated above, I would recommend delaying collection of the new tax until after the 2012 tourism season.

30  
31 **Mayor Schools asked for public comment.**

32  
33 Commissioner Hedreen asked Town Manager Rush if he had spoken with any  
34 other towns. Mr. Rush said he had not spoken to them specifically about this  
35 proposal but he had many conversations over the years with other municipal  
36 officials about coming up with some type of dedicated State funding source.  
37 There had been different ideas discussed in different forums over the years but  
38 nothing ever gained any traction because it would become so politically complex.  
39 Mr. Rush said he suspected that if Emerald Isle were successful in securing this  
40 tax that other beach municipalities may want to tag on to our bill at some point  
41 but at this point they specifically kept it as an Emerald Isle only bill just to focus  
42 on the politics within our own community.

43  
44 Mayor Schools said that Senator Preston and Representative McElraft felt  
45 strongly that the Town should do it ourselves and if others wanted to add on that  
46 would be fine, it was just a lot more difficult to get everyone on the same page to  
47 start out.

48  
49 **Mayor Schools asked for public comment.**

50

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1  
2 There was a question from the public as to why the tax would be excluded on  
3 food as that would be a lot of potential revenue source.

4  
5 Town Manager Rush said that the State portion of the sales tax does not tax  
6 groceries or non-prepared food items, the local portion of the sales tax does,  
7 however, the legislature was not keen on taxing groceries and non-prepared food  
8 items so the bill was intentionally structured to not tax those items.

9  
10 Alan Watts, 9811 Sandy Court, asked about beach nourishment on the west side  
11 and that FEMA said they didn't need the sand so he felt that realistically they  
12 should do the beach nourishment later on when they really needed it. He also  
13 asked which funding source they discussed changed the beach front property  
14 owners' rights to public land.

15  
16 Mayor Schools said beach nourishment was not being discussed at this time.

17  
18 Mr. Watts said people needed to understand what the Board was trying to pass.

19  
20 Town Manager Rush said the proposed resolution didn't pertain to the project the  
21 Town was planning right now with FEMA funds.

22  
23 A question was asked by a resident in the audience who said he didn't live in  
24 Emerald Isle but wanted to ask if the State did become solvent in the future and  
25 was able to do this had the Town built anything into the plan as to how those  
26 monies would then be used or would that tax be dropped at that point.

27  
28 Mayor Schools said they would certainly consider that when it came up but he  
29 would guess it would be dropped adding that the interest in beach nourishment  
30 dropped outside of the county and even more so on the other side of 95, he  
31 didn't see the rest of the State wanting to put money into beach nourishment  
32 even if they had it.

33  
34 ***Motion was made by Commissioner Hoover to approve the Resolution***  
35 ***Requesting Legislation Authorizing the Creation of a 1% "Beach***  
36 ***Preservation Tax" on All Sales and Use Transactions in the Town of***  
37 ***Emerald Isle, Provided Such Tax is Approved in a Town Referendum. The***  
38 ***Board voted unanimously 4-0 in favor. Motion carried.***

39  
40 Clerks Note: A copy of Resolution 12-05-08/R1 as noted above is incorporated herein by reference  
41 and hereby made a part of these minutes.

42  
43  
44  
45  
46  
47

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1  
2 **12. Presentation – FY 12-13 Recommended Budget**  
3

4 Frank Rush Town Manager addressed the Board regarding this agenda item  
5 including a PowerPoint presentation. The following excerpt from his memo to the  
6 Board is provided for additional background:

7  
8 The FY 12-13 Recommended Budget is complete and will be formally presented to the Board and the public at the May  
9 8, 2012 regular meeting. In an effort to better educate the Board and the public about the Town's budget, I will make a  
10 detailed presentation summarizing the FY 12-13 Recommended Budget, and will provide handouts for the public at the  
11 May 8 meeting.  
12

13 I have attached a copy of the "Budget Message", which provides a comprehensive discussion of the issues associated  
14 with the FY 12-13 budget. A "Quick Summary", "All Funds (Summary)", "General Fund Budget Summary", and other  
15 materials are also attached. The full budget document will be provided to you under separate cover.  
16

17 The total FY 12-13 Recommended Budget is \$8,894,427, a \$134,250, or 1.5% increase from the adopted FY 11-12  
18 budget. The proposed General Fund tax rate for FY 12-13 is 11.5 cents per \$100 of assessed value, which is the  
19 same rate as FY 11-12. The proposed tax rates for the beach nourishment special districts are 4.5 cents for  
20 oceanfront and inlet-front property owners, and 1.5 cents for all other property owners, and these are also identical to  
21 FY 11-12. The recommended annual solid waste fee is \$200 per developed property, which is a \$10 increase. The FY  
22 12-13 Recommended Budget does not rely on the use of General Fund balance to balance the budget.  
23

24 We have tentatively scheduled two special budget meetings to review and discuss the Recommended Budget. The  
25 first one is tentatively scheduled for Tuesday, May 22 at 6:00 pm, and the second, which includes the legally required  
26 public hearing, is tentatively scheduled for Tuesday, June 5 at 6:00 pm. If these dates and times are not acceptable  
27 and/or additional meetings are necessary, we can adjust to fit the Board's schedule.  
28

29 I am hopeful that the Board will formally approve the FY 12-13 budget at your regularly scheduled meeting on  
30 Tuesday, June 12 at 7:00 pm.  
31

32 Town Manager Rush summarized the FY 12-13 Recommended Budget for the  
33 Board and public. Mr. Rush also confirmed the dates for the budget workshop  
34 meeting and the official public hearing noting the tentatively schedule budget  
35 workshop on May 22 at 6 pm and the official public hearing tentatively scheduled  
36 for June 5 at 6 pm.  
37

38 Mayor Schools asked for public comment.  
39

40 There were no comments from the public.  
41

42 Mayor Schools thanked Town Manager Rush for his work on the Recommended  
43 budget confirming the next budget workshop on May 22 when the Board would  
44 discuss in the recommended budget in further detail.  
45

46 **Clerks Note: A copy of the Town Managers FY 2012-2013 Recommended Budget Message as noted**  
47 **above is incorporated herein by reference and hereby made a part of these minutes.**  
48  
49  
50

1  
2 **13. Appointments**  
3

4 **a. Board of Adjustment – 4 Vacancies**

5 **b. Bicycle and Pedestrian Advisory Committee – 1 Vacancy**  
6

7 **Brief Summary:** The terms of 4 Board of Adjustment members will expire in  
8 May. Three individuals should be appointed to new three-year terms expiring in  
9 May 2015, and one individual should be appointed to the alternate member term  
10 expiring in May 2014.

11  
12 There is also currently one vacancy on the Bicycle and Pedestrian Advisory  
13 Committee for a term that expires in December 2012.

14  
15 Board of Adjustment – 4 Vacancies

16 The terms of regular Board of Adjustment members Jerry Stockdale, Russell Adams, and John Kilgore and alternate  
17 member James Normile all expire in May 2012. All four individuals have expressed interest in being reappointed by  
18 the Board of Commissioners.

19  
20 The new terms for regular members are three-year terms that will expire in May 2015. The new term for the alternate  
21 member is a two-year term that will expire in May 2014. A complete roster of Board of Adjustment members is  
22 attached.

23  
24 Bicycle and Pedestrian Advisory Committee

25 Committee member Debbie Doody recently resigned from the Bicycle and Pedestrian Advisory Committee, and a  
26 replacement should be appointed by the Board. This term will expire in December 2012.

27  
28 Mayor Schools commented that he had shared an attendance record with the  
29 Board for the Board of Adjustment members and stated that the Board of  
30 Adjustment required 5 members for a meeting and it took a 4/5 vote for a  
31 variance to be passed. If they had only 4 members to attend that meant 100% of  
32 the members had to vote in favor so in his opinion attendance was exceptionally  
33 important. He asked the Board to keep that in mind as they made their  
34 appointments.

35  
36 ***Motion was made by Commissioner Wootten to re-appoint Russell Adams***  
37 ***and John Kilgore to regular terms on the Board of Adjustment and move***  
38 ***Alternate #1 member Sally Waters into a regular position, with all terms***  
39 ***expiring in May 2015. The Board voted unanimously 4-0 in favor. Motion***  
40 ***carried.***

41  
42 ***Motion was made by Commissioner Messer to reappoint James Normile***  
43 ***moving him to the Alternate #1 position on the Board of Adjustment with a***  
44 ***term expiring May 2014 replacing Sally Waters who had been moved to a***  
45 ***regular position. The Board voted unanimously 4-0 in favor. Motion***  
46 ***carried.***  
47

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1  
2 Mayor Schools noted the Town would begin advertising for the Alternate #2  
3 position on the Board of Adjustment. Mayor Schools also noted there was still a  
4 vacancy on the Bicycle and Pedestrian Advisory Committee and would continue  
5 efforts to fill that vacancy as well.  
6

7 **14. Comments from Town Clerk, Town Attorney, and Town Manager**

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

10  
11 Town Manager Rush updated the Board on a few important issues. Mr. Rush  
12 noted the Aquariums' contractor was working on the soundside pier with a tight  
13 deadline of May 31 to finish and they were making good progress. In addition, it  
14 was noted the Island Circle stormwater pump was nearing completion but they  
15 were dealing with an issue with the flood plain management ordinance working to  
16 get that resolved and the pump ready in time for the hurricane season.  
17

18 Mr. Rush in response to a question from Commissioner Wootten about the inlet  
19 that there were a couple of buoys missing crossing the ocean bar making it pretty  
20 difficult to get in and out the inlet unless you really knew what you were doing.  
21 The Coast Guard had the Corps of Engineers in to do a survey May 16 and 17  
22 and once the survey came back and showed a good wide channel they intended  
23 to bring the Coast Guard cutter back in to place buoys 1 and 2, and hoped that  
24 would be done by Memorial Day but if there was not a good channel there the  
25 Corps of Engineers would have to come back with a side-cast dredge and clean  
26 it out and reset the buoys.  
27

28 The following is an excerpt from the Town Manager Comments memo to the  
29 Board providing additional background information for all items of importance:  
30

31 **Ordinance Regulating Residential Solar and Wind Power Devices**

32 Kevin Reed, Planning and Inspections Director, is still working on a draft ordinance that would include minimal  
33 regulations for solar devices and also potentially allow some types of residential wind power devices to be used in  
34 Emerald Isle. I expect Kevin to present recommendations to the Planning Board at their May meeting, and we would  
35 then present an ordinance for Board of Commissioners consideration at the June regular meeting.  
36

37 **Internet Sweepstakes Café Ordinance Amendments**

38 Kevin Reed is still working with the Planning Board on ordinance amendments that would regulate the location and  
39 operation of internet sweepstakes cafes in Emerald Isle. I expect the Planning Board to make a recommendation at  
40 their May meeting, and the Board of Commissioners would consider an ordinance amendment at the June regular  
41 meeting.  
42

43 **Archers Creek Storm Water BMP Study**

44 Moffatt & Nichol has completed a draft of this study report, which is primarily funded by a NC Clean Water  
45 Management Trust Fund grant. I expect to review the draft report in the coming weeks and plan to include a  
46 presentation on the Board's June meeting agenda.  
47  
48

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1  
2 **Pre-Positioned Hurricane Debris Contract**

3 We are currently soliciting bids for the annual pre-positioned hurricane debris contract. I expect to have a contract  
4 recommendation on the Board's June meeting agenda.  
5

6 **Emergency Operations Plan**

7 With hurricane season fast approaching, Fire Chief Bill Walker will present an update to the Town's Emergency  
8 Operations Plan to the Board at the June meeting.  
9

10 **Potential Amendments to Beach Driving Ordinance**

11 I am currently reviewing the Town's beach driving ordinance, and may present minor amendments to the Board at the  
12 June meeting.  
13

14 **Requests for Summer Beach Driving**

15 With the current large land area available and the considerable distance to the water, I have learned of several  
16 requests to keep The Point open to beach drivers during the summer months. I believe this idea would meet with  
17 strong resistance from property owners at The Point, however, please let me know if you have any thoughts on this  
18 issue.  
19

20 I have also received a request from a water-dependent Emerald Isle business owner (kitesurfing and paddleboard  
21 rentals) for permission to drive on the beach at The Point to deliver equipment. Although I would like to accommodate  
22 this business owner's request, I have serious concerns about the precedent this would set for other business owners in  
23 Emerald Isle, in addition to difficult logistical issues.  
24

25 **Island Circle Pump Station**

26 SunLand Builders, the Town's contractor, has completed the installation of the pump station housing and the  
27 underground infiltration pipe. Installation of pump and electrical components has been on hold due to a code issue  
28 involving the elevation and/or flood-proofing of the electrical control panel. We hope to resolve this issue this week,  
29 and have SunLand complete the remaining work to make the new pump station operational later this month.  
30

31 **Lands End Storm Water Pump Options**

32 Commissioner Wootten and I met recently with Moffatt & Nichol Engineers and members of the Lands End HOA Board  
33 of Directors to discuss potential options to connect existing Lands End storm water pumps to the Town's storm water  
34 pump system that discharges to Emerald Isle Woods Park.  
35

36 Moffatt & Nichol will complete some preliminary analysis for the Town to determine the feasibility of connecting the  
37 existing pumps to the Town's fixed pipe in Spinnakers Reach or a new fixed pipe along Coast Guard Road. They will  
38 also be examining the need for and extent of additional pond connection improvements within Lands End.  
39

40 I remain hopeful that this approach will be feasible, as I believe it will result in the least cost solution for storm water  
41 issues in Lands End.  
42

43 **Ocean Oaks Drive Drainage Pipe (Cape Emerald)**

44 Southeast Pipe Survey has completed this work for the Town, and we are in the process of verifying the quality of the  
45 work. One issue that has arisen is the formation of a new, large sinkhole within a few days after completion of the  
46 project. We believe that this sinkhole is associated with the cleaning of the old pipe in preparation for the recent work,  
47 and do not believe that it is associated with poor installation of the new pipe.  
48

49 We are planning to share the cost of resurfacing Ocean Oaks Drive in this area with the Cape Emerald HOA, and I  
50 expect this work to occur in the coming weeks. I have, however, asked the Public Works Department to check (i.e., dig  
51 up) all historical sinkhole locations to be certain that new sinkholes or voids are not present or can be repaired prior to  
52 resurfacing the street.  
53  
54

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1  
2 **Dedication Ceremony for Gordon McAdams Memorial**

3 Volunteers have completed work on the covered picnic table at the Emerald Isle Public Boating Access Area that is  
4 constructed in honor of former Town Commissioner Gordon McAdams. Parks and Recreation staff will add  
5 landscaping and other site improvements in the coming weeks. A formal dedication ceremony has been scheduled for  
6 Sunday, June 3 at 2 pm.  
7

8 **Dedication Ceremony for Veterans Memorial**

9 The monument for the new Veterans Memorial has been ordered and is expected to be installed in the next week or  
10 so. The accompanying flagpole has been delivered and is in storage at the Town Administration Building, and will be  
11 installed by Public Works staff soon after the monument is in place. Parks and Recreation staff will add landscaping  
12 and other site improvements soon thereafter. A formal dedication ceremony is scheduled for Friday, May 25 at 10 am.  
13

14 **Soundside Pier at Aquarium Pier**

15 The contractor for the NC Aquariums has begun setting pilings for the new 161 ft. long soundside pier at the site of the  
16 future Aquarium Pier at Emerald Isle project (on the Park Drive right of way). The new pier will include an observation  
17 area and gangway to a floating kayak launch area. The NC Aquariums are also planning to install a few benches and  
18 plant additional trees along the Park Drive right of way. Work is expected to be complete by June 1. No other  
19 improvements will be constructed at this time.  
20

21 **Coast Guard Road Bicycle Path**

22 The Town's contractor, Johnson Contracting, is making good progress on the Coast Guard Road bicycle path  
23 extension from Emerald Isle Woods Park to Ocean Oaks Drive. Much of the area for the path has been cleared and  
24 graded, an electrical box has been relocated, and much of the required retaining wall is complete. The project is on  
25 track for completion prior to Memorial Day weekend.  
26

27 I have been contacted by two of the three homes that front Coast Guard Road in this area to express their displeasure  
28 with the project. These property owners were primarily upset about the loss of their perceived front yard, which is  
29 actually the Coast Guard Road public right of way. As you know, all improvements are being constructed in the public  
30 right of way, and the Town will also restore the entire area to a condition as good, if not better, than the pre-  
31 construction condition.  
32

33 New pavement markings will be installed along Coast Guard Road from Reed Drive to Ocean Oaks Drive after the  
34 bicycle path is completed.  
35

36 **Eastern Emerald Isle Storm Water Outfall Removal**

37 Public Works staff has completed work at 6 of the 17 street-end locations on the east end, and plans to complete all 11  
38 remaining locations by the September 30 Clean Water Management Trust Fund grant deadline. All locations include  
39 storm water improvements and aesthetic improvements, and many also include public access improvements also.  
40

41 **CAMA Grant for Soundside Pier at Emerald Isle Public Boating Access**

42 The Town's \$75,000 grant application, to be matched with \$25,000 from the Town, was submitted to the NC Division of  
43 Coastal Management in mid-April. We hope to learn the outcome of our grant application by late May or early June.  
44

45 **FEMA Irene Beach Nourishment Project**

46 A Major CAMA permit application has been submitted, and is currently being reviewed by the appropriate State  
47 agencies. Everything appears to remain on track for permit receipt later this summer, bid solicitation in the fall, and  
48 construction in early 2013.  
49

50 The NC Department of Environment and Natural Resources included the Town's \$3 million funding request in their FY  
51 12-13 budget request, however, we still have not yet learned whether or not this funding is included in the Governor's  
52 budget request. We expect to learn the contents of the Governor's budget request within the next week or so.  
53  
54

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1  
2 **Bogue Banks Beach Nourishment Master Plan / EIS**

3 Work continues on the development of a 50-year master plan, EIS, and permitting authorization for future beach  
4 nourishment activities along Bogue Banks, including Emerald Isle. A project delivery team meeting with various  
5 agencies and stakeholders is scheduled for June 26.  
6

7 **Regional Access Parking Fees**

8 The Town has collected a total of \$9,720 of parking fees through the end of April 2012. During April 2011, the Town  
9 collected a total of \$8,880 in parking fees. April 2011 included 6 fee days, and April 2012 included 9 fee days,  
10 however, 3 of the days in April 2012 were rained out.  
11

12 **Edna Street Beach Access Walkway Replacement**

13 We are currently working through permitting issues associated with the Edna Street walkway replacement, but hope to  
14 have these resolved in the coming days. We are still hoping to have this walkway completed by Memorial Day  
15 weekend, however, this is becoming less likely.  
16

17 **EmeraldFest Summer Concert Series**

18 The first EmeraldFest concert will be held on Thursday, June 7 from 6:30 pm to 8:00 pm at the Western Ocean  
19 Regional Access. "Jimmy and Neal" from Pure T Mommicked are scheduled to perform. Other concert dates are June  
20 21, July 5, July 19, August 2, August 16, September 6, and September 20.  
21

22 **Chief Hargett**

23 Chief Hargett continues to recover at home, but has not yet returned to work. I remain hopeful that his doctors will  
24 clear him to return to work by mid or late May.  
25

26 **Chapel By The Sea Town Employee Luncheon**

27 The annual luncheon prepared by the Chapel By The Sea congregation has been rescheduled for Tuesday, May 15 at  
28 12 noon at the Community Center.  
29

30 **15. Comments from Board of Commissioners and Mayor**

31  
32 Commissioner Hedreen thanked Commissioner Wootten for his earlier comments  
33 about her attendance at the Navy's "Dining Out".  
34

35 There were no further comments from the Board of Commissioners or Mayor.  
36

37 **16. Adjourn**

38  
39 ***Motion was made by Commissioner Messer to adjourn the meeting. The***  
40 ***Board voted unanimously 4-0 in favor. Motion carried.***  
41

42 ***The meeting was adjourned at 8:25 pm.***  
43

44 Respectfully submitted:  
45

46  
47  
48 Rhonda C. Ferebee, CMC  
49 Town Clerk