

1                                   **MINUTES OF THE REGULAR SCHEDULED MEETING**  
2                                   **OF THE EMERALD ISLE BOARD OF COMMISSIONERS**  
3                                   **TUESDAY, MAY 11, 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 Nita Hedreen, Tom  
16 Hoover, Floyd Messer, John Wootten, and Maripat Wright.  
17

18   Others present during the regular meeting: Town Attorney Richard Stanley,  
19 Town Manager Frank Rush, Asst. Town Manager / Finance Officer Mitsy  
20 Overman, Town Clerk Rhonda Ferebee, and Planning Director Kevin Reed.  
21

22   **3. Opening Prayer**  
23

24   Mayor Art Schools offered the Opening Prayer for the Town Board meeting.  
25

26   **4. Pledge of Allegiance**  
27

28   After opening prayer all who were present recited the Pledge of Allegiance.  
29

30   **5. Adoption of Agenda**  
31

32   ***Motion was made by Commissioner Wright to adopt the Agenda. The***  
33 ***Board voted unanimously 5-0 in favor. Motion carried.***  
34

35   **6. Proclamations / Public Announcements**  
36

37   Mayor Schools announced the following Proclamations and Public  
38 Announcements for the public:  
39

- 40       • **Proclamation – Municipal Clerks Week – May 2 - 8, 2010** (10-05-11/P1)
- 41       • **Proclamation – National Day of Prayer – May 6, 2010** (10-05-11/P2)
- 42       • **Proclamation – National Police Week – May 9 – 15, 2010** (10-05-11/P3)
- 43       • **Proclamation – National Public Works Week – May 16 – 22, 2010**  
44       (10-05-11/P4)
- 45       • **Friday Free Flick – “The Tooth Fairy” – Friday, May 14 – 7 pm –**  
46       **Community Center**

- 1
- 2 • **Budget Workshop Meeting – Tuesday, May 18 – 6 pm – Town**
- 3 **Administration Building (tentative)**
- 4 • **Planning Board Regular Meeting – Monday, May 24 – 6 pm – Town**
- 5 **Board Meeting Room**
- 6 • **Budget Workshop Meeting – Tuesday, May 25 – 6 pm – Town**
- 7 **Administration Building (tentative)**
- 8 • **Memorial Day Holiday – Town offices, Community Center closed –**
- 9 **Monday, May 31**
- 10 • **Budget Public Hearing / Workshop Meeting – Tuesday, June 1 – 6 pm**
- 11 **– Town Board Meeting Room (tentative)**
- 12 • **Youth Fishing Derby Saturday, June 5 – 9 am – 11 am – Bogue Inlet**
- 13 **Pier**
- 14 • **Board of Commissioners Regular Meeting – Tuesday, June 8 – 6 pm**
- 15 **– Town Board Meeting Room**

16  
17 Clerks Note: A copy of Proclamation 10-05-11/P1, 10-05-11/P2, 10-05-11/P3, and 10-05-11/P4 as  
18 noted above are incorporated herein by reference and hereby made a part of these minutes.

19  
20 **7. Consent Agenda**

- 21
- 22 a. **Tax Refunds / Releases**
- 23 b. **Resolution Authorizing “Assistance to Firefighters Grant”**
- 24 **Application (10-05-11/R1)**
- 25

26 ***Motion was made by Commissioner Hedreen to approve the items on the***

27 ***Consent Agenda. The Board voted unanimously 5-0 in favor. Motion***

28 ***carried.***

29  
30 Clerks Note: A copy of Resolution 10-05-11/R1 and all Consent Agenda items as noted above are all  
31 incorporated herein by reference and hereby made a part of these minutes.

32  
33 **8. Public Comment**

34

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

37

38 There were no comments from the public.

39

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46

1  
2 **9. Ordinance Providing For a 180-Day Moratorium on the Establishment of**  
3 **Internet Sweepstakes Cafes (10-05-11/O1)**  
4

- 5 **a. Public Hearing**  
6 **b. Consideration of Ordinance**  
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 The Town's planning staff recently discussed with the Planning Board a "new" type of business use that is getting a  
13 considerable amount of attention in communities throughout North Carolina. These businesses are known by names  
14 such as "Internet Cafés" and "Internet Sweepstakes Cafes". These are not typical internet cafes or coffee shops where  
15 customers use their own laptops or provided computer terminals to access the internet. These uses typically operate  
16 by selling a customer "internet time" and when the customer uses the computer terminal they either win or not based  
17 on predetermined odds. The winners are then compensated by being given something of value such as cash, calling  
18 cards, etc. The general problems that some communities are finding with these types of establishments include them  
19 being open 24-hours a day; multiple similar facilities; loitering outside of the businesses; littering and noise associated  
20 with such uses; and inadequate local development regulations to properly regulate parking, lighting, etc.  
21

22 While North Carolina law generally prohibits gambling operations, the law was written in a way that specifically  
23 identified coin-operated machines. "Internet Sweepstakes Cafés" have found a loop-hole in State law in that they are  
24 not coin operated. There are two efforts underway to address this loop-hole. One is in currently in the court system  
25 and will hinge on whether or not the courts rule that such uses are either "illegal gambling" operations or some type of  
26 legal land use. The second effort is likely to be addressed in the General Assembly by having them modify existing  
27 statutes to specifically make such uses illegal or establish parameters under which they may operate. Since they are  
28 currently deemed to be legal, then they should be appropriately regulated from a zoning perspective. Again, until the  
29 legal appeal is over or the General Assembly addresses the matter, these types of business are legal under State law.

30 To date, Town staff has received at least one inquiry from someone who wished to establish such a business in  
31 Emerald Isle. At the time of the inquiry, Town staff advised that such a use was not permitted since it is not specifically  
32 defined or listed in the Unified Development Ordinance (UDO) as a permitted or special use. While staff was  
33 comfortable with this interpretation, there is the potential for this determination to be challenged. Communities that  
34 permit arcades and similar uses in their development regulations are finding it difficult to prohibit such a use since the  
35 "internet café" use is similar to an arcade or similar indoor gaming establishment. Currently the Town's UDO,  
36 specifically Table 4.1.2, "Table of Permitted and Special Uses", does list as a permitted use in Business (B), Village  
37 East (VE) and Village West (VW) Zoning Districts the following:  
38

39 "Amusement enterprises, indoor, similar to billiards, pool, shooting gallery, roller rink, dance hall".  
40

41 Historically, this has been interpreted to allow arcades and similar gaming establishments, thus therein lays the  
42 potential conflict with an "internet sweepstakes café" or similar use and whether or not it can be prohibited under the  
43 current language in the UDO. This issue has been discussed with Town Attorney Richard Stanley and he believes that  
44 any challenge to the Town's prohibition of such uses would be overturned since the UDO allows "game rooms" and  
45 similar indoor amusements. Town staff would like have better guidance on these types of business uses by having the  
46 UDO specifically define and regulate them. While there are no businesses in Emerald Isle that solely function as  
47 "internet sweepstakes cafés", there are at least two existing businesses (bar and convenience store) that have  
48 sweepstakes terminals located in them and are currently operating as accessory uses to the principal use.  
49

50 This issue was discussed with the Planning Board at its meeting held on April 26, 2010. At that time, Town staff  
51 informed the Planning Board that an ideal course of action would be to develop specific regulations for governing these  
52 types of uses by developing amendments to the UDO. It is likely such amendments would involve defining such a

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1  
2 business use; determining whether they should be a permitted or special use, or simply not allowed; which zoning  
3 districts they should be permitted to locate and operate in; separation from similar uses; parking requirements, etc.  
4 The development of these regulations is likely to involve at least one, if not two, more meetings with the Planning  
5 Board before making a recommendation on the issue to the Board of Commissioners. In order to allow staff sufficient  
6 time to work with the Planning Board on this issue, it was suggested by Town staff that a moratorium be considered to  
7 prohibit such uses until the issues surrounding these businesses and the regulation of them in the UDO can be further  
8 resolved. Moratoriums are permitted under the North Carolina General Statutes provided the ordinance adopting such  
9 is specific as to the rationale for the moratorium, its scope and duration, and what actions the Town plans to take to  
10 address the needs that led to imposition of the moratorium. The moratorium would allow any existing sweepstakes  
11 cafés to continue to operate; however, it would prohibit the expansion of existing similar uses and prohibit the  
12 establishment of any new ones during the duration of the moratorium. Following its discussion of the matter, the  
13 Planning Board voted (4 to 1) to recommend to the Board of Commissioners that a 180-day moratorium be established  
14 in order to allow for sufficient time to develop potential amendments to the UDO. Attached to this memorandum is draft  
15 of the moratorium that was developed with input from Town Attorney Richard Stanley.  
16

17 For informational purposes, I have provided the following on how neighboring governments are dealing with this  
18 emerging topic that is getting a great deal of attention state-wide. Cape Carteret adopted a 120-day moratorium last  
19 month and is currently having the Planning Board work on specific development regulations. Cedar Point is currently  
20 working on development regulations for such uses. Carteret County is considering the adoption of a development  
21 moratorium. Atlantic Beach does not list them as a permitted or special use and believes their Unified Development  
22 Ordinance would have to be amended in order to allow such uses either as a permitted use or special use. Morehead  
23 City regulates them as if they were an indoor amusement such as a bingo parlor and they are either allowed by right  
24 (permitted use) or as a special use depending on the zoning district in which they are located. The Town of  
25 Swansboro adopted development regulations in February that pertain to the regulation of electronic gaming operations.  
26 I also made an inquiry to the Town of Pine Knoll Shores but have not yet learned how/if they are addressing this issue.  
27

28 Town Attorney Richard Stanley, who serves on the North Carolina League of  
29 Municipalities' Legislative Committee, stated that most cities and towns had  
30 chosen to regulate through privilege licenses, because those who had tried to  
31 regulate through zoning and ordinances had lost every time as it was very  
32 difficult to define or to prohibit. Mr. Stanley added that everyone on the  
33 League's legislative committee felt that the General Assembly should do  
34 something in the short session to either outlaw or regulate in some manner.  
35

36 ***Motion was made by Commissioner Messer to open the Public Hearing.***  
37 ***The Board voted unanimously 5-0 in favor. Motion carried.***  
38

39 There were no comments from the public.  
40

41 ***Motion was made by Commissioner Messer to close the Public Hearing.***  
42 ***The Board voted unanimously 5-0 in favor. Motion carried.***  
43

44 Town Manager Rush noted, in response to questions from the Board about the  
45 length of the moratorium, that they had purposely selected 180 days to make  
46 sure that they got beyond the general assembly session. Planning Director Reed  
47 clarified that when the Board ultimately adopted amendments to the UDO to  
48 regulate the moratorium lapsed at that point and would no longer be in effect.  
49  
50

1  
2 ***Motion was made by Commissioner Messer to adopt the Ordinance***  
3 ***Providing For a 180-Day Moratorium on the Establishment of Internet***  
4 ***Sweepstakes Cafes. The Board voted unanimously 5-0 in favor. Motion***  
5 ***carried.***

6  
7 **Clerks Note: A copy of Ordinance 10-05-11/O1 is incorporated herein by reference and hereby made**  
8 **a part of these minutes.**  
9

10 **10. New Public Boat Launch Facility**

- 11  
12 **a. Resolution Accepting NC Marine Resources Fund Grant (10-05-11/R2)**  
13 **b. Resolution Authorizing Closing on Lot 5 of Shell Cove North (10-05-**  
14 **11/R3)**  
15 **c. Capital Project Ordinance Amendment**  
16

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

20  
21 The Board of Commissioners is scheduled to consider 3 separate actions associated with the acquisition of land for  
22 and development of a new public boat launch facility at the May 11 meeting.  
23

24 Resolution Accepting NC Marine Resources Fund Grant for New Public Boat Launching Facility

25 As you know, the NC Marine Resources Fund (derived from coastal recreational fishing license fees, or CRFL) has  
26 awarded the Town a \$500,000 grant for land acquisition for the new public boat launching facility. This funding source  
27 is a critical component of the Town's financing plan for the remaining 2 lots in the Shell Cove North subdivision that are  
28 necessary for the full development of the new public boat launching facility. The attached resolution formally  
29 authorizes the acceptance of this grant for the new public boat launching facility.  
30

31 The Town expects to execute a grant project agreement for the expenditure of these funds within the next several  
32 weeks. As such, if the Board concurs, the next lot closing would be scheduled for the earliest possible date after  
33 execution of the grant project agreement. The Town would expend the proceeds from the NC Marine Resources Fund  
34 grant (\$500,000) plus a portion of the remaining NC Parks and Recreation Trust Fund grant funds (\$107,143) to  
35 complete the purchase of Lot 5 in the Shell Cove North subdivision for the previously stipulated purchase price of  
36 \$607,143.  
37

38 Resolution Authorizing Closing on Lot 5 of Shell Cove North

39 The attached resolution formally authorizes the Town Manager and Town Attorney to proceed with the closing on Lot  
40 5. If the Board concurs, the closing will likely be scheduled sometime in the next several weeks.  
41

42 The closing on Lot 5 will leave the Town with one lot remaining (Lot 3) to honor the total land purchase contract. The  
43 Town will have until September 1, 2011 to complete this closing for \$607,143. After the closing on Lot 5, the Town will  
44 have a total of \$89,286 remaining in the NC Parks and Recreation Trust Fund grant, and will be eligible for a minimum  
45 of \$73,394 from Carteret County. This leaves a need for \$444,463 to complete the closing. Governor Perdue has  
46 included a total of \$304,000 for a Water Resources Development Project grant in her FY 10-11 budget  
47 recommendation to the NC General Assembly, and we will be working hard to make sure these funds are included in  
48 the final State budget approved by the General Assembly in the next few months. If these funds are approved, that will  
49 leave a total balance of \$140,463 necessary to complete the closing on the final lot. We will work hard to secure  
50 additional grant funding for this expense, however, the worst-case scenario is that the Town and the County would  
51 share in this remaining cost equally – for \$70,232 each.

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1  
2 Capital Project Ordinance Amendment

3 The attached capital project ordinance amendment is essentially a "clean-up" amendment to the project budget to  
4 recognize actual grant award amounts. When the capital project ordinance was first established, the exact grant  
5 funding sources and amounts were not completely clear, and the Carteret County contribution is also variable  
6 depending on the receipt of other grant funds and the Town's contribution. The attached capital project ordinance  
7 amendment simply incorporates the most updated grant award information.  
8

9 Brief Update

10 The NC Wildlife Resources Commission (NC WRC) has received 2 of the 4 significant permits needed for the  
11 construction of the new facility. The NC Erosion and Sedimentation Control permit and NCDOT Driveway permit have  
12 been received, and they are awaiting the Town's Universal Storm Water Management permit (issued by our consulting  
13 engineer after consultation with NC Division of Water Quality officials – because it's a joint Town / NC WRC project)  
14 and the Major CAMA permit. We are optimistic that both of these permits will be received by the end of June.  
15

16 NC WRC will be constructing all of the water-based improvements (ramps, docks, channel markings, etc.) with its own  
17 personnel, and all of the parking area improvements (grading, rock base, paving, storm water, etc.) will be contracted  
18 out. The water-based improvements will begin first, soon after all permits are issued. Because of the cost of the  
19 parking area improvements, the State Construction Office will be involved and will coordinate the bid process for the  
20 parking area improvements. We are uncertain as to the timeline for the State Construction Office, but it is hoped that  
21 these improvements can begin soon after the water-based improvements are complete. NC WRC is still optimistic that  
22 the entire facility can be complete by the mid-November target date, however, the schedule will likely hinge on the  
23 timeliness of the Major CAMA permit and the State Construction Office.  
24

25 NC WRC indicates that the total construction cost of the new facility will likely be in the \$800,000 - \$1 million range,  
26 and will be one of the most expensive projects they've constructed. The new facility in Emerald Isle will be a model  
27 public boat launch facility.  
28

29 I continue to be very pleased with the diligence of NC WRC staff and the good working relationship between the Town  
30 and NC WRC.  
31

32 NCDOT is planning to construct the new dedicated turn lane for the new facility in the fall, in conjunction with the  
33 resurfacing of NC 58.  
34

35 Commissioner Wootten asked about the status from the Wildlife Resources  
36 Commission of the pier/walkway. Town Manager Rush said they don't intent to  
37 have an actual pier to the sound as part of the initial construction project but that  
38 would be something the Town would work on in the future as they can secure  
39 grant funds; they were going to go ahead and build a bathroom facility as part of  
40 the initial construction.  
41

42 ***Motion was made by Commissioner Hoover to adopt the Resolution***  
43 ***Accepting NC Marine Resources Fund Grant. The Board voted***  
44 ***unanimously 5-0 in favor. Motion carried.***  
45

46 ***Motion was made by Commissioner Wright to approve the Resolution***  
47 ***Authorizing closing on Lot 5 in Shell Cove North. The Board voted***  
48 ***unanimously 5-0 in favor. Motion carried.***  
49  
50  
51

1  
2 ***Motion was made by Commissioner Wootten to adopt the Capital Project***  
3 ***Ordinance Amendment. The Board voted unanimously 5-0 in favor. Motion***  
4 ***carried.***

5  
6 **Clerks Note: A copy of Resolutions 10-05-11/R2, 10-05-11/R3 and Capital Project Ordinance**  
7 **Amendment as noted above are all incorporated herein by reference and hereby made a part of**  
8 **these minutes.**

9  
10 **11. Resolution Authorizing Inter-Fund Investment of Beach Nourishment**  
11 **Debt Service / Reserve Funds (10-05-11/R4)**

- 12  
13 **a. Public Hearing**  
14 **b. Consideration of Resolution**

15  
16 Asst. Town Manager / Finance Officer Mitsy Overman addressed the Board  
17 regarding this agenda item. The following excerpt from Town Manager Rush's  
18 memo to the Board is provided for additional background:

19  
20 The Board of Commissioners is scheduled to consider the attached resolution that would authorize the investment of  
21 Beach Nourishment Debt Service / Reserve Fund balance in an inter-fund loan to the General Fund. The attached  
22 resolution amends the previous inter-fund loan from the Beach Nourishment Debt Service / Reserve Fund to the  
23 General Fund for a portion of the land acquisition cost for the new public boat launching facility by increasing the  
24 amount from \$235,000 to \$360,000, and extending the term from 3 years to 4 years.

25  
26 The Board (and the NC Local Government Commission) previously approved a \$235,000 inter-fund loan in September  
27 2009, and established a 3-year repayment schedule for this inter-fund loan. Under the terms of this inter-fund loan, the  
28 General Fund will pay a variable rate of interest to the Beach Nourishment Debt Service / Reserve Fund equal to the  
29 rate earned on all other investments in Beach Nourishment Debt Service / Reserve Fund. In September 2009, the  
30 Town had not yet finalized its overall financing strategy for the remainder of the land acquisition for the new public boat  
31 launching facility, and hoped to minimize the amount borrowed for the land acquisition. Subsequent to the September  
32 2009 inter-fund loan, the Town completed an additional partial closing on the land acquisition, and temporarily funded  
33 an additional \$125,000 with General Fund balance. Based on direction from the Board at the April meeting, there is  
34 now a desire to include this additional \$125,000 expense in a new inter-fund loan that includes both the original  
35 \$235,000 from the September 2009 inter-fund loan and the additional \$125,000. The consolidation of these land  
36 acquisition expenses in one inter-fund loan will enable the Town to avoid the use of General Fund balance for this  
37 purpose. (As you may recall, the Town initially planned on borrowing up to \$500,000 for the land acquisition, thus the  
38 new inter-fund loan of \$360,000 is still significantly less than originally planned.)

39  
40 If the Board approves the attached resolution, and the NC Local Government Commission (LGC) concurs, the accrued  
41 interest on the original \$235,000 inter-fund loan from September 2009 until May 2010 will be paid by the General Fund  
42 to the Beach Nourishment Fund (approximately \$500). A new inter-fund loan will be executed for \$360,000, with 4  
43 equal principal payments due on January 1 of 2011, 2012, 2013, and 2014. The General Fund will again pay a  
44 variable rate of interest to the Beach Nourishment Debt Service / Reserve Fund equal to the rate earned on all other  
45 investments in Beach Nourishment Debt Service / Reserve Fund. The estimated debt service payment from the  
46 General Fund to the Beach Nourishment Debt Service / Reserve Fund is approximately \$93,600 in year 1, and would  
47 remain relatively equal in each of the three following years (amount of outstanding principal decreases, but interest  
48 rates are expected to rise).

49  
50 The Beach Nourishment Debt Service / Reserve Fund currently has a fund balance of approximately \$2.1 million. The  
51 Beach Nourishment Debt Service / Reserve Fund will retain a significant portion of this fund balance over the next 3

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1  
2 years, and is then projected to have an ending balance in excess of \$135,000 in the 4<sup>th</sup> year. We expect sufficient  
3 cash flows to accommodate this inter-fund loan without impairing the Town's ability to meet its remaining beach  
4 nourishment bond payments in 2011, 2012, and 2013.

5  
6 As indicated in the attached letter from Town Attorney Richard Stanley, the investment of Beach Nourishment Debt  
7 Service / Reserve Fund balance in this inter-fund loan is authorized under NCGS 159-30(c), subject to the approval of  
8 the LGC. If the Board approves the attached resolution, a formal note setting forth the terms of the inter-fund loan will  
9 be reviewed by the LGC at their June meeting. We do not expect any difficulty securing LGC approval, but in the  
10 event this approval is not granted the Town will need to seek an alternate financing mechanism for the additional  
11 \$125,000.

12  
13 Although not legally required, we have scheduled a public hearing on this inter-fund loan for the May 11 meeting.

14  
15 ***Motion was made by Commissioner Messer to open the Public Hearing.***  
16 ***The Board voted unanimously 5-0 in favor. Motion carried.***

17  
18 There were no comments from the public.

19  
20 ***Motion was made by Commissioner Wootten to close the Public Hearing.***  
21 ***The Board voted unanimously 5-0 in favor. Motion carried.***

22  
23 ***Motion was made by Commissioner Wright to approve the Resolution***  
24 ***Authorizing Inter-Fund Investment of Beach Nourishment Debt Service /***  
25 ***Reserve Funds. The Board voted unanimously 5-0 in favor. Motion carried.***

26  
27 **Clerks Note: A copy of Resolution 10-05-11/R4 is incorporated herein by reference and hereby made**  
28 **a part of these minutes.**

29  
30 **12. FY 10-11 Recommended Budget**

31  
32 **a. Presentation**

33 **b. Schedule for Review and Adoption**  
34

35 Town Manager Frank Rush addressed the Board regarding this agenda item with  
36 a brief overview including PowerPoint presentation summarizing the FY 10-11  
37 Recommended Budget. The following excerpt from his memo to the Board is  
38 provided for additional background:

39  
40 The FY 10-11 Recommended Budget is complete and will be formally presented to the Board and the public at the May  
41 11, 2010 regular meeting. In an effort to better educate the Board and the public about the Town's budget, I will make  
42 a detailed presentation summarizing the FY 10-11 Recommended Budget, and will provide handouts for the public at  
43 the May 11 meeting.

44  
45 I have attached a copy of the "Budget Message", which provides a comprehensive discussion of the issues associated  
46 with the FY 10-11 budget. A "Quick Summary", "All Funds (Summary)", "General Fund Budget Summary", and other  
47 materials are also attached. The full budget document is provided to you under separate cover.  
48  
49  
50

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1  
2 The total FY 10-11 Recommended Budget is \$9,431,735, a \$293,752, or 3.2% increase from the adopted FY 09-10  
3 budget. The proposed General Fund tax rate for FY 10-11 is 8 cents per \$100 of assessed value, which is a 1-cent  
4 increase over the FY 09-10 rate. The proposed beach nourishment special district tax rates are also unchanged, with  
5  
6 a 16.2 cent rate proposed for oceanfront property owners and a 1.1 cent rate proposed for all other property owners.  
7 The recommended annual solid waste fee is also unchanged at \$180. The FY 10-11 Recommended Budget does not  
8 rely on the use of General Fund balance to balance the budget.  
9

10 We have tentatively scheduled two special budget workshop meetings to review and discuss the Recommended  
11 Budget. The first one is tentatively scheduled for Tuesday, May 18 at 6:00 pm, and the second is tentatively scheduled  
12 for Tuesday, May 25 at 6:00 pm. The legally required public hearing is scheduled for Tuesday, June 1 at 6:00 pm. If  
13 these dates and times are not acceptable, we can certainly adjust to fit the Board's schedule. Additionally, if additional  
14 or fewer meetings are desired, we can certainly adjust the schedule to meet the Board's needs.  
15

16 I am hopeful that the Board will formally approve the FY 10-11 budget at your regularly scheduled meeting on  
17 Tuesday, June 8 at 6:00 pm.  
18

19 Town Manager Rush hoped to have met most if not all of the Board's goals. The  
20 Board confirmed the dates for the budget workshop meetings, with the first  
21 budget workshop meeting scheduled for Tuesday, May 18, 2010 at 6 pm in the  
22 Administration Building Conference Room.  
23

24 **Clerks Note: Copies of the "Quick Summary", FY 10-11 Budget Message and Summary Budget**  
25 **Information are all incorporated herein by reference and hereby made a part of these minutes.**  
26

27 **13. New "Residents & Visitors Guide"**  
28

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

33 I am pleased to present the new, updated "Residents & Visitors Guide" to the Board for your information. This new  
34 publication includes a comprehensive, yet relatively concise explanation of Emerald Isle, the Town government  
35 organization, the services we provide, and our key regulations. The new "Residents & Visitors Guide" replaces a  
36 previous version that was produced in 2003 and that has been out of date for some time now.  
37

38 The new "Residents & Visitors Guide" is targeted at our permanent residents, second home owners, and visitors, and  
39 includes the following sections:  
40

- 41 • "Welcome to Emerald Isle", with a general explanation of what kind of community we are,
- 42
- 43 • "Emerald Isle Government", with a complete listing of Town departments and information on how to stay  
44 informed about Town government,
- 45
- 46 • "Emerald Isle Facts & Figures", with interesting tidbits of info that provide perspective on Emerald Isle,
- 47
- 48 • "Important Town Regulations", that summarizes the Town's most significant regulations that apply in town in  
49 places other than the beach strand,
- 50
- 51 • "Town Services", that lists the various services provided by the Town in alphabetical order along with the  
52 appropriate contact information,

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- "Trash Collection, Recycling, and Other Solid Waste Services", with detailed information about the collection schedule, containers, and more,
- "Beach & Sound Access", with information about facilities with parking and neighborhood access points,
- "Beach Nourishment & Navigation", to educate our residents and visitors about the importance of these activities,
- "Hurricane & Storm Information", to educate the public about proper evacuation and re-entry procedures, and
- "Important Beach Regulations", to concisely explain the Town's key regulations on the beach strand.

The goal for this publication is to better educate our customers, present a professional image of the Town and the Town government organization, and hopefully convey a welcome approach to people who may be considering relocating to or visiting Emerald Isle in the future.

I am very pleased with the attractive design of the publication, which was completed by Bellagurl Marketing, Publishing, and Advertising of Morehead City, under the direction of Tricia Morris (who previously reported on the Town meetings for the Island Review magazine). We have ordered 5,000 copies of the booklet on glossy paper, and plan to distribute approximately 2,000 copies to the vacation rental companies to include in each of the vacation rental units in Emerald Isle, where they will hopefully remain on a coffee table or tacked to a refrigerator, etc. in these units for use by future visitors. The remaining 3,000 copies will be available for distribution to the public at various Town facilities, rental companies, and other locations, and we will also include a PDF version on the Town's website. We expect to receive the printed booklets in the next 2 weeks or so.

The last page of the booklet, with "Important Beach Regulations", will also be modified as a one-page handout that can be photocopied by Town staff and used to educate people on the beach strand this summer.

**Clerks Note: A copy of the new "Residents & Visitors Guide" is incorporated herein by reference and hereby made a part of these minutes.**

#### **14. Appointments – Bicycle & Pedestrian Advisory Committee – 2 Vacancies**

**Brief Summary:** There are currently two vacancies on the Bicycle and Pedestrian Advisory Committee. One is for a term that expires in December 2010, and the other is for a term that expires in December 2011.

The following excerpt from Town Manager Rush's memo to the Board is provided for additional background:

There are currently 2 vacancies on the Bicycle and Pedestrian Advisory Committee due to the recent resignations of members Mark Brennesholtz and Ellen Garris. One of these terms expires in December 2010, and one of these terms expires in December 2011.

There are no longer requirements for specific slots on the Bicycle and Pedestrian Advisory Committee, with the exception of one dedicated slot for an Emerald Isle business person. That slot is currently occupied by Carole Warren.

The Town recently received an email from Mr. Ken Stone, a resident of Royall Oaks, indicating interest in being appointed to the Bicycle and Pedestrian Advisory Committee. No additional applicants have expressed interest in joining the committee at this time.

1  
2 ***Motion was made by Commissioner Wright to appoint Ken Stone to a term***  
3 ***on the Bicycle and Pedestrian Advisory Committee that expires in***  
4 ***December 2011. The Board voted unanimously 5-0 in favor. Motion***  
5 ***carried.***  
6

7 **15. Comments from Town Clerk, Town Attorney, and Town Manager**  
8

9 There were no comments from the Town Clerk or Town Attorney.  
10

11 Town Manager Rush briefly updated the Board on several various projects. Mr.  
12 Rush also discussed with the Board the issue of east end front yard setbacks.  
13 Mr. Rush stated that the Coastal Resource Commission had recently approved  
14 the static line exception and they hoped that a lot of the homes in the east end  
15 would now be conforming in terms of the oceanfront setback. Mr. Rush said they  
16 had found that a good number were not conforming in terms of street side  
17 setback. Mr. Rush said a 30 foot front street setback had been in place for many  
18 years now, over 30 years, and for whatever reason there were about 64 homes  
19 on the east end that don't meet that setback. Mr. Rush said they were  
20 considering a zoning ordinance amendment, new zoning district or perhaps an  
21 overlay zoning district to change the front yard setback in that area to 20 feet or  
22 15 feet to provide people with more flexibility if they had to reconstruct their home  
23 in case of fire or storm. Mr. Rush said he didn't know if those nonconforming  
24 homes were built before setbacks were in place or if somewhere along the line  
25 there was an error. Mr. Rush wanted to get the Boards thoughts on this issue.  
26 Following discussion the Board agreed they were supportive of doing something  
27 pending more citizen input and study by the Planning staff and Planning Board.  
28

29 The following is an excerpt from the Town Manager Comments memo to the  
30 Board for additional background and items of importance:  
31

32 **East End Front Yard Setbacks**

33 As you know, the recent approval of the Town's static line exception plan should restore conforming status to many of  
34 the oceanfront homes on the east end of Town between the Indian Beach town line and Ocean Reef. The Planning  
35 and Inspections Department has received many requests to delineate the actual first line of stable vegetation in this  
36 area in recent weeks.  
37

38 In some cases, we have found that a person's existing home meets the required CAMA setback from the first line of  
39 actual stable vegetation but they do not meet the front yard setback from Ocean Drive. The Town's required front yard  
40 setback is 30 feet from the Ocean Drive right of way line. I recently asked Kevin Reed, Planning and Inspections  
41 Director, to complete an analysis of how many existing homes do not meet the 30 ft. front yard setback. According to  
42 Kevin's analysis, 64 of the 161 existing homes in that area likely do not meet the 30 ft. front yard setback. We don't  
43 know if this is because these homes were built prior to the adoption of the 30 ft. front yard setback, or if they were  
44 permitted illegally at some point in the past.  
45

46 It appears that all but 13 of the 161 homes meet a 20 ft. front yard setback, and all but 6 meet a 15 ft. front yard  
47 setback. If the Board concurs, I'd like to have the Planning Board consider an ordinance amendment to reduce the  
48 required front yard setback to 20 ft. in this area only. This change would restore conforming status to a greater number

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1  
2 of homes in this area, would enable more attractive and convenient reconstruction (whether voluntary or involuntary  
3 due to fire or storm damage), and would also likely keep new homes that are constructed further away from the ocean.  
4

5 Please let me know your thoughts on this issue.  
6

7 **NC 58 Bicycle Path**

8 SunLand Development continues to work hard on the NC 58 Bicycle Path, and the 1.5 mile section from Ebb Tide  
9 Drive to Black Skimmer Drive is now essentially complete. Many walkers, bicyclists, and runners are already using the  
10 path, and we've received a number of positive comments.  
11

12 SunLand has completed most of the grading and rock base work in the .5 miles section between Ebb Tide Drive and  
13 Hurst Drive, and hopes to finish this portion of the work by May 14. Barnhill Contracting, the paving subcontractor, is  
14 scheduled to complete paving during the week of May 17, with all other pavement markings and bollards completed  
15 during the week of May 24. If all goes according to SunLand's schedule, the entire project will be essentially complete  
16 by Memorial Day weekend.  
17

18 Unfortunately, Barnhill Contracting accidentally damaged several existing concrete driveways between Ebb Tide Drive  
19 and Black Skimmer Drive when they paved the first 1.5 mile section. Barnhill Contracting and SunLand are working  
20 together to get these areas repaired.  
21

22 **Aquarium Pier at Emerald Isle**

23 Design work continues on the Aquarium Pier. The design team shared the preliminary design work with the Pier  
24 Advisory Committee at their meeting on April 15, and it was well-received.  
25

26 The Pier Advisory Committee has recommended that the NC Aquariums and/or the NC Aquarium Society utilize  
27 remaining WAMI grant funds to purchase the two commercial lots located adjacent to the Flip Flops Mini-Mart for  
28 wastewater disposal and perhaps overflow / bus parking for the new facility. The purchase of this land enables the  
29 addition of approximately 30 more parking spaces at the main site (because land area would not need to be allocated  
30 for wastewater disposal).  
31

32 NC Aquariums officials and NC Aquarium Society staff are currently preparing to make an offer on the property and/or  
33 secure an option. Final purchase of the land would be contingent upon additional wastewater suitability analyses. A  
34 preliminary analysis came back favorable, but more analysis is necessary before firmly committing to this property.  
35

36 **NCDOT Dynamic Messaging Sign**

37 Alesia Sanderson, Parks and Recreation Director, recently participated in a conference call with NCDOT officials and  
38 their contractor for this project. They have decided to delay the start of construction until after July 12, and have  
39 devised a plan with only very minimal lane closures. The shoulder of NC 58 will likely be closed, but traffic should flow  
40 freely in both lanes at all times except during delivery of concrete for sign supports. Although this is not ideal, it is a  
41 much better plan than originally discussed, which involved lane closures during weekdays from Memorial Day through  
42 July.  
43

44 **Bogue Sound Drive Boating Access Ramp**

45 After a long series of delays, most recently due to the contractor abandoning the project, a new Town contractor  
46 (Turner Marine Construction) will begin the reconstruction of the neighborhood boat ramp at the end of Kelly Lane.  
47 Work should begin during the week of May 10.  
48

49 **Beach Services Improvement Plan**

50 We continue to prepare to implement the beach services improvement plan endorsed by the Board at the April  
51 meeting. The Fire Department's Beach Patrol will participate in training during the week of May 17, and we have also  
52 scheduled an interdepartmental meeting involving personnel from Fire Dept Beach Patrol, the Police Dept, Parks and  
53 Recreation, and Public Works to insure that everyone fully understands my expectations and the need to work  
54 together. A new handbook will also be distributed. We expect to fully implement the plan during the week of May 24.

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**Recent Coast Guard Road Improvements**

As you know, several improvements were completed along Coast Guard Road between Pebble Beach and Emerald Isle Woods Park in the past several weeks. Many people believed that the work was associated with an extension of the bicycle path along Coast Guard Road, and were excited about this possibility. As you know, there are no immediate plans to construct the bicycle path in this area at this time.

The south side of Coast Guard Road from Pebble Beach to Emerald Isle Woods was disturbed in order to allow Bogue Banks Water Corporation, Inc. to install a new water line connection in this area. This work also required a portion of the existing bicycle path between Pebble Beach and Deer Horn Drive to be removed temporarily. Bogue Banks Water Corporation has since reconstructed the bicycle path in this area. Additionally, the Town completed the resurfacing of Coast Guard Road from Pebble Beach to the western edge of Emerald Isle Woods Park in order to improve damaged pavement in this area.

All work is complete now. The Town did take the opportunity to prepare for the future extension of the bicycle path from Deer Horn Drive to Emerald Isle Woods, and the recent work will make it easier and less expensive to construct this bicycle path extension in the future. The route of the future bicycle path has been cleared and rough graded, and the vehicle travel lanes of Coast Guard Road have been shifted to the north. This shifting of the vehicle travel lanes will enable the Town to maximize the amount of separation between the future bicycle path and the vehicle travel lane on the south side of the Coast Guard Road right of way. We have also retained Turner Marine Construction to build a few small segments of retaining wall in areas with steep banks, and this will make it easier to eventually construct the bicycle path in this area.

I am hopeful that we can construct this bicycle path extension within the next year, and a new fundraising initiative by the Bicycle and Pedestrian Advisory Committee, led by Mayor Schools, will hopefully provide a significant portion of the necessary funding.

**Beach Tents – Oceanfront Property Owner Exceptions**

We mailed letters to every oceanfront property owner in mid-April to advise them of the new beach tent ordinance and their ability to secure two exception stickers if desired. A copy of that letter is attached.

To date, we have issued 174 exception stickers to 87 property owners. Letters were mailed to 1251 oceanfront property owners. (All condo owners in oceanfront complexes are eligible for the exception.)

Fire Dept Beach Patrol, Police, and Public Works staff will begin enforcing the new ordinance during the week of May 24.

**Summer Intern**

Kevin McLaughlin, a first year Master of Public Administration candidate at UNC-Chapel Hill, will begin work with us on May 24 as a summer intern. I expect Kevin to be with us through August 6, or somewhere around that date.

Some of the projects I may have Kevin work on include the following:

- create database of oceanfront beach nourishment easements to determine which ones are perpetual and which ones will need to be secured again prior to the next nourishment project,
- improve format, substance, and readability of monthly department reports,
- assist in evaluation of solar energy proposal / negotiate arrangement where Town does not spend any money but receives electricity savings and/or eventually owns equipment at no charge,
- evaluate effectiveness of new beach services improvement plan; be “my eyes” on the beach strand to insure the plan works correctly,

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- work with Rhonda Ferebee, Town Clerk, to optimize a new version of the Town website for smartphones to make it easier for people to learn about the Town / conduct business with the Town from mobile phones,
- investigate / establish a new 311 information line for Town government services,
- update Town administrative forms,
- evaluate the Town's information technology support services and potentially seek proposals, and
- other projects as they emerge.

Please let me know if there are other items you'd like us to look into that might be good to assign to Kevin while he's with us.

**16. Comments from Board of Commissioners and Mayor**

Commissioner Wootten provided kudos to Gayle Parker, Tax Collector and Mitsy Overman, Asst. Town Manager / Finance Officer for the 100% of property tax collected.

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

**17. Adjourn**

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

**The meeting was adjourned at 7:10 pm.**

Respectfully submitted:

Rhonda C. Ferebee, CMC  
Town Clerk