

1 **MINUTES OF THE REGULAR SCHEDULED MEETING**
2 **OF THE EMERALD ISLE BOARD OF COMMISSIONERS**
3 **TUESDAY, FEBRUARY 14, 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 Others present during the regular meeting: Town Manager Frank Rush, Town
19 Attorney Richard Stanley, Town Clerk Rhonda Ferebee, Planning Director Kevin
20 Reed, and Police Lieutenant Jeff Waters.

21
22 **3. Opening Prayer**
23

24 Jacob Dooley, youth member from Emerald Isle Chapel by the Sea, offered the
25 Opening Prayer for the meeting.

26
27 **4. Pledge of Allegiance**
28

29 All who were present recited the Pledge of Allegiance.

30
31 Mayor Schools introduced Emerald Isle resident Jimmy Farrington to the public,
32 many of whom already knew Mr. Farrington, and noted that he had requested
33 time to speak during tonight's meeting.

34
35 Jimmy Farrington announced that he planned to run for the 4th District County
36 Commissioner seat and provided background information about himself and his
37 reasons for running for County Commissioner. Mr. Farrington stated that with the
38 new redistricting due to the population growth in the western end of the county,
39 Emerald Isle had moved into the 4th District which encompassed the entire
40 Bogue Banks and a portion of Morehead City. Mr. Farrington said he had lived in
41 Carteret County his whole life and was concerned about politics both nationally
42 and locally, and was also concerned about keeping a vote in western Carteret
43 County. Mr. Farrington said that the majority of the tax dollars that came to
44 Carteret County came from Bogue Banks and the western part of Carteret
45 County and he felt this was a unique opportunity to have two voices, with Robin
46

1
2 Comer in District 1, and if he were to be elected, there would be another voice
3 representing western Carteret County.
4

5 **5. Adoption of Agenda**
6

7 Mayor Schools requested that the Board add an item to the Agenda as Item 13a
8 Appointment to Bicycle and Pedestrian Advisory Committee.
9

10 ***Motion was made by Commissioner Hoover to Adopt the Agenda as***
11 ***amended. The Board voted unanimously 5-0 in favor. Motion carried.***
12

13 **6. Proclamations / Public Announcements**
14

15 Mayor Schools noted the following Proclamation and announcements for the
16 public:
17

- 18 • **Proclamation – Scouting for Food Good Turn Week – February 4-11,**
19 **2012 – (12-02-14/P1)**
- 20 • **Winter Tennis Clinics – February 13 – March 23 – See Parks and**
21 **Recreation for details.**
- 22 • **Youth Tennis Clinics – February 13 – March 26 – See Parks and**
23 **Recreation for details.**
- 24 • **Blood Drive – Friday, February 17 – 2 pm – 7 pm – Community Center**
- 25 • **Bicycle and Pedestrian Advisory Committee Meeting – Tuesday,**
26 **February 21 – 9 am – Community Center**
- 27 • **4 v 4 Co-Ed Indoor Volleyball Tournament – Saturday, February 25 –**
28 **8 am until – Community Center**
- 29 • **Planning Board Regular Meeting – Monday, February 27 – 6 pm –**
30 **Town Board Meeting Room**
- 31 • **Board of Commissioners Annual Budget Planning Workshop – Tues,**
32 **February 28 – 1 pm – Town Admin Bldg**
- 33 • **Friday Free Flick – Friday, March 9 – 7 pm – Community Center**
- 34 • **Board of Commissioners Regular Meeting – Tuesday, March 13 – 7**
35 **pm – Town Board Meeting Room**
- 36 • **21st Annual St. Patrick’s Festival – Saturday, March 17 – 9 am – 5 pm**
- 37 • **Bus Trip to Durham Performing Arts Center – Wicked – Sat. May 12 –**
38 **See Parks and Recreation for details.**
39

40 Diane Schools spoke of a new 6 week beginner knitting course she planned to
41 teach beginning February 27 from 3:30 pm -5:30 pm in an effort to provide
42 something for teenagers to do and that would teach basic knitting skills.
43

44 **Clerks Note: A copy of Proclamation 12-02-14/P1 as noted above is incorporated herein by reference**
45 **and hereby made a part of these minutes.**

1
2 **7. Consent Agenda**
3

- 4 a. Tax Refunds / Releases
5 b. Order to Advertise Tax Liens
6 c. Minutes – December 13, 2012 Regular Meeting
7 d. Minutes – January 10, 2012 Regular Meeting
8 e. Minutes – January 10, 2012 Closed Session
9 f. Resolution Declaring Surplus Items for Public Auction (12-02-14/R1)
10 g. Resolution Authorizing Annual Financial Audit Contract (12-02-14/R2)
11 h. Budget Amendment – General Fund – Replace Police Vehicle
12 i. Resolution Amending Personnel Policy to Clarify Employee
13 Recreational Benefits (12-02-14/R3)
14

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

19 Clerks Note: A copy of Resolutions 12-02-14/R1, 12-02-14/R2, 12-02-14/R3 and all other Consent
20 Agenda items as noted above are incorporated herein by reference and hereby made a part of these
21 minutes.
22

23 **8. Public Comment**
24

25 Bernie Whalley, 5306 Ocean Drive, resident and Emerald Isle Parks and
26 Recreation Association, Inc. (EIPRA, Inc) board member spoke concerning the
27 plans for the Veterans Memorial at the new public boat launching facility. Mr.
28 Whalley noted that they had received donations of approximately \$4,750 and had
29 been pushing to reach the \$10,000 point need to erect the initial monument
30 engraved with the emblems of all branches of service including the Merchant
31 Marines. He was pleased to say that today they received a \$1,000 donation from
32 Transportation Impact and a \$1,500 donation from BB&T which brought them
33 closer to their goal. Mr. Whalley encouraged the Board and those in attendance
34 to please make a tax deductible donation to the Veterans Memorial to remember
35 all those people who gave so much.
36

37 **9. FY 12-13 Budget**
38

- 39 a. Budget Calendar
40 b. Public Hearing – Early Citizen Input
41

42 Town Manager Frank Rush addressed the Board regarding this agenda item.
43 The following excerpt from his memo to the Board is provided for additional
44 background:
45
46

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1
2 The Board is scheduled to formally initiate the FY 12-13 budget process with two budget-related items scheduled for
3 the February 14 meeting. First, the Board is asked to adopt the official FY 12-13 Budget Calendar, and second, the
4 Board is scheduled to conduct a public hearing to receive early citizen input on the FY 12-13 budget.
5

6 FY 12-13 Budget Calendar

7 A copy of the suggested FY 12-13 Budget Calendar is attached for the Board's review. This calendar outlines the
8 Town's budget process and includes key target dates in the process.
9

10 The FY 12-13 budget process officially begins at the February 14 meeting. The next most significant date in the
11 process is scheduled for February 28 – the Board's annual budget planning workshop. I expect to provide detailed
12 budget information at that meeting and learn more about the Board's priorities, concerns, ideas, etc. at that meeting.
13 Town staff and I will then take that input and continue to develop a responsible budget during March and April.
14

15 The FY 12-13 Recommended Budget will be presented to the Board at the May 8 regular meeting. Two budget
16 workshop meetings are tentatively scheduled for May 15 and June 5 (both are Tuesday evenings) to review the
17 Recommended Budget in detail. The official public hearing on the budget is planned for the June 5 workshop meeting,
18 with Board adoption planned for the June 12 regular meeting. (Additional budget workshop meetings can be
19 scheduled between May 16 and June 4 as necessary.)
20

21 The Board has the flexibility to adjust this schedule as we go through the budget process if necessary and/or desired,
22 however, the establishment of the FY 12-13 Budget Calendar will help to keep this lengthy process on track.
23

24 Public Hearing – Early Citizen Input on FY 12-13 Budget

25 We have scheduled and advertised a public hearing on the upcoming FY 12-13 budget for the February 14 meeting.
26

27 NC General Statutes require the Town to conduct a public hearing on the annual budget after the Town Manager
28 presents the Recommended Budget in May, but Emerald Isle has also historically held a public hearing prior to the
29 start of the annual budget process in order to get citizen input at the front-end of the budget process. The purpose of
30 the February 14 public hearing is simply to receive comments or suggestions from our citizens regarding budget
31 priorities for the coming fiscal year before we begin the budget process. The hearing will give citizens a chance to
32 voice their concerns about the tax rate, the fairness of the Town's tax and fee structure, suggest budget and service
33 reductions, suggest funding for certain programs or projects, etc. All thoughtful suggestions are welcomed and
34 encouraged.
35

36 Commissioner Wright requested that the scheduled meeting on May 15 be
37 changed to May 22 due to a conflict with her schedule.
38

39 ***Motion was made by Commissioner Messer to adopt the FY 12-13 Budget***
40 ***Calendar so amended. The Board voted unanimously 5-0 in favor. Motion***
41 ***carried.***
42

43 ***Motion was made by Commissioner Wootten to open the Public Hearing.***
44 ***The Board voted unanimously 5-0 in favor. Motion carried.***
45

46 Penny Keadey, Lands End, requested that the Board consider protecting all of
47 the neighborhoods on Coast Guard Road from flooding and try to move the
48 project in Lands End to occur sooner than 2014.
49

50 ***Motion was made by Commissioner Hedreen to close the Public Hearing.***
51 ***The Board voted unanimously 5-0 in favor. Motion carried.***

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Clerks Note: A copy of FY 12-13 Budget Calendar as noted above and amended is incorporated herein by reference and hereby made a part of these minutes.

10. Presentation – Draft Carteret County Comprehensive Transportation Plan

Planning Director Kevin Reed addressed the Board regarding this agenda item. The following excerpt from his memo to the Town Manager is provided for additional background:

In March of 2009, I made a presentation to the Board of Commissioners on the effort being lead by the North Carolina Department of Transportation (DOT), specifically the Transportation Planning Branch (TPB), to create a Comprehensive Transportation Plan (CTP) for Carteret County. The primary persons at NCDOT responsible for this effort are Carlos Moya-Astudillo and his supervisor, James Upchurch. While this is a "county plan" it also includes all of the municipalities within the county. A local steering committee was created to work with NC DOT staff and all of the municipalities in the county have representation on the committee. In addition, there are representatives on the committee from the Down East Rural Transportation Planning Organization (RPO), NC DOT Ferry Division, state ports, the Carteret County Area Transportation System (CCAT) and the Down East area. I have been serving as the committee representative for the Town throughout this process.

What is a CTP?

A Comprehensive Transportation Plan (CTP) is the latest approach being utilized by the NC DOT for transportation planning and came about as a result of changes in state transportation planning law adopted by the General Assembly in 2001. When a CTP is ultimately adopted by the state Board of Transportation (BOT) it represents the state's concurrence with locally identified transportation needs. The CTP also is an important document because it is used as technical support when requesting projects from the Board of Transportation, the Division Engineer or the Transportation Improvement Program (TIP). The CTP can also be used to support other local planning efforts. A CTP differs from a thoroughfare plan because it is a multi-modal plan that identifies the existing and future transportation system including highways, public transportation, rail, bicycle and pedestrian facilities needed to serve the anticipated travel demand.

What are the benefits of a CTP?

According to NC DOT, benefits of a CTP include:

- It supports community adopted vision and goals by integrating land use and transportation.
- It allows communities to consider all modes, not just road improvements, for the future transportation system.
- It is more environmentally sound through an early and explicit consideration of sensitive environmental resources.
- It is more accountable to the public through the formal stakeholder involvement process.

Additionally, the CTP process provides a direct link to project development. Once a project is funded, it must go through an extensive project development process, including an environmental review. Relevant transportation, environmental, and stakeholder information collected and analyzed during the CTP process can supplement or replace information needed during project development. A CTP does not make promises to build new roads or determine a pinpoint location of new roads.

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1
2 **What is the process that will be used to develop the CTP?**
3

4 The following are the major components of the CTP development process:
5

6 *Study Initiation*

- 7 Meet with local staff
8 Access the area to be studied

9 *Data Collection*

- 10 Collect data on existing and future land use, population, employment information, and traffic
11 volumes
12 Research environmental and cultural concerns
13 Solicit input regarding local area needs, issues, concerns, etc.

14 *Data Analysis*

- 15 Conduct existing and future deficiencies analysis
16 Generate future transportation information
17 Share findings with local government
18 Conduct public informational workshops

19 *Plan Development*

- 20 Develop alternative plans
21 Review project impacts
22 Conduct cost-benefits analysis
23 Discuss alternatives with local staff and policy boards
24 Conduct public informational workshops
25 Discuss and resolve public concerns with local staff
26 Work with local staff and policy boards to select recommended plan

27 *Plan Adoption*

- 28 Local government conducts public hearings
29 Present plan for adoption by local government and NCDOT Board of Transportation

30 *Plan Implementation*

- 31 Local government enforces land use controls
32 Local government presents project request through TIP process
33

34 The first full steering committee meeting was held on February 4, 2010 and the committee has been meeting almost
35 monthly since that time. The NCDOT Planning Branch is now beginning to disseminate various draft components of
36 the CTP as we transition from the Data Analysis stage into the Plan Development stage of the process. So far, the
37 Town has received draft elements relating to the highway, bicycle, pedestrian and transit components of the plan.
38 Town staff has reviewed these elements for consistency with current Town planning documents such as the Town's
39 CAMA Land Use Plan (LUP) and the Town's Bicycle and Pedestrian Transportation Plan (B&PTP). This information
40 and consistency analysis was presented to the Planning Board at its January 23, 2012 meeting. At that time, the
41 Board was asked to review the draft elements with Town staff and make appropriate comments and recommendations
42 to the Board of Commissioners.
43

44 Attached to this memorandum are several documents and maps. The first item attached is a proposed Highway
45 Project Proposal list and the second attachment is a County-wide Highway Map. These two attachments have been
46 reviewed for consistency with local plans as well as other pertinent information. Based on this review, Town staff notes
47 the following comments and observations by project number:
48

- 49 1. Project CART0012-H (Access Management – NC 58 – Coast Guard to Lee) is consistent with the Town's
50 Land Use Plan (Policy 3.1.1). Access Management refers to any potential median separations to manage
51 traffic in areas which have vehicle conflicts or safety issues. This does not appear to be in conflict with Policy
52 3.1.2, but potentially could do so if those Access Management techniques "create a barrier between the
53 ocean side and the sound side".
54

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2. Project CART0013-H (Widen to 3 lanes – NC 58 – Lee to Hurst) is consistent with the Town's LUP (Policy 3.1.1) as this will widen 58 to three lanes from Mile Marker 17 to Mile Marker 19. The CTP does not include any widening of 58 from Mile Marker 17 to the El/Indian Beach town limits.
3. Project CART0015-H (NC 24/58 interchange) would potentially impact Emerald Isle as it will change the at grade intersection of Highways 24/58 to an interchange.

The third attachment is a proposed Bicycle Project Proposal list and the fourth and fifth attachments are Bicycle Maps for the Town. These three attachments have been reviewed for consistency with local plans as well as other pertinent information. Based on this review, Town staff notes the following comments and observations by project number:

1. Project CART0080-B (Coast Guard Road bike path – Ring to Deer Horn Drive) is consistent with the Town's Bicycle and Pedestrian Plan. The Location of the project needs to be revised to indicate that the project would extend to the entrance to Emerald Isle Woods Park. In addition, Bicycle Map 1 needs to be revised to show the current multi-use trail terminating at the entrance to Emerald Isle Woods Park.
2. Project CART0081-B (NC 58 bike path – Coast Guard Road to bridge) is consistent with the Town's Bike and Pedestrian Plan.
3. Project CART0082-B (Old Ferry Road bike path – Sound to Mangrove) is consistent with the Town's Bike and Pedestrian Plan.
4. Project CART0083-B (Mangrove Drive bike path – Old Ferry to NC 58) is consistent with the Town's Bike and Pedestrian Plan.
8. Project CART0087-B (NC 58 bike path – South side - Hurst Drive to Indian Beach) is consistent with the Town's Bike and Pedestrian Plan. However, the Location of the project should be revised to exclude the portion of the multi-use trail that was recently constructed. Likewise, Bicycle Map 2 needs to be revised to reflect the already completed segment of the multi-use trail.

The sixth attachment is a proposed Transit Project Proposal List, the seventh attachment is a narrative on the transit element and the eighth attachment is a Transit Map for the County, including the Town. These attachments have been reviewed for consistency with local plans as well as other pertinent information. Based on this review, Town staff notes the following comments and observations by project number:

1. Project CART004-T (Bus route through Emerald Isle) is not included in the Town's LUP or B&PTP; however, it may be of benefit to the Town since it would create an opportunity for residents to take advantage of potential public transit service to access other areas of the County. It should be noted that no specific location has been identified for a Park and Ride location in the Town. If it is ultimately determined that a Park and Ride facility should be located in the Town; then it can be located as a new facility or within existing facilities such as a shopping center, municipal complex, public parking lot, church or other location.

The ninth attachment is a proposed Pedestrian Project Proposal List and the tenth attachment is a Pedestrian Map for the Town. These two attachments have been reviewed for consistency with local plans and other pertinent information. Based on this review, Town staff notes the following comments and observations by project number:

1. Project CART001-P (Sidewalk – North side of NC 58 – Lee to Cedar Tree) is consistent with the Town's Bicycle and Pedestrian Transportation Plan (B&PTP).
2. Project CART002-P (Sidewalk – North side of NC 58 – Cedar Tree to Indian Beach) is consistent with the Town's Bicycle and Pedestrian Transportation Plan (B&PTP).

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1
2 Following review of this information, the Planning Board was asked to consider making comments and
3 recommendations to the Board of Commissioners on the CTP's consistency with local plans and policies. The
4 Planning Board voted unanimously (5 to 0) to support all projects consistent with local plans and policies.
5

6 Currently, the Draft CTP information is being shared with, and reviewed by, all of the steering committee members,
7 local planning boards and local governing bodies in the county. The draft information will also be presented to the
8 Carteret County Transportation Committee at an upcoming meeting, likely on February 15. Following these
9 presentations which will take place over the next 30 days, the draft CTP document will be finalized for presentation to
10 the public and the commencement of the 30-day public comment period. The public comment period will begin with
11 three workshops that will be conducted simultaneously on March 22, 2012 from 4:00 PM to 7:00 PM. One of the
12 workshops will be held in the western part of the County and the other two workshops will be held at in Newport and
13 Morehead City. The location of these workshops will be finalized in the next week or so.
14

15 At the conclusion of the 30-day public comment period the Draft CTP will be revised as necessary. After the comment
16 period, it is anticipated that the Draft CTP will be presented again to the local governing bodies and at that time a
17 resolution of support will be requested from each municipality. The Draft CTP will then be presented to the Carteret
18 County Transportation Committee prior to being sent to the County Board of Commissioners for adoption. Once these
19 steps have been completed, the final document will be presented to the NC Board of Transportation for final approval.
20

21 The Board asked questions of Mr. Reed and Town Manager Rush. Following
22 discussion, the Board agreed by consensus that as this was a long range
23 development process for DOT and so as to be included at the start of the
24 process, to request that the replacement, when needed, of the Cameron
25 Langston Bridge as a two-lane bridge incorporating a bicycle-pedestrian lane be
26 included in the plan, as clearly they didn't want a four-lane bridge as had been
27 included in the earlier draft.
28

29 **11. Ordinance Amending Chapter 2 – Officers and Employees of the Code**
30 **of Ordinances To Authorize Criminal History Checks for Prospective**
31 **Employees and Volunteers (12-02-14/01)**
32

33 Town Clerk Rhonda Ferebee and Police Lieutenant Jeff Waters addressed the
34 Board regarding this agenda item. The following excerpt from the Town
35 Manager's memo to the Board is provided for additional background:
36

37 The Board of Commissioners is scheduled to consider the attached ordinance amendment that would allow the Town
38 to conduct criminal history checks on all final applicants for employment and sensitive volunteer opportunities with the
39 Town. The ordinance would enable the Town to use the existing criminal information system utilized by the Police
40 Department and managed by the NC Department of Justice, State Bureau of Investigation, Division of Criminal
41 Information (SBI / DCI).
42

43 The Town currently conducts criminal history checks (along with other testing and checks) for Police positions only,
44 and has not historically conducted a criminal background check for all other Town positions. Without the adoption of
45 the attached ordinance amendment, the Town has not been authorized to utilize the SBI / DCI system for positions
46 other than Police positions. The Town has routinely conducted pre-employment drug testing and motor vehicle records
47 checks for all safety-sensitive and commercial drivers license (CDL) positions.
48

49 The Town is very fortunate to have a quality group of individuals working for our organization, and the adoption of the
50 attached ordinance amendment will provide greater certainty about the character and background of new individuals
51

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1
2 selected for employment and sensitive volunteer opportunities with the Town. If the attached ordinance is approved, a
3 prospective new employee will be provided with a conditional offer of employment that is subject to an acceptable
4 review of the individual's criminal history. All safety-sensitive and CDL positions currently involve a conditional offer of
5 employment that it subject to an acceptable pre-employment drug test and an acceptable motor vehicle driving record.
6 If the selected individual's criminal history is deemed acceptable by the Town Manager and department head (along
7 with the drug test and driving record, if applicable), the individual will be formally selected for the position. If the
8 criminal history is unacceptable, the individual will not be selected, and the typical recruitment process will continue.
9

10 The attached ordinance amendment is written to apply to all full-time, part-time, and temporary (seasonal) positions,
11 and also select volunteer positions as determined by the Town Manager. Because the Town relies on a large pool of
12 volunteers, with some only utilized for brief and infrequent periods or non-sensitive activities, judgment will be utilized
13 in determining which volunteers are subject to criminal history checks. For example, volunteer deer hunters or
14 volunteers working with children would be subject to a criminal history check, while someone volunteering for the day
15 for the Emerald Isle Triathlon would likely not be subject to a criminal history check.
16

17 The Board should note that a final decision by the Town Manager to hire an individual for a full-time, part-time, or
18 temporary position will depend on the nature, circumstances, and time frame associated with any offenses indicated on
19 the criminal history check as they relate to the essential job functions of the vacant position. For example, a criminal
20 offense from many years ago that is minor in nature and/or has no apparent relationship to the vacant position's duties
21 would likely not prevent someone from being hired. The Town Manager and the department head will be required to
22 exercise judgment in reviewing these situations in order to balance the organization's needs with individual fairness
23 and recruitment realities.
24

25 The attached ordinance amendment is a standard ordinance utilized by other NC local governments for this purpose,
26 and has also been reviewed and approved by the NC Department of Justice prior to Board consideration. If the Board
27 is comfortable with the attached ordinance amendment, it should be approved as presented or with only minor
28 changes. If the Board is comfortable with the concepts, but would like to make more significant changes, we will need
29 to forward the desired changes to the NC Department of Justice for another review before final consideration by the
30 Board of Commissioners.
31

32 I recommend approval of the attached ordinance amendment to provide another tool for the Town to utilize to insure
33 that we are selecting the best possible individuals for employment or volunteer opportunities with the Town. It is
34 extremely important to me that the Town staff be viewed positively by our community, and that our organization is
35 respected and recognized for its high quality individuals providing high quality services. Our customers deserve no
36 less.
37

38 Police Lieutenant Jeff Waters and Town Clerk / Human Resources Specialist Rhonda Ferebee partnered together on
39 the development of the proposed ordinance amendment, and will present this information to the Board and be
40 available for any questions.
41

42 Commissioner Wootten asked whether the background check procedure could
43 also be used to conduct background checks on EMS employees and volunteers.
44 Town Manager Rush said they would have to research that further with the State
45 Bureau of Investigations to determine whether the Town's Police Department
46 would have the legal authority to do that as EMS was not the Town but a
47 contractor.
48

49 ***Motion was made by Commissioner Hedreen to approve the Ordinance***
50 ***Amending Chapter 2 – Officers and Employees – of the Code of Ordinances***
51 ***to Authorize Criminal History Checks for Prospective Employees and***
52 ***Volunteers. The Board vote unanimously 5-0 in favor. Motion carried.***

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1
2
3 **Clerks Note: A copy of Ordinance 12-02-14/O1 as noted above is incorporated herein by reference**
4 **and hereby made a part of these minutes.**
5

6 **12. Ordinance Amending Chapter 4 – Animals – of the Code of Ordinances**
7 **to Prohibit Intentional Feeding of Deer**
8

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

12 The Board of Commissioners is scheduled to consider the attached ordinance amendment that would prohibit the
13 intentional feeding of deer in Emerald Isle. The attached ordinance is intended to complement other Town efforts
14 aimed at reducing the deer population in Emerald Isle, which has reached the highest total recorded since the Town
15 began tracking the population in 2005.
16

17 The proposed ordinance amendment prohibits the placement of any device or any fruit, grain, mineral, plant, salt,
18 vegetable, or other material outdoors on any public or private property for the purpose of intentionally feeding or
19 attracting deer. The ordinance also includes a statement that a person shall be presumed to have intentionally fed or
20 caused deer to be fed if the person places or allows to be placed on his or her property any material that deer will
21 consume in an elevated feeding device, in a ground-level feeding device, or directly on the ground "such that the feed
22 is within reach of deer, regardless of intent to feed other types of animals". This statement is intended to make it more
23 difficult for someone to claim that material placed in a device or directly on the ground is intended for other wild or
24 domestic animals. Additionally, the attached ordinance includes a specific exception for bird feeders, cat feeders, and
25 dog feeders to make this issue very clear.
26

27 The attached ordinance also includes an exception for naturally growing materials, whether native or planted
28 intentionally in a garden. The ordinance also includes an exception for baiting activities specifically associated with
29 hunting activities sponsored by, permitted by, or sanctioned by the Town. This provision is intended to address baiting
30 associated with the Town's controlled hunt that is currently underway, and also to address a potential future urban
31 archery season in Emerald Isle if ultimately established by the Board.
32

33 The attached ordinance was drafted after reviewing similar ordinances from other communities in North Carolina and
34 other states, including the following:
35

- 36
- 37 • Carrboro, NC
 - 38 • Bald Head Island, NC
 - 39 • Shelby, WI
 - 40 • Sunrise Beach Village, TX
 - 41 • Morris Township, NJ
 - 42 • Elizabeth, CO
 - 43 • Crystal Falls, MI
 - 44 • Woodcreek, TX.
- 45

46 Copies of these communities' ordinances are attached for the Board's review. The Board should also note that the
47 Town Attorney consulted with the attorney for the NC Wildlife Resources Commission (WRC) regarding the Town's
48 authority to enact such an ordinance, and the WRC attorney believes that the Town has the authority to enact such an
49 ordinance under our general police powers. As noted above, the communities of Carrboro, NC and Bald Head Island,
50 NC have adopted similar ordinances.
51

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1 The proposed penalty for a violation of this ordinance is \$25 per violation, which would only be levied if the person
2 does not remedy the violation with 24 hours of notice provided by the Town. For most Town ordinances, Town staff
3

4 routinely first seek a cooperative approach to resolve violations, and this would clearly be the Town's approach with the
5 deer feeding prohibition ordinance. I would much rather resolve an ordinance violation in a cooperative manner
6 without issuing a citation or levying a fine, and most offenders appreciate and respect this approach. I would hope that
7 would be the case with the attached deer feeding prohibition ordinance.
8

9 It is my hope that the adoption of this ordinance would send a clear message to our community that the intentional
10 feeding of deer is contributing to the deer population problems in the Town, and that this practice is clearly not
11 supported by the Town. I am hopeful that this message in and of itself will be effective, over time, in resolving this
12 issue. For those people who unknowingly violate the ordinance, I am hopeful that a cooperative enforcement approach
13 will result in the ceasing of these activities. For those people who simply refuse to stop feeding the deer, enforcement
14 could be difficult, and the Board should consider the practical implications of a strict enforcement approach. There is a
15 legitimate argument that the Town perhaps should not become involved in this issue, and should recognize the
16 property owner's right to do what they wish on their property. The Board will need to determine the appropriate
17 balance between the effectiveness of this approach in helping to address the increasing deer population vs. private
18 property rights.
19

20 Mayor Schools asked for comments from the public.
21

22 Hans Van Welzen, Lands End, asked about where this ordinance would apply.
23 Town Manager Rush said it would apply within the entire Town limits including
24 Lands End and any other gated community, just like all the other Town
25 ordinances.
26

27 Penny Keadey, commented that this was a really important part of controlling the
28 deer population. She felt if they wanted to support the current efforts to control
29 the population there needed to be follow-up and this was appropriate.
30

31 Commissioner Hedreen asked the public in attendance how many people were
32 feeding deer. There were several responses from the citizens in attendance
33 indicating they had seen the use of huge deer feeders, 100 lb bags of salt, etc.
34

35 Mayor Schools said in a conversation he had recently with Gordon Myers,
36 Executive Director with Wildlife Resources Commission that they highly
37 recommended against feeding deer.
38

39 Commissioner Wootten said no one would like to solve the deer problem more
40 than he but it was not clear in his mind that this ordinance would actually solve
41 anything. Commissioner Wootten felt if they stopped feeding the deer the deer
42 would just go and eat more plants. He said he received more complaints from
43 people that the deer were coming up on their porch eating because they were
44 hungry. Commissioner Wootten also felt this was a property rights issue and
45 was not willing to approve something that would restrict someone as to how they
46 used their property. In addition, he questioned whether it was enforceable and
47 felt it would pit neighbor against neighbor causing the Police to be in the middle
48 of it. He would rather the Town have an education process instead of an

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1
2 ordinance and explain if they stopped feeding deer the Town may be able to
3 avoid future kills of the deer.

4
5 Commissioner Messer felt the ordinance was an education process. He felt it
6 was a lot easier to educate with an ordinance than without one. Commissioner
7 Messer said there were a lot of ordinances that tell what we can and can't do with
8 our property.

9
10 Commissioner Hedreen asked whether Mr. Rush had seen the feeding of deer
11 on Town owned land. Mr. Rush said he wasn't aware of anyone feeding deer on
12 Town owned land; he didn't think they had this problem on public lands.

13
14 Commissioner Hedreen felt when passing an ordinance that we knew was
15 unlikely or almost never to be enforced they looked foolish. She felt there were
16 ways to educate without having to make it a mandated policy. She knew there
17 were neighbors who would call and call and felt it would put our Police Officers in
18 difficult situations.

19
20 Commissioner Messer said without an ordinance it was like no parking areas. If
21 you don't have an ordinance to enforce your no parking areas, you tell people
22 you really don't want them to park there but if you do we're not going to do
23 anything about it; but if you tell them if they park there would be ticketed and
24 charged \$25 then that was a deterrent not to park there, which he felt was the
25 purpose of the ordinance.

26
27 Commissioner Hedreen asked about the language in Article 1, Section 4.8 (b)
28 that says a person shall be presumed to have intentionally fed – even if feed fell
29 on the ground. She wondered if people could still feed the squirrels if it
30 presumes that it intentionally caused deer to be fed whether meant for them or
31 not as the ordinance specifically identified dogs and cats and birds, but not
32 squirrels. Town Manager Rush said technically speaking there was no exception
33 for squirrels, if someone was putting out a lot of feed and their intent was for
34 squirrels, it would be presumed they were feeding deer and that would be a
35 violation of the ordinance.

36
37 ***Motion was made by Commissioner Hoover to approve the Ordinance***
38 ***Amending Chapter 4 – Animals – of the Code of Ordinances to Prohibit***
39 ***Intentional Feeding of Deer. The Board voted 3-2 – Commissioners Hoover,***
40 ***Messer and Wright in favor, Commissioners Hedreen, Wootten opposed.***

41
42 Town Attorney Stanley noted that a second vote would be required in order to
43 enact the ordinance since approval on the first reading required a two-thirds
44 majority vote.

45

1
2 Town Manager Rush said he would schedule this item on the March agenda and
3 at that time only a simple majority would be required.
4

5 **13. Appointments**
6

7 **Brief Summary:** The terms of 3 Planning Board members will expire in March.
8 Three individuals should be appointed to new two-year terms expiring in March
9 2014.
10

11 ***Motion was made by Commissioner Wootten to appoint Jim Craig, Bill***
12 ***Keadey, and Pete Wachter to terms on the Planning Board for an additional***
13 ***term. The Board voted unanimously 5-0 in favor. Motion carried.***
14

15 **13a. Item Added – Bicycle and Pedestrian Advisory Committee**
16

17 Mayor Schools noted that sadly he had learned officially that Ed Johnson had
18 been diagnosed with ALS and was resigning from the committee. Mayor Schools
19 noted that Russ Johnston had previously applied to be a part of this committee
20 and asked the Board to consider him for appointment.
21

22 ***Motion was made by Commissioner Wright to appoint Russ Johnston to***
23 ***the Bicycle and Pedestrian Advisory Committee. The Board voted***
24 ***unanimously 5-0 in favor. Motion carried.***
25

26 **14. Comments from Town Clerk, Town Attorney, and Town Manager**
27

28 There were no comments from the Town Clerk or the Town Attorney.
29

30 Town Manager Rush updated the Board on several important issues including
31 the status of the Community Center roof replacement, Island Circle pump station,
32 the sound side pier at the Aquarium pier, and an update of Police Chief Hargett's
33 recovery at home.
34

35 The following is an excerpt from the Town Manager Comments memo to the
36 Board providing additional background information for all items of importance:
37

38 **Annual Budget Planning Workshop – February 28 at 1 pm**

39 I have tentatively scheduled this meeting for Tuesday, February 28 at 1 pm in the Town Administration Building
40 conference room. A draft meeting agenda is attached. Please let me know if you'd like to add, delete, or modify
41 anything on the agenda. I expect to distribute Board agenda packets by the end of the day on Friday, February 24.
42

43 **Update - Controlled Deer Hunt**

44 As of February 10, the Town's volunteer hunters have removed a total of 15 deer from 3 areas along Coast Guard
45 Road – Bell Cove Estates / Osprey Ridge, Emerald Isle Woods Park, and Royall Oaks.
46
47

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1
2 Hunting was authorized for Lands End beginning on February 6, however, as of February 10 only one hunter had been
3 in Lands End for two days. A volunteer hunter has only hunted on the Wydward Court / Coast Guard tract one day
4 since hunting began on January 17. Overall, the Town's volunteer hunters are only hunting approximately 1/3 of the
5 time authorized.
6

7 There have been no significant problems or issues reported thus far. Of the 15 deer taken, the meat from 14 deer has
8 been processed and distributed to the hungry. Hunting will continue until February 29.
9

10 **Community Center Roof Replacement**

11 Materials for the roof replacement are expected to be delivered on February 27, with construction beginning soon
12 thereafter. We expect this work to be complete by the end of March. Minimal disruption of Community Center
13 activities is expected.
14

15 **Island Circle Pump Station**

16 SunLand Builders has been working with the Town's engineers to confirm the materials to be used for this project, and
17 that process is nearly complete. We expect construction to begin within the next two weeks and be complete before
18 Easter weekend.
19

20 I have received verbal approval from the adjacent land owner for the necessary storm water easement, however, he
21 has not yet returned the signed easement to the Town. I will continue to seek the necessary easement. I have also
22 had limited discussions with the landowner about a donation of this vacant lot to the Town, and I am pursuing that also.
23

24 **FEMA Beach Nourishment Update**

25 Permitting work continues for this project, and necessary Federal and State permits are expected to be on hand by
26 mid-summer, which will allow for an early fall bid process and enable construction to occur next winter.
27

28 The Town submitted its \$3 million State funding request earlier this month to the NC Division of Water Resources, and
29 also met with Representative McElraft and Senator Preston to enlist their support for the Town's request. We will not
30 know the outcome of our funding request until June or July.
31

32 We still have not yet received final approval of FEMA funding, but we expect to receive that approval very soon. We
33 have no reason to believe it will not be approved at this point in time.
34

35 **Bogue Sound Drive Dredging Touch-Up**

36 I recently authorized minor dredging touch-up work at the western entrance to the Bogue Sound Drive canal. Bentley
37 Brooks, the contractor who performed similar work for the Town in the past, is doing this work, which is only expected
38 to last for a few days. Dredge spoils are being deposited in a low depression in Emerald Isle Woods Park near the
39 main parking lot, in an area that could potentially become a dog park at some point in the future.
40

41 **ECU Groundwater / Water Table Study in Coast Guard Road Area**

42 The ECU team continues to work on this study. The ECU team has collected a great deal of groundwater and water
43 table information from many monitoring well sites in the Coast Guard Road area over the past 9 months, including both
44 regular rainfall events and extreme events like Hurricane Irene. A final report is expected to be completed by
45 September 2012. I am hopeful that this study will enhance our understanding of groundwater flows in this area, and
46 enable us to respond to flooding issues more effectively in the future.
47

48 **Soundside Pier at Aquarium Pier**

49 The NC Aquariums are currently seeking permits and necessary approvals to construct soundside improvements at the
50 future site of the Aquarium Pier at Emerald Isle. Plans include construction of a new soundside pier (approximately
51 165 ft. long) with kayak launching platform, installation of 12 – 16 parking spaces along Park Drive, construction of a
52 small gazebo near the water's edge, construction of a better cul-de-sac at the end of Park Drive, associated storm
53 water management features, and significant landscaping improvements.
54

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1
2 Aquarium officials and Town staff recently met with nearby property owners, and made some desired adjustments to
3 address their concerns, and we are in the process of incorporating these into a revised design that I will share with the
4 Board when updated. The NC Aquariums is operating under a tight time frame to complete this work. They are
5 utilizing remaining grant funds in the original WAMI grant, and these funds expire this summer. We are hopeful that
6 construction will occur later this spring.

7
8 **Oceanfront Exception Stickers for Unattended Beach Equipment**

9 We will begin publicizing the availability of oceanfront exception stickers for unattended beach equipment in the next
10 issue of Emerald Tidings and on the Town's website. We will be utilizing the same stickers in 2012 that were used in
11 2011. Stepped-up enforcement efforts will not begin until May.

12
13 **Regional Access Free Parking Permits**

14 We will also begin publicizing the availability of the free parking permits for Emerald Isle taxpayers in the next issue of
15 Emerald Tidings and the Town's website. We have not determined the exact date to begin charging the weekend fee
16 this year, but are considering Easter weekend (April 6 – 8).

17
18 **Proposed Boat Storage Facility – Emerald Drive / Woodpecker Lane**

19 The staff-level Technical Review Committee recently reviewed plans for a proposed boat storage facility located on
20 Emerald Drive at Woodpecker Lane. The Planning Board will review the plans at their February 27 meeting, and this
21 project will likely be included on the Board of Commissioners' March 13 meeting agenda.

22
23 **Bogue Inlet Dredging Funding**

24 I have attached a press release from Congressman Jones that indicates that \$500,000 of supplemental funding
25 (related to Hurricane Irene) has been made available for navigation maintenance dredging in Bogue Inlet. This is great
26 news, considering that no Federal funding had been provided for Bogue Inlet this year.

27
28 As you know, the Town, the State, and other area local governments worked together in the Fall of 2011 to assemble a
29 total of \$182,000 of funding for Bogue Inlet dredging, and these funds will likely be held in reserve for the next "rainy
30 day". We are hopeful that the recent \$500,000 appropriation for Bogue Inlet plus the \$182,000 State-local funding will
31 provide for nearly 50 days worth of sidecast dredging in Bogue Inlet by the US Army Corps of Engineers, which could
32 last for the next 2 years or perhaps more.

33
34 **Replacement of 3rd Street and 5th Street Beach Access Walkways**

35 The reconstruction of the 3rd Street beach access walkway is underway, and the contractor is making good progress.
36 The contractor will soon move to the 5th Street walkway, and we expect all work to be complete by the end of February.
37 Town staff are pleased with the work by Builders By Design thus far, and we may authorize the reconstruction of
38 another walkway later this month, to be funded by savings in the Parks and Recreation budget.

39
40 **Chief Hargett**

41 Chief Hargett continues to recover from his injuries at home, and is generally doing well. He is still experiencing
42 muscle soreness, but is walking often and getting out and about. His next doctor visit is in late February, and I am
43 hopeful that he will be cleared to return to work soon thereafter. Police personnel and I are in regular contact with him
44 for input on certain Police issues.

45
46 **Emergency Communications Improvements**

47 The County Commissioners have an item on their February 13 meeting agenda that would provide E911 funding for
48 communication system improvements in Emerald Isle. The proposed improvements will address reception and
49 transmission problems with handheld radios on the east and west ends of Town that are associated with the Federal
50 "narrowbanding" initiative last year. I am hopeful that the County will provide this funding, which will enable the
51 installation of a new "voter" repeater system on the east end and Coast Guard Road water tanks.

52
53
54

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1
2 **Gordon McAdams Memorial at Emerald Isle Public Boating Access Area**

3 A volunteer group led by Howard Pinner of Lands End has finalized plans to construct a new covered picnic table at
4 the new Emerald Isle Public Boating Access. The Town will provide the materials (\$1,700) utilizing funds donated in
5 memory of former Town Commissioner Gordon McAdams. We expect the volunteer group to complete the project by
6 no later than May 1, and Town staff will also add attractive landscaping. The new covered picnic table will be located
7 northeast of the actual boat launch ramps (closer to the east; not directly adjacent to the launch basin).
8

9 **Archers Creek Storm Water BMP Study**

10 Moffatt & Nichol continues their work on this study, which is primarily funded by a NC Clean Water Management Trust
11 Fund grant. Data collection is complete, and most analysis is complete. I expect a draft final report by mid-March, and
12 the final report by mid-April.
13

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

15 Public Works staff has completed small storm water infiltration basins at 5th Street and 10th Street, and Town staff will
16 also be working to tidy up these areas and improve public access to Bogue Sound at these locations. A total of 14
17 locations remain to be addressed between now and October, and Public Works has developed a reasonable schedule
18 to complete this work. This work is funded almost entirely by a grant from the NC Clean Water Management Trust
19 Fund.
20

21 **Cape Emerald / Ocean Oaks Drive Storm Water Pipe Repair**

22 We have secured quotes from 3 companies to install a new "cured in place pipe" inside of the existing 25+ year old
23 (and failing) concrete drainage pipe along Ocean Oaks Drive. Depending on the scope of work selected by the Board,
24 the cost for this work could be as low as \$130,000 +/- or as high as \$325,000 +/- . The Town is expecting a one-time,
25 additional \$350,000 - \$375,000 of sales tax revenues this year that was intentionally not budgeted, and these funds
26 would be used for this project if the Board determines this is appropriate. Artie Dunn, Public Works Director, and I plan
27 to discuss this with the Board at the February 28 workshop meeting.
28

29 **Ocean Drive Resurfacing**

30 The eastern section of Ocean Drive (from Indian Beach line to Ocean Reef; approximately 2.7 miles) and the central
31 section of Ocean Drive (from the dog-leg to Summer Place; approximately 2.2 miles) are both in need of resurfacing
32 along the entire length, and we recently solicited quotes for both of these segments from paving contractors.
33 Depending on the scope of work selected, the cost ranges from \$220,000 to \$265,000, and the Town has
34 approximately \$140,000 of Powell Bill funds available. Options include 1) reducing the length to be resurfaced to fit the
35 budget, or 2) identifying additional funds, perhaps a portion of the sales tax revenue described above, to complete one
36 full segment. Artie Dunn, Public Works Director, and I plan to discuss this with the Board at the February 28 meeting.
37

38 **Summer Concert Series Improvements**

39 Mayor Schools and Alesia Sanderson, Parks and Recreation Director, are working together to improve the formerly-
40 named "Beach Jive After Five" concerts at the Western Ocean Regional Access (WORA) to generate more interest
41 and attendance. The name of the series will likely be changed, and efforts are being coordinated with the Seaside Arts
42 Council to more effectively publicize the concerts. Minor changes are also being made to the layout of the concerts at
43 the WORA. The concerts will be held on the third Thursday of June, July, August, and September, and the start time
44 has been moved back from 5:30 pm to 6:30 pm.
45

46 **Cedar Point Yard Debris Collection Assistance**

47 The Public Works Department will likely assist the Town of Cedar Point with their annual yard debris collection effort
48 again this year. The Town collected yard debris for Cedar Point last year for approximately 1.5 days, and billed Cedar
49 Point for our direct costs, which were approximately \$500. The likely dates for this year are April 14 and 15, a
50 weekend, and Cedar Point would again be billed for our direct costs. I am happy to help our neighboring towns when
51 the opportunity arises.
52
53
54

1
2 **15. Comments from Board of Commissioners and Mayor**
3

4 There were no further comments from the Board of Commissioners or Mayor.
5

6 **16. Closed Session – Pursuant to NCGS 143-318.11(3), to preserve**
7 **attorney-client privilege.**
8

9 ***Motion was made by Commissioner Messer to enter Closed Session. The***
10 ***Board voted unanimously 5-0 in favor. Motion carried.***
11

12 ***Motion was made by Commissioner Wootten to return to Open Session.***
13 ***The Board voted unanimously 5-0 in favor. Motion carried.***
14

15 There was no action taken by the Board upon returning to Open Session.
16

17 **17. Adjourn**
18

19 ***Motion was made by Commissioner Hedreen to adjourn the meeting. The***
20 ***Board voted unanimously 5-0 in favor. Motion carried.***
21

22 ***The meeting was adjourned at 8:30 pm.***
23

24 Respectfully submitted:
25

26
27
28 Rhonda C. Ferebee, CMC
29 Town Clerk
30
31
32