

1                                   **MINUTES OF THE REGULAR SCHEDULED MEETING**  
2                                   **OF THE EMERALD ISLE BOARD OF COMMISSIONERS**  
3                                   **TUESDAY, JULY 13, 2010 – 6:00 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 6:00 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 Tom Hoover, Floyd  
16                 Messer, and Maripat Wright.  
17

18                 Absent for the meeting: Commissioner Nita Hedreen and John Wootten.  
19

20                 ***Motion was made by Commissioner Messer to excuse the absences of***  
21                 ***Commissioners Hedreen and Wootten. The Board voted unanimously 3-0***  
22                 ***in favor. Motion carried.***  
23

24                 Others present during the regular meeting: Town Attorney Richard Stanley,  
25                 Town Manager Frank Rush, Town Clerk Rhonda Ferebee, and Planning Director  
26                 Kevin Reed.  
27

28                  **3. Opening Prayer**  
29

30                 Mary Howard Higgins, youth member from Emerald Isle Baptist Church offered  
31                 the Opening Prayer.  
32

33                  **4. Pledge of Allegiance**  
34

35                 After opening prayer all who were present recited the Pledge of Allegiance.  
36

37                  **5. Adoption of Agenda**  
38

39                 Commissioner Wright requested that an item to discuss the changing of meeting  
40                 times from 6 pm to 7 pm beginning in September be added to the agenda.  
41                 Commissioner Wright stated that Mayor Pro-tem Messer had been appointed to  
42                 the Carteret Community College Board of Trustees and the time change would  
43                 allow him to attend both meetings.  
44

45                 Mayor Schools said the item could be added right before Item 13 on the Agenda.  
46

1  
2 ***Motion was made by Commissioner Wright to adopt the Agenda as***  
3 ***amended. The Board voted unanimously 3-0 in favor. Motion carried.***  
4

5 **6. Special Presentation – Bruce Norman, Fire Department – 20 Year**  
6 **Employee**  
7

8 Mayor Schools and Town Manager Rush presented a service award plaque to  
9 honor Bruce Norman, Fire Captain, for 20 years of service to the Town of  
10 Emerald Isle. Mr. Norman was thanked for his long service with the Town.  
11

12 **7. Proclamations / Public Announcements**  
13

14 Mayor Schools announced the following announcements for the public:  
15

- 16 • **Bicycle & Pedestrian Committee Raffle – Win A 1-Week Stay in**
- 17 **Emerald Isle – Proceeds for New Bike Paths**
- 18 • **Beach Jive After Five – “Big Drink” – Thurs, July 15 – 5:30 pm –**
- 19 **Western Ocean Regional Access**
- 20 • **Youth Tennis Camp – Monday, July 19 – Friday, July 23 – Blue Heron**
- 21 **Park Tennis Courts**
- 22 • **Planning Board Regular Meeting – Monday, July 19 – 6 pm – Town**
- 23 **Board Meeting Room**
- 24 • **CPR Certification – Thursday, August 5 – 6 pm – EMS Station**
- 25 • **2 v 2 Beach Volleyball Tournament – Saturday, August 7 – 9 am until**
- 26 **– Western Ocean Regional Access**
- 27 • **Board of Commissioners Regular Meeting – Tues, August 10 – 6 pm**
- 28 **– Town Board Meeting Room**  
29

30 **8. Consent Agenda**  
31

- 32 a. **Tax Refunds / Releases**
- 33 b. **Minutes – April 13, 2010 Regular Meeting**  
34

35 ***Motion was made by Commissioner Hoover to approve the items on the***  
36 ***Consent Agenda. The Board voted unanimously 3-0 in favor. Motion***  
37 ***carried.***  
38

39 **Clerks Note:** A copy of all Consent Agenda items as noted above are all incorporated herein by  
40 reference and hereby made a part of these minutes.  
41

42 **9. Public Comment**  
43

44 **Brief Summary:** The public has the opportunity to address the Board about any  
45 items of concern not on the agenda.

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1  
2 Floyd Mitchell, 127 Ocean Oaks, spoke to the Board on behalf of the people in  
3 the area of Ocean Oaks concerning golf carts, and said that he had provided the  
4 Board a copy of NC State Law Session 2009-459, HB 121, an Act to Allow Units  
5 of Local Government to Regulate Golf Carts. Mr. Mitchell noted that the bill  
6 essentially provided that towns could develop their own golf cart policy. Mr.  
7 Mitchell said they all understood that they couldn't destroy property, park on the  
8 roads, had to be 16 years or older to drive, they must only drive in areas posted  
9 35 mph or less, and the cart must go no more than 20 mph. Mr. Mitchell said the  
10 rest would be the Town's decision as to how to craft a policy and Mr. Mitchell  
11 indicated he would be happy to help as a citizen to support that. Mr. Mitchell said  
12 a second issue was parking requirements because not everyone was as  
13 fortunate as Ocean Oaks to have a parking pad down by the boardwalk. Mr.  
14 Mitchell said that in his community they had discussed if Emerald Isle were to  
15 give a sticker and charge a fee, for example \$50 – and you had 400 carts that  
16 would be \$20,000 in a year; the Town could then build access pads. Then the  
17 Town could only ticket people who don't obey the golf cart law. Mr. Mitchell  
18 asked on behalf of Ocean Oaks and anyone else in that category if they could sit  
19 down and develop a logical and reasonable policy for Emerald Isle that looked at  
20 safety, property and that they do so in an expedient manner. Mr. Mitchell  
21 thanked the Board for listening and hoped something could be enacted quickly  
22 and he was willing to help and support as a citizen.  
23

24 Mayor Schools said that all municipalities in North Carolina had the authority to  
25 have their own golf cart rules and he had found that there are a lot of  
26 communities in the process of developing rules. Mayor Schools said that he and  
27 the Town Manager could work on something to run by the Board.  
28

29 Mr. Mitchell asked Mayor Schools if they could have the Police Department at  
30 this point stop ticketing people until they resolved this issue, unless it was  
31 something crazy like riding down Highway 58, but not for just riding down a road  
32 to the beach and parking there.  
33

34 Mayor Schools responded that the Town would follow State Law as well as the  
35 advice of the Town Attorney until the Town had a policy in place.  
36

37 Chuck Hinkle, 327 Cape Emerald Loop, President of Cape Emerald Master  
38 Association, commented on the same topic of golf carts, particularly the no  
39 parking signs, and no parking situation at the end of Ocean Oaks. Mr. Hinkle  
40 noted that the residents in Cape Emerald had quite a number of golf carts and  
41 there were a number of people who had spent a lot of money to make their golf  
42 cart street legal. Mr. Hinkle said at best over the years he had been here he had  
43 noticed sporadic ticketing of golf carts that cross Coast Guard Road from their  
44 subdivision down Ocean Oaks to the parking place at the beach. He said this did  
45 not happen regularly. Mr. Hinkle said he had been told as late as two weeks ago

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1  
2 by an officer who happened to be ticketing a golf cart parked at the end of Ocean  
3 Oaks that since he had a license plate on his golf cart that it was perfectly fine  
4 and he could continue to park there, and a couple of days later the no parking  
5 sign was up. Mr. Hinkle felt the rules had been inconsistently applied over the  
6 last few years and he said his community hoped the Board could see their way to  
7 reverse this activity. Mr. Hinkle agreed that if people broke the law and parked  
8 on other people's property or blocked their driveways with cars or golf carts they  
9 should tow but not necessarily stop everyone from utilizing golf carts to go to and  
10 enjoy the beach.

11  
12 Commissioner Messer commented that he would like to see the Town do  
13 something. Commissioner Messer said he had been to Ocean Oaks and done  
14 site measurements, seen the no parking signs, and he personally couldn't see  
15 anything wrong with 3 or 4 golf carts there. Commissioner Messer noted that the  
16 person who lived beside the access had a fence on the right-of-way and that if  
17 the Town did something he would like to also look at maybe expanding the  
18 parking area. He said the first thing he would like to see was the no parking sign  
19 removed. He felt if they were not obstructing anyone trying to get to the beach  
20 he couldn't see anything wrong with parking a couple of golf carts there.

21  
22 Town Manager Rush explained how the no parking sign came to be there. Mr.  
23 Rush said that along the oceanfront there were many no parking signs. Mr. Rush  
24 said as a matter of practice when the Town received requests for no parking  
25 signs generally they honor those requests and put up a no parking sign, a clear  
26 policy of the Town for a long time. Mr. Rush said that parking along Ocean Drive  
27 was generally unpopular with the residents who live on Ocean Drive in those  
28 communities. Mr. Rush said the request for the no parking sign at Ocean Oaks  
29 came to our Public Works Department within the last few weeks and as they  
30 often do they obliged that request and installed a no parking sign. Mr. Rush said  
31 he was happy to take the no parking sign down if that were a point of contention  
32 for the Board, the only thing he would say in the meantime was that as the Town  
33 was enforcing the State Law on golf carts until they come up with a local program  
34 it would still be illegal for a golf cart that was not a DMV registered vehicle or not  
35 a handicap placard vehicle to park at Ocean Oaks. Mr. Rush said that could  
36 change if they had a local golf cart program.

37  
38 Town Attorney stated that the Town may permit golf carts, the Town had not  
39 done that yet, and until the Town does, golf carts that aren't DMV registered and  
40 street legal are not permitted on streets. Mr. Mitchell disagreed with this  
41 interpretation.

42  
43 Town Manager Rush said they would work expeditiously to come up with a local  
44 program for the Board to review, and hopefully this would be a short term  
45

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1  
2 situation, but in the meantime our officers had an obligation to enforce the law  
3 and they would do that based on the interpretation of the Town Attorney.  
4

5 **10. Preliminary and Final Plat Approval – Bell Cove Village Planned Unit**  
6 **Development**  
7

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

11  
12 A request has been received from Watson-Matthews Real Estate for preliminary and final plat approval for the  
13 proposed Bell Cove Village Planned Unit Development (PUD). The property is located off of Coast Guard Road  
14 immediately north of the Bell Cove Village Commercial Center. The Bell Cove Village Subdivision previously received  
15 preliminary and final plat approval from the Board of Commissioners. The infrastructure serving the proposed  
16 subdivision (water, electric, street lights, phone, cable, streets and stormwater features) has been installed; however,  
17 the owners have never recorded the final plat for the subdivision. Therefore, according to the Carteret County tax  
18 records the subdivision is still considered a single undivided parcel of land. The owners now request that Bell Cove  
19 Village be approved as a PUD. The parcel contains 5.79 acres and will be developed into 11 lots that will range in size  
20 from 15,009 square feet to 25,980 square feet. A recent amendment to the Unified Development Ordinance (UDO)  
21 approved by the Board of Commissioners allows for a PUD to be located on a parcel containing a minimum of five  
22 acres. The property is currently zoned Residential-2 (R-2) and a Planned Unit Development (PUD) is a permitted use  
23 in the R-2 District. The proposed driveways and building footprints for each lot have been shown on the plat. In  
24 addition, all required setbacks have been shown on the plat and the applicants do intend to utilize some zero side line  
25 setbacks as allowed in the UDO. The Town's Technical Review Committee (TRC) reviewed the preliminary and final  
26 plat at its meeting held on June 2, 2010 and following that meeting a revised plat was submitted to Town staff. A copy  
27 of the plat is attached.  
28

29 As previously mentioned, all of the infrastructure (water, electric, street lights, phone, cable and stormwater features)  
30 serving the proposed development has been previously installed in accordance with Town standards. All of the streets  
31 are intended to be private streets. In addition, the applicants have received improvement permits from the Carteret  
32 County Health Department (CCHD) indicating that each of the proposed lots is suitable for an on-site septic disposal  
33 system. A recent amendments approved by the Board of Commissioners to the UDO would allow for individual septic  
34 systems within a PUD provided the lots are a minimum of 12,500 square feet and the CCHD has found them to be  
35 suitable for on-site septic systems.  
36

37 The Town's UDO, specifically Section 6.1.4.(4) requires that PUDs provide open space based on the proposed density  
38 of the development. Since the Bell Cove parcel will be developed at a density of less than 3 dwelling units per gross  
39 acre, then 10% of the total parcel, or 25,212 square feet, must be designated as open space. Section 6.1.4(4)(C)  
40 allows for a maximum of thirty-three and one-third of the required open space to be included in the street rights-of-way.  
41 This percentage may be varied or waived by the Board of Commissioners upon recommendation by the Planning  
42 Board. The applicants are proposing a total of 57,099 square feet of open space but are requesting that all of the open  
43 space be included within the street right-of-ways.  
44

45 The Planning Board considered the request by Watson-Matthews at its meeting held on June 28, 2010. Following its  
46 discussion of the request, the Board voted unanimously (6 to 0) to recommend to the Board of Commissioners that the  
47 preliminary and final plat be approved subject to the following:  
48

- 49 1. Provide copies of documents creating the homeowners' association. The documents creating the  
50 homeowners' association shall provide for control by the property owners other than developer at  
51 such time as over fifty (50) percent of the dwelling units within the project have been sold;  
52

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2. Provide a proposed annual budget for the association that includes the proposed monthly expenditures and income;
3. Provide a proposed ten-year income and expense budget reflecting the establishment of a sinking fund for capital replacement; and
4. Provide a copy of the draft encroachment and maintenance easement for any proposed zero lot lines; and

In addition, the Planning Board's motion included a recommendation that the applicants be allowed to meet the required open space requirement by use of the street right-of-ways as provided for in Section 6.1.4(C) of the UDO. In making this recommendation, the Planning Board acknowledged that the large lot sizes found in the development was a reason for making this recommendation.

Staff looks forward to discussing the request from Watson-Matthews with the Board of Commissioners at its July 13 meeting. Please let me know if you have any questions regarding the foregoing information.

***Motion was made by Commissioner Hoover to approve the preliminary and final plat for Bell Cove Village Planned Unit Development, and allow the use of street right of ways to meet 100% of the open space requirement, contingent upon:***

- 1. Copies of the documents creating the homeowners' association.***
- 2. A proposed annual budget for the association.***
- 3. A proposed ten-year budget with sinking fund for capital replacement, and***
- 4. A copy of the draft encroachment and maintenance easement for any proposed zero lot lines.***

***The Board voted unanimously 3-0 in favor. Motion carried.***

**11. Ordinance Amending Chapter 3 – Zoning Districts – and Chapter 5 – Density, Intensity, and Dimensional Standards – of the Unified Development Ordinance to Create the Eastern End Oceanfront Overlay District and Establish a 20 ft. Front Setback**

Planning Director Kevin Reed addressed the Board regarding this agenda item providing a PowerPoint presentation as well. The following excerpt from his memo to Town Manager Frank Rush is provided for additional background:

Prior to the Town undertaking its large scale beach nourishment project in the winter of 2002-03, the Town was required to survey the existing vegetation line that was delineated by staff from the Division of Coastal Management (DCM). This line became known as the Static Vegetation Line and was to be used in perpetuity to determine the required Coastal Area Management Act (CAMA) setback on the ocean side of oceanfront parcels for development purposes. One result of the static line was that virtually all of the structures on the oceanfront parcels from 1<sup>st</sup> Street to 25<sup>th</sup> Street became non-conforming from a CAMA setback perspective. The Coastal Resources Commission (CRC) recently approved the Town's static line exception plan. With the approval of this plan, the Town now has the ability to use the actual First Line of Natural and Stable Vegetation rather than the static line and the result is that many of the

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1  
2 existing homes between 1<sup>st</sup> Street and 25<sup>th</sup> Street are likely conforming now rather than nonconforming from a CAMA  
3 setback perspective. One requirement of the static line exception is that no structure may be located any further  
4 seaward than the landward most adjacent structure. In many cases, staff found that a person's existing home can  
5 meet the required CAMA setback, but does not meet the front yard setback along the Ocean Drive side of the property  
6 primarily due to the location of the landward most adjacent structure.

7  
8 At the request of the Town Manager, Town planning staff completed an analysis of the existing structures from 1<sup>st</sup>  
9 Street to 25<sup>th</sup> Street to determine if a large number of structures did not meet the required front yard setback of 30-feet  
10 from the Ocean Drive right-of-way line. According to the information developed by staff, 161 of the 172 parcels in this  
11 area are developed and contain existing homes. Of these 161 developed parcels it is estimated that 95, or 66%, meet  
12 or exceed the 30-foot front yard setback. Of the remaining 66 developed parcels 53, or 80%, do not meet the required  
13 30-foot front setback but would meet a 20-foot front yard setback. It is not known if these homes were built prior to the  
14 requirement for a 30-foot setback or if they were permitted illegally in the past. When this information was previously  
15 shared with the Board of Commissioners, Town staff was directed to discuss with the Planning Board possible  
16 amendments to the Town's Unified Development Ordinance (UDO) that would reduce the required front yard setback  
17 from 30-feet to 20-feet, or whatever number the Planning Board felt was appropriate.

18  
19 At the Planning Board's May 24, 2010 meeting, Town staff discussed the impact of the Division of Coastal  
20 Management's (DCM) Static Line Exception on potential development and redevelopment activities for oceanfront  
21 properties from 1<sup>st</sup> Street to 25<sup>th</sup> Street. Staff presented two possible approaches to the Board on how this matter  
22 might be addressed through amendments to the Town's Unified Development Ordinance (UDO). The first approach  
23 would be to create a new zoning district in this area that is the same as the current Residential-2 (R-2) Zoning District  
24 except for a reduction in the front yard setback requirement. The second approach would be to create a zoning  
25 overlay district for this area that would also keep the current R-2 requirements in place; however, it would also allow for  
26 a reduction in the front yard setback requirement. From a procedural standpoint, both approaches require the same  
27 type of written notification to the affected and adjacent property owners as well as the same notifications to the public.  
28 Following the Board's discussion of the issue, staff was directed to prepare possible amendments to the UDO that  
29 would involve the creation of an overlay district that would result in the reduction of the front yard setback from 30-feet  
30 to 20-feet.

31  
32 These amendments were presented to the Planning Board at its June 28, 2010 meeting. In order to achieve the  
33 direction given by the Planning Board on the creation of the Eastern End Oceanfront Overlay District, three  
34 amendments were proposed to the UDO. The first amendment would be to Chapter 3, "Zoning Districts", Table 3.1.1,  
35 "Zoning Districts Established", in order to add the Eastern End Oceanfront Overlay District to the list of established  
36 base and overlay zoning districts. The second amendment would be to Chapter 3, "Zoning Districts", Section 3.2.2, in  
37 order to add a description of the Eastern End Overlay District. This section lists the various districts along with their  
38 intent and purpose. The third amendment would be to Chapter 5, "Density, Intensity and Dimensional Standards",  
39 Table 5.1, "Table of Dimensional Standards", in order to establish the 20-foot front yard setback in the overlay district.  
40 There are no other changes proposed to any other setbacks or dimensional requirements in the overlay district. The  
41 only change would be to reduce the front setback from 30-feet to 20-feet. Staff also presented the Planning Board with  
42 a map that depicted the boundaries of the proposed Eastern End Oceanfront Overlay District.

43  
44 Following its discussion of the proposed amendments and the rezoning of the oceanfront parcels, the Planning Board  
45 voted unanimously (6 to 0) to recommend to the Board of Commissioners that: (1) the UDO be amended in order to  
46 create the Eastern End Oceanfront (EEO) Overlay District; and, (2) all oceanfront parcels from 1<sup>st</sup> Street to 25<sup>th</sup> Street  
47 be rezoned to be included in the EEO District. Attached to this memorandum is an ordinance that shows all of the text  
48 to be added in an underlined format. A rezoning statement is also attached and from a procedural standpoint the  
49 Board should adopt the amendments to the UDO and then approve the rezoning. Also attached is a map which shows  
50 the specific properties that will be included in the overlay district.

51  
52 **Town Manager Rush added that as mentioned by Planning Director Reed there**  
53 **were 161 existing homes in this area with a total of 66 that don't meet the 30 foot**

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1  
2 setback. Mr. Rush said the proposal to reduce the setback to 20 feet would  
3 enable all but 13 of those homes to become conforming from a street side  
4 setback from the same point, and also had the benefit of providing the ability for  
5 more of the lots in eastern Emerald Isle on the oceanfront to regain conforming  
6 status which had been a goal for the past several years as they had worked hard  
7 on the static line exception. Mr. Rush said for the many people who were  
8 already conforming even with the 30 foot street setback it gave them more  
9 flexibility when they do rebuild whether due to fire or storm or that they want to  
10 have a new home; also the added advantage of encouraging people to build  
11 further back from the oceanfront which was certainly one of the goals of the  
12 CAMA regulations.

13  
14 Mr. Rush said they brought this issue forward because they would like to help the  
15 property owners on the oceanfront in that area regain conforming status, have  
16 homes built to today's standards, better able to withstand hurricane impacts. In  
17 addition homes that would look nicer and ultimately benefit everyone in the  
18 community with a better neighborhood, higher property values, and better  
19 construction going forward.

20  
21 ***Motion was made by Commissioner Messer to open the Public Hearing.***  
22 ***The Board voted unanimously 3-0 in favor. Motion carried.***

23  
24 Bob Cato, 702 Ocean Drive, spoke about the reasons he was against this  
25 ordinance amendment. Mr. Cato said this issue came up back in 1986 in the  
26 form of a variance. Mr. Cato said everyone affected by this had received a letter  
27 from him. Mr. Cato presented his 1986 poster that he said still applied. Mr. Cato  
28 said that what was proposed was a blanket change for all 25 blocks so that any  
29 house rebuilt would be at 20 feet which meant eventually the neighborhood  
30 would migrate over and all of the homes would be 20 feet from the road. Mr.  
31 Cato felt that would affect the openness of the neighborhood, natural area, and  
32 the appearance. Mr. Cato didn't want to have a crowded appearance. Mr. Cato  
33 felt that parking was already a problem and if they reduced the setback it would  
34 get worse. Mr. Cato wondered what you would do with septic tanks and drain  
35 fields when you only had 20 feet setback. Mr. Cato spoke about a similar  
36 situation that occurred with a variance request back in 1986 and the response he  
37 received from letters he sent out to oceanfront and second row property owners  
38 at that time with the majority of responses being against the variance which he  
39 said was denied and the home had to be redesigned and built in compliance.  
40 Mr. Cato felt there were ways to design around the setback. He felt that these  
41 considerations represented a degradation of the neighborhood for the benefit of  
42 the front row people with no consideration for the effect on the rest of the  
43 neighborhood specifically the people across the street and the third row, except  
44 for the 2,500 square foot limitation. Mr. Cato said a 2,500 square foot home  
45

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1  
2 would block as much of the view as one of the big mcmansions. He felt this  
3 whole situation was one-sided. Mr. Cato spoke of the oceanfront home he had  
4 once owned and then his reasons for moving to the second row. He felt the  
5 oceanfront property owners wanted to change the rules so they could take  
6 advantage of the property to the maximum. He mentioned his recent mailing to  
7 all oceanfront and second row property owners and that he had received a lot of  
8 emails and the final results from his tabulation indicated that 100% of second row  
9 property owners who responded were against this change as well as 20% of the  
10 oceanfront owners. He urged the Board to please vote against this.

11  
12 Charles Stuber, owner of 1106 Timber Trail, 809, Ocean, and 903 Ocean,  
13 commented that two of his properties on the oceanfront were only 20 feet from  
14 the street and he didn't have any problem with the septic systems there because  
15 they were able to be beside the property, not using any of the property in front of  
16 the house, whereas the property he had with 30 feet back the house had to be  
17 built wider so that all of the septic and parking had to be in front of the house.  
18 Mr. Stuber felt that with having the 20 foot setback you could design the house  
19 so that the narrower part faces the ocean which he felt was a good argument  
20 against what Mr. Cato said about the septic systems. Mr. Stuber also  
21 commended the Mayor and Board for thinking about the beauty of that part of the  
22 island. He said right now the houses zag in and out so that it looked very ragged  
23 and if they all were more uniform he felt it would enhance the beauty. He felt by  
24 allowing more homes to be conforming it would mean that more would feel they  
25 could rebuild or upgrade because most of the houses in that area were 30-40  
26 years old. Mr. Stuber felt that enhancing and upgrading the property would help  
27 the tax base too and he hoped the Board would vote in favor.

28  
29 Doug Tyler, 302 Ocean Drive, stated his concern was that the homes in the  
30 eastern end up to 25<sup>th</sup> Street were smaller, family type cottages and west of 25<sup>th</sup>  
31 Street were a lot of mega monstrosities. His biggest fear was if they allow them  
32 to move closer to the street that people would tear down the existing smaller  
33 homes and build the mega monstrosities.

34  
35 Harold Harroway, 13 Ocean Drive, spoke in favor of the 20 foot setback. Mr.  
36 Harroway said a lot of the second row owners may or may not agree with it but  
37 he felt they need to protect oceanfront owners also. Mr. Harroway said if they  
38 had a great big storm the second and third row may go also. Mr. Harroway said  
39 that people had invested a lot of money in their homes, he said they paid for the  
40 sand renourishment, bulldozed several times, planted sea oats, beach grass, and  
41 put up sand fences and the beach is just as important to the second, third and  
42 fourth row as the oceanfront.

43  
44 Jim Martin, Cape Carteret resident and Emerald Isle property owner, said after  
45 56 years of owning beach property, second row and third row his family finally

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1  
2 had the chance to have a family beach house. Mr. Martin said the lots on the  
3 beach had been non-conforming for the last 26 years and he represented eight  
4 families, all cousins who own property adjacent to each other, and they would  
5 like to see the Board vote for this as he felt it was good for the community. He  
6 was sorry for the people on the second and third row but said they own those lots  
7 too.

8  
9 Dan Griffis, 501 Ocean, said he bought property in 1993 and back before the  
10 Town of Emerald Isle incorporated people just went out and built. Mr. Griffis said  
11 since then a lot of people had passed away and a lot of people owned properties  
12 that he would consider non-conforming. He said they had been hand-tied as to  
13 what they could do to improve their properties. Mr. Griffis said he saw this as a  
14 positive and he was 100% for it. Mr. Griffis said there were so many decks,  
15 steps, sidewalks, stairs, in that area were probably non-conforming because of  
16 the setbacks and this would enable them to enhance their property. Mr. Griffis  
17 felt this was a very appreciated and positive action by the Board to even consider  
18 and he commended the Board.

19  
20 Ken Filopovich, 405 Ocean, said he thought he had the distinction of being the  
21 farthest from the street at 79 feet. He said he had been through a lot with his  
22 home; it had been damaged and rebuilt. He applauded the Board for taking this  
23 action as he would like for his lot to be conforming again and agreed with the  
24 comments of the person who spoke before him.

25  
26 Jeff Holland, 802 Ocean, second row property owner, said that he had heard the  
27 comment made that this would allow for more attractive houses and he couldn't  
28 see that was relevant in any way since attractiveness was subjective. Mr.  
29 Holland said some felt big was beautiful and he liked old cottages so they  
30 disagree and both had the right to do that so that issue was moot. Mr. Holland  
31 said that Mr. Cato mentioned the 2,500 square foot restriction which was being  
32 presented as a restriction to making these huge houses that we all know would  
33 go up. He pointed out that the 2,500 square feet was starting on the second floor  
34 because everything on the oceanfront would be on pilings so you were talking at  
35 a minimum a three story house. He liked that part of the island where they  
36 bought and now they were saying that's not the way it's going to be because we  
37 have a different idea of appeal. He understood that if he were an oceanfront  
38 owner he would imagine he would absolutely be in favor of his own best interest  
39 but they weren't the only ones with a financial stake in this because his house  
40 only had a single story cottage in front of it and they had a fantastic view. Mr.  
41 Holland spoke about the static line and how it could change and that one storm  
42 could blow it all back to the 2003 levels when Isabel came through and that was  
43 a Category 1 storm that tore the dune fences out. Mr. Holland felt if the static line  
44 was a prompt for this discussion that we were on an unstable foundation there  
45 too. He said to remember the neighborhood had its integrity the way it was and

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1  
2 felt there was no reason to change it because they think it would look better. He  
3 said not to assume that they all believe that it would benefit the Town because  
4 they like the Town the way it is and that is why they live there and they don't live  
5 in the west end.

6  
7 Marion Gardner, 2311 Ocean, thanked the Town staff, Manager, Planner for all  
8 their hard work in working with the oceanfront owners to try to get more  
9 conforming lots available. Ms. Gardner said they really appreciate and are very  
10 much for the change to the 20 foot setback. Ms. Gardner said her home was  
11 already past 30 feet and it wouldn't directly affect her but she felt it would  
12 encourage other people to maintain their home better. She didn't plan to tear  
13 down her home, it's about 1,700 square feet, not a mega mansion, but she  
14 thought it would encourage others to put forth the money to maintain and make  
15 the neighborhood more beautiful.

16  
17 Billy Rex Lee, 1203 Ocean, said he had owned his property for almost 40 years  
18 and he commended the Board for their hard work. Mr. Lee said since the beach  
19 nourishment he had seen a better eastern end. He said after every storm they  
20 just wondered what it would do and if they would be able to rebuild or do  
21 anything and meet the guidelines. He said this would help that and would help  
22 the tax base of Emerald Isle. He felt you would see people want to improve their  
23 homes and people building on vacant lots. He was sorry that it would block  
24 some of the second rows view but he hoped the Board would consider voting in  
25 favor.

26  
27 Lisa Lacy, 1013 Ocean, said she had only lived here since January, but she had  
28 owned her home for 8 years and she loved it here. Ms. Lacy said their setback  
29 was 41 feet and she had no problem with the 20 foot setback. Ms. Lacy  
30 commented that the thought of losing her home would be devastating; the  
31 thought of a matter of 10 feet preventing her from rebuilding would be the worst.  
32 Ms. Lacy said her home was not attractive and she felt the CAMA restrictions  
33 both in the setbacks and in the square footage requirements would alleviate any  
34 problems that the second or third row foresees.

35  
36 ***Motion was made by Commissioner Messer to close the Public Hearing.***  
37 ***The Board vote unanimously 3-0 in favor. Motion carried.***

38  
39 ***Motion was made by Commissioner Messer to adopt the Ordinance***  
40 ***Amending Chapter 3 – Zoning Districts – and Chapter 5 – Density, Intensity,***  
41 ***and Dimensional Standards – of the UDO to Create the Eastern End***  
42 ***Oceanfront Overlay District and Establish a 20 ft. Front Setback. The Board***  
43 ***voted unanimously 3-0 in favor. Motion carried.***

44  
45

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1  
2 Town Manager Rush pointed out that because the ordinance did not receive the  
3 required super majority of 4 votes on the first reading it would be rescheduled  
4 again for the August meeting agenda at which time it would simply need to pass  
5 by a simple majority to be effective.  
6

7 **12. Proposed Rezoning – Eastern End Oceanfront Overlay District**

8  
9 Planning Director Kevin Reed addressed the Board regarding this agenda item.  
10 The following excerpt from the Town Manager’s memo to the Board is provided  
11 for additional background:

12  
13 The Board of Commissioners is scheduled to consider the rezoning of all oceanfront properties in the eastern end of  
14 Emerald Isle to the new Eastern End Oceanfront Overlay District, if the accompanying ordinance amendment creating  
15 the new overlay district is approved by the Board. The proposed rezoning includes a total of 172 properties located on  
16 the oceanfront between the Indian Beach town line and Ocean Reef condominiums (roughly between 1<sup>st</sup> St. and 25<sup>th</sup>  
17 St.). A map of the properties to be rezoned is attached.  
18

19 The rationale for the proposed rezoning is included in the memorandum associated with the ordinance amendment that  
20 would create the new overlay district (agenda item #11). The specific area proposed for rezoning is recommended  
21 because it is the area of Emerald Isle affected by the static line exception that can benefit most from the proposed  
22 rezoning, which would reduce the required front yard setback for these properties from 30 ft. to 20 ft. and enhance their  
23 ability to regain conforming status. The area includes 161 properties developed with single family homes or duplexes  
24 and 11 vacant parcels.  
25

26 A public hearing has been scheduled for the July 13 meeting, and should be conducted prior to Board action on the  
27 proposed rezoning. A copy of the public hearing notice is attached. Town staff also mailed a notice to all affected  
28 property owners and all adjacent property owners advising them of the public hearing and the proposed rezoning. The  
29 Planning Board considered the proposed rezoning at its May and June meetings, and unanimously recommends  
30 approval.  
31

32 It is likely that 2 of the 5 Commissioners will not be present at the July 13 meeting. As you know, a 2/3 majority of the  
33 full membership of the Board is required to adopt a rezoning on first reading. In the Town’s case, this means that a  
34 rezoning must receive at least 4 votes on first reading to become effective. If only 3 members of the Board are  
35 present, the rezoning obviously will not receive the required number of votes for passage on first reading, and a  
36 second reading would be scheduled for the August 10 meeting. Only a simple majority, or 3 votes, is required for  
37 passage on second reading.  
38

39 Planning Director Reed stated that this was the second part of a two-step  
40 process tonight and obviously the amendments that were approved to the UDO  
41 tonight was the first step in creating the oceanfront overlay district, the second  
42 part would actually be to create the overlay district by rezoning the parcels from  
43 1<sup>st</sup> Street through 25<sup>th</sup> Street and include them in the eastern end oceanfront  
44 overlay district.  
45

46 ***Motion was made by Commissioner Hoover to open the Public Hearing.***  
47 ***The Board voted unanimously 3-0 in favor. Motion carried.***  
48  
49

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1  
2 Town Manager Rush advised the Board that because the first ordinance that Mr.  
3 Reed referenced did not become effective tonight the Board could not actually  
4 vote on rezoning tonight but they would ask the Board to conduct the public  
5 hearing as they had sent out the required notices to the affected property  
6 owners. They just can't vote on this item until the other ordinance becomes  
7 effective.

8  
9 Town Attorney Stanley added that technically the Board didn't have an ordinance  
10 to rezone.

11  
12 There were no comments from the Public.

13  
14 ***Motion was made by Commissioner Messer to close the Public Hearing.***  
15 ***The Board voted unanimously 3-0 in favor. Motion carried.***

16  
17 ***Motion was made by Commissioner Wright to table the rezoning of the***  
18 ***eastern end oceanfront overlay district until the August meeting. The***  
19 ***Board voted unanimously 3-0 in favor. Motion carried.***

20  
21 **12.5 Change of Meeting Time (Added Item)**

22  
23 Mayor Schools stated that Commissioner Messer had been appointed by the  
24 Governor to serve on the Carteret Community College Board of Trustees. Mayor  
25 Schools said the Carteret Community College Board meets on the same night at  
26 5:00 pm as the Town Board meetings at 6:00 pm and he hoped for a motion to  
27 change the Town Board meetings to begin at 7:00 pm in order to allow  
28 Commissioner Messer to be able to attend both meetings. Mayor Schools  
29 congratulated Commissioner Messer on his appointment to that Board.

30  
31 Commissioner Messer thanked the Board for making this possible.  
32 Commissioner Messer said had the Board not been willing to change the time he  
33 couldn't have accepted the appointment and it was something he really wanted  
34 to do but Emerald Isle came first.

35  
36 ***Motion was made by Commissioner Wright to change the meeting time to***  
37 ***the 2<sup>nd</sup> Tuesday at 7:00 pm beginning in September. The Board voted***  
38 ***unanimously 3-0 in favor. Motion carried.***

39  
40 ***Motion was made by Commissioner Wright to amend the Rules of***  
41 ***Procedure to reflect a 7:00 pm meeting time. The Board voted unanimously***  
42 ***3-0 in favor. Motion carried.***

43  
44  
45

1  
2 **13. Appointment – Bicycle and Pedestrian Advisory Committee – 2**  
3 **Vacancies**  
4

5 **Brief Summary:** There are currently two vacancies on the Bicycle and  
6 Pedestrian Advisory Committee due to recent resignations. The term of one  
7 vacancy expires in December 2010 and the other December 2011.  
8

9 There are no longer requirements for specific slots on the Bicycle and Pedestrian  
10 Advisory Committee, with the exception of one dedicated slot for an Emerald Isle  
11 business person. That slot was previously occupied by Carole Warren. The  
12 other vacancy can be filled by any resident of Emerald Isle.  
13

14 Mayor Schools noted that Carole Warren had resigned but still planned to stay  
15 active with the committee by helping with projects and she was serving as the  
16 business community representative. Mayor Schools said they asked the  
17 Emerald Isle Business Association for a recommendation of someone to serve  
18 and they recommended Wayne Ryan who worked with his dad who owned  
19 Highway 58 Bicycles.  
20

21 ***Motion was made by Commissioner Hoover to appoint Wayne Ryan to a***  
22 ***term on the Bicycle and Pedestrian Advisory Committee that expires***  
23 ***December 2011. The Board voted unanimously 3-0 in favor. Motion***  
24 ***carried.***  
25

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

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

30 Town Manager Rush briefly updated the Board on several issues. Town Manager  
31 Rush spoke about the status of the new public boat launching facility and advised  
32 that he had been working with property owners in the Sound Drive area in  
33 Emerald Isle and the Wildlife Resources Commission had investigated an  
34 alternate route to the waterway as proposed by those residents. Mr. Rush said  
35 they had completed extensive surveys of the entire area of Bogue Sound  
36 between Archers Point and Island Harbor Marina. Town Manager Rush advised  
37 that the Wildlife Resources Commission did determine that the requested  
38 alternate route would not be sufficient, depths were not sufficient at low tide, and  
39 they were not willing to mark that, but they continue to work with those residents  
40 to try to find the most acceptable location for the routing of boat traffic from the  
41 boat launching facility. Mr. Rush said he hoped to meet with those residents  
42 again later this month and get some resolution to that issue.  
43

44 The following is an excerpt from the Town Manager Comments memo to the  
45 Board for additional background and items of importance:

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1  
2 **Change in Regular Board Meeting Time**

3 As you know, there has been discussion about changing the Board's regular meeting time from 6 pm on the second  
4 Tuesday of each month to 7 pm on the second Tuesday of each month, beginning with the September 14 regular  
5 meeting.  
6

7 The Board should conduct an official vote to change the regular meeting time from 6 pm to 7 pm. We will begin to  
8 publicize this change after the July 13 meeting.  
9

10 **Preview of Likely August Meeting Items**

11 The following items are likely to be on the August 10 meeting agenda:  
12

- 13 • Second reading of ordinance amendment to create Eastern End Oceanfront Overlay District
- 14 • Second reading of rezoning for Eastern End Oceanfront Overlay District
- 15 • Discussion / potential decision on solid waste fee / property tax switch in FY 11-12
- 16 • Consulting contract for permitting activities for potential East End beach nourishment project in 2012
- 17 • Finalize long-term agreement with NC Wildlife Resources Commission for new public boat launching facility
- 18 • Ordinance to adjust times for roll-out of trash containers
- 19 • Ordinance to adjust beach driving daily hours due to change in daylight savings time
- 20 • Update to Town's Hazard Mitigation Plan
- 21 • Formal Board of Commissioners Ethics Policy
- 22 • Discussion of 2011 deer management strategies
- 23 • Other items if / as they emerge.  
24

25 **New Bogue Inlet Survey / Sunken Trawler**

26 I have attached a copy of the latest survey of Bogue Inlet completed by the US Army Corps of Engineers for your  
27 information. The inlet continues to be located in a favorable position for Emerald Isle, and The Point continues to look  
28 good. It appears that the main ebb channel has shifted significantly to the west in its northern reach (just south of  
29 Dudley Island), just slightly to the east in the middle reach, and then clearly curves to the west again across the ocean  
30 bar. For the most part, the depths in the main ebb channel continue to be good for navigation, and the Corps of  
31 Engineers has needed to perform far less maintenance dredging in recent years than prior to 2005. There continue to  
32 be shoaling issues across the ocean bar, and also in the "thalweg" in the northern reach of the main ebb channel (just  
33 south of Dudley Island). On the survey, the white and blue areas are deeper, and the orange and red are shallower.  
34

35 Although the underlying photograph is somewhat dated, the Coast Guard Channel is now nearly completely closed off.  
36

37 If you look closely at the survey near the ocean bar, there is a graphic indicating the location of the recently sunken  
38 trawler. It is located slightly east of the main ebb channel, and there's a "Snow White" label near a blue icon. The  
39 Corps of Engineers recently informed me that they are working to have the sunken vessel removed, and expect work  
40 to occur within the next few months. They are concerned that it will be a navigation hazard, particularly if the channel  
41 shifts east.  
42

43 **New Public Boat Launching Facility**

44 NC Wildlife Resources Commission staff is currently evaluating different boat routes from the boat ramp site to the  
45 AIWW between Archers Point and Island Harbor Marina, and I hope to have their latest survey results by July 13. We  
46 are seeking a route with the least impact on Sound Drive property owners, and hope to have the route finalized in the  
47 next week or so.  
48

49 All significant permits for the project are in hand, and I remain hopeful that WRC staff will begin construction of the  
50 water-based improvements very soon. They are awaiting clearance from the State Construction Office before they can  
51 start. Once they receive that approval, their staff will begin water-based improvements and they will begin the bid  
52 process for the land-based improvements.  
53

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1  
2 After a long delay in the review of the formal agreement between the Town and the WRC by other State agencies, we  
3 have received comments from the NC Attorney General's office. We will be working to finalize the agreement  
4 language in the next few weeks, and I hope to have the final version on the Board's August meeting agenda.  
5

6 The Town will be submitting two new grant applications to the NC Division of Coastal Management (\$200,000) and the  
7 NC Marine Resources Fund (fishing license fund - \$300,000) by the end of July to hopefully secure the majority of  
8 funding needed for the final lot purchase (\$607,143) by September 2011.  
9

10 **Aquarium Pier at Emerald Isle**

11 Design work continues, and we expect to review the next stage of design work in the coming weeks. The State  
12 Property Office is also working to acquire the two vacant commercial properties adjacent to Flip Flops Mini-Mart for  
13 wastewater treatment and overflow parking, and we hope to have some resolution on this issue in the coming weeks.  
14 The property is currently in the beginning stages of the foreclosure process, and the State is working to acquire the  
15 land for the Aquarium Pier project.  
16

17 **Bogue Inlet AIWW Crossing Dredging / More Sand at The Point?**

18 The Corps of Engineers is planning to solicit bids for the 2010-2011 dredging season for various AIWW crossing  
19 locations in North Carolina. Although it was just dredged earlier this year, the Bogue Inlet AIWW Crossing will be  
20 included as an alternate. We will be working to secure the necessary CAMA permit for spoils disposal at The Point  
21 again. There's a possibility we'll see sand this coming winter, but a more realistic scenario is 2011-2012 or 2012-2013.  
22

23 **Eastern End Storm Water Outfall Removal**

24 As you know, the Town received a Clean Water Management Trust Fund grant to remove storm water outfalls and  
25 improve public access at 17 locations between 1<sup>st</sup> Street and Asheville Street, and we just recently (after a long delay)  
26 received authorization to spend these funds. The first of the 17 locations, at 14<sup>th</sup> Street, is now partially complete. A  
27 bulkhead has been installed in this area to stabilize the shoreline, and Town staff will soon install an infiltration system  
28 to prevent storm water runoff from reaching Bogue Sound. A new set of wooden steps to the Bogue Sound shoreline  
29 will also be installed. Work on the other 16 locations will occur over the next few years as staff time permits.  
30

31 **Bogue Sound Drive Boat Ramp**

32 This project has been completed, and is a nice improvement over the older deteriorated ramp.  
33

34 **Internet Sweepstakes Cafes Banned by NC General Assembly**

35 The NC General Assembly recently adopted legislation to ban internet sweepstakes cafes altogether. As a result,  
36 there is no need for the Board to consider zoning amendments and/or privilege license fee changes related to internet  
37 sweepstakes cafes. No action is required to lift the Town's moratorium. It will simply become a moot point.  
38

39 **"Trial" Solar Light Installed for Bogue Inlet Pier Public Directional Sign / Future July 4 Fireworks**

40 In an effort to repair the Town's relationship with the owner of Bogue Inlet Pier, we have installed a "trial" solar light on  
41 the public directional sign for Bogue Inlet Pier that is located east of Bogue Inlet Drive. The pier owner and Town staff  
42 are currently evaluating the effectiveness of the light, and if it is acceptable, we will add similar lights to the other public  
43 directional sign for Bogue Inlet Pier and the signs for Island Harbor Marina. If the lights are ultimately judged not to be  
44 effective, we will continue to seek other low-cost ways to light these signs. We are working closely with the owner of  
45 Bogue Inlet Pier on this issue.  
46

47 On a related note, we have been talking the owner of Bogue Inlet Pier about returning the July 4 fireworks to Bogue  
48 Inlet Pier in the future. If we can reach an agreement with the owner, there are still significant issues to be resolved to  
49 comply with the new fireworks regulations enacted after the Ocracoke explosion in 2009. We hope to reach a  
50 resolution on this issue later this year.  
51

52 **Coast Guard Road Storm Water Improvements**

53 I continue to talk with oceanfront property owners in the vicinity of Wyndtree Drive to determine their willingness to  
54 provide easements to allow the Town to discharge emergency storm water / groundwater in the large dune field near

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1  
2 Wyndtree Drive. In addition to the homeowners on Wyndtree Drive, I am also discussing this issue with the Point  
3 Emerald Villas Board of Directors, and continue to seek the most cost-effective collection of oceanfront properties for  
4 the emergency discharge of storm water / groundwater from the Island Circle area. After we have a general  
5 agreement, I plan to commission a topographic survey of the entire area to confirm the receiving capacity of the likely  
6 site, and if that proves feasible I will work with the Town Attorney to extend formal offers to the property owners.

7  
8 I am also meeting with Lands End's leadership on July 12 to further discuss ways for the Town and Lands End to  
9 partner on storm water solutions. I expect to arrange a more formal meeting with the Lands End Board of Directors, a  
10 couple Town Board members, and Moffatt & Nichol in the coming weeks.

11  
12 I am also meeting with Moffatt & Nichol later this month to review the planned earthen berm and emergency discharge  
13 for Emerald Isle Woods Park, and begin to assemble the appropriate documentation for the NC Division of Water  
14 Quality, NC Division of Coastal Management, and NC Shellfish Sanitation Section to review and hopefully result in a  
15 permit for these improvements.

16  
17 **New Municipal Service Districts for Beach Nourishment**

18 The final special district taxes for the original beach nourishment projects will be paid by January 2011. I am currently  
19 working toward a late winter / early spring timeframe for the formal creation of new municipal service districts to provide  
20 funding for the Town's beach nourishment needs in perpetuity.

21  
22 **15. Comments from Board of Commissioners and Mayor**

23  
24 There were no comments from the Board of Commissioners or Mayor.

25  
26 **16. Adjourn**

27  
28 ***Motion was made by Commissioner Messer to adjourn. The Board voted***  
29 ***unanimously 3-0 in favor. Motion carried.***

30  
31 **The meeting was adjourned at 7:25 pm.**

32  
33 Respectfully submitted:

34  
35  
36  
37 Rhonda C. Ferebee, CMC  
38 Town Clerk