

1                                   **MINUTES OF THE REGULAR SCHEDULED MEETING**  
2                                   **OF THE EMERALD ISLE BOARD OF COMMISSIONERS**  
3                                   **TUESDAY, JANUARY 12, 2010 – 6:00 P.M.**  
4                                   **TOWN BOARD MEETING ROOM**

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7    **1. Call To Order**

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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.

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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, Police Chief Bill Hargett, and Parks and  
21 Recreation Director Alesia Sanderson.

22  
23    Also in attendance: Tom Jarrett, Coastal Planning & Engineering, and Greg  
24 “Rudi” Rudolph, Carteret County Shore Protection Officer, and Jill Searcy,  
25 Bicycle and Pedestrian Advisory Committee Chair.

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27   **3. Opening Prayer**

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29    Chase Pake, youth member from Emerald Isle Baptist Church offered the  
30 Opening Prayer for the Town Board meeting.

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32   **4. Pledge of Allegiance**

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

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36   **5. Adoption of Agenda**

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38    ***Motion was made by Commissioner Wootten to adopt the Agenda. The***  
39 ***Board voted unanimously 5-0 in favor. Motion carried.***

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2 **6. Proclamations / Public Announcements**  
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4 Mayor Schools announced the following proclamations and announcements for  
5 the public:  
6

- 7 • **Proclamation Scouting For Food Good Turn (10-01-12/P1)**
- 8 • **January 13 Board of Adjustment Meeting Cancelled**
- 9 • **Martin Luther King, Jr. Holiday – Monday, January 18 – Town Offices**  
10 **Closed, Community Center Open**
- 11 • **January 25 Planning Board Regular Meeting Cancelled**
- 12 • **4 v 4 CoEd Volleyball Tournament – Saturday, February 6 – 9 am –**  
13 **Community Center**
- 14 • **Board of Commissioners Regular Meeting – Tuesday, February 9 – 6**  
15 **pm – Town Board Meeting Room**
- 16 • **Annual Budget Planning Workshop – Friday, February 26 – 8:30 am –**  
17 **Town Admin Building Conference Room**
- 18 • **19<sup>th</sup> Annual St. Patrick’s Festival – Saturday, March 13 – 9 am – 5 pm**  
19 **– Emerald Plantation Shopping Center**  
20

21 Alesia Sanderson, Parks and Recreation Director mentioned a new program  
22 targeted for teens aged 13-18 offering outdoor adventure activities beginning this  
23 spring, also noting an upcoming blood drive scheduled for Friday, January 22 at  
24 the Community Center.  
25

26 **Clerks Note: A copy of Proclamation 10-01-12/P1 as noted above is incorporated herein by reference**  
27 **and hereby made a part of these minutes.**  
28

29 **7. Introduction of New Employees**  
30

- 31 **a. Shane Mathis, Police Officer**
- 32 **b. Brooke Breen, Police Telecommunicator**
- 33 **c. James Sobel, Parks and Recreation Custodian**  
34

35 Police Chief Bill Hargett introduced Telecommunicator Brooke Breen. Chief  
36 Hargett noted that Brooke graduated from Swansboro High School, attended Art  
37 School at East Carolina, received a Photo degree at Carteret Community  
38 College, and a Bachelors degree in Zoology at NC State University. Chief  
39 Hargett noted that Brooke also volunteered at the Outer Banks Wildlife Shelter  
40 (OWLS).  
41

42 Police Chief Bill Hargett introduced Police Officer Shane Mathis. Chief Hargett  
43 noted that Shane was born in Melbourne, Florida, moving to North Carolina at an  
44 early age. Chief Hargett stated that Shane attended Swansboro High School,  
45 graduated from Jacksonville High School, and that he had been a firefighter and

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1  
2 EMT for the Hubert fire department. Shane received his BLET and graduated  
3 from Coastal Carolina Community College in 2009.

4  
5 Parks and Recreation Director Alesia Sanderson introduced new Parks and  
6 Recreation Custodian Jim Sobel. Ms. Sanderson noted that Jim and his family  
7 had relocated to Emerald Isle from Michigan. Ms. Sanderson stated that Jim had  
8 an extensive background in building maintenance, adding that the park facilities  
9 looked absolutely outstanding now and they were proud to have Jim as part of  
10 the team.

11  
12 The Board and public welcomed all of the new employees to Emerald Isle.

13  
14 **8. Consent Agenda**

- 15  
16 a. Tax Refunds / Releases  
17 b. Minutes – December 8, 2009 Regular Meeting  
18 c. Minutes – December 28, 2009 Special Meeting  
19 d. Resolution Amending Personnel Policy – LEO Separation Allowance  
20 (10-01-12/R1)  
21 e. Resolution Establishing Public Beach Access Walkway Policy  
22 (10-01-12/R2)  
23 f. Resolution Establishing Public Business Directional Signs Policy  
24 (10-01-12/R3)  
25

26 Town Manager Frank Rush pointed out the replacement items at the Board's  
27 places for Item 8e – correcting a typographical error in paragraph 4b that added  
28 the number 2 as the goal for the number of walkways to be replaced each year.

29  
30 ***Motion was made by Commissioner Messer approve the Items on the***  
31 ***Consent Agenda. The Board voted unanimously 5-0 in favor. Motion***  
32 ***carried.***

33  
34 Alesia Sanderson, Parks and Recreation Director took the opportunity to thank  
35 Ed Fulford who spearheaded the efforts to rebuild the Shorerush walkway.  
36 Mayor Schools added thanks to Mr. Fulford for his efforts.

37  
38 **Clerks Note:** A copy of Resolutions 10-01-12/R1, 10-01-12/R2, 10-01-12/R3 and all Consent Agenda  
39 items as noted above are all incorporated herein by reference and hereby made a part of these  
40 minutes.

41  
42 **9. Public Comment**

43  
44 **Brief Summary:** The public will have the opportunity to address the Board about  
45 any items of concern not on the agenda.  
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2 Ed Fulford, 102 Shorerush, thanked the Board, Alesia Sanderson, and Frank  
3 Rush. He spoke about all of the help they had provided him and how the new  
4 walkway would benefit the community's residents and visitors.

5  
6 Greg Nies, Emerald Isle property owner, had a question about the bond issue for  
7 beach nourishment.

8  
9 Frank Rush, Town Manager responded that the bonds actually would not be paid  
10 off until FY 12-13 because of the delay in issuing the second round of bonds for  
11 beach nourishment but the special district taxes that are levied to payoff those  
12 bonds – the tax bills that go out in 2010 - would be the final year of those tax bills  
13 and they would have all the money in hand to pay the bonds probably by the end  
14 of calendar 2010, the actual last payment won't happen until sometime in 2013.

15  
16 **10. Ordinance Amending Chapter 4 – Use Regulations – of the Unified**  
17 **Development Ordinance In Order to Remove Marinas as a Permitted Use in**  
18 **the Business District (10-01-12/01)**

- 19  
20 **a. Public Hearing**  
21 **b. Consideration of Ordinance**

22  
23 Town Manager Frank Rush addressed the Board regarding this agenda item.  
24 The following excerpt from Planning Director Kevin Reed's memo to the Board is  
25 provided for additional background:

26  
27 The Planning Board, at its November 23, 2009 meeting, discussed a possible amendment to Chapter 4, "Use  
28 Regulations", Table 4.1.2, "Table of Permitted and Special Uses", of the Town's Unified Development Ordinance  
29 (UDO) in order to remove "Marina and other watercraft related facilities" as a permitted use in the Business (B) District.  
30 This discussion was initiated by Town staff due to recently approved amendments to the UDO that apply to dry stack  
31 boat storage structures in all zoning districts which includes the Business (B) District in addition to the Marina Village  
32 (MV) and Marina Village-Conditional (MV-C) Districts. From a practical standpoint, there is only one tract of land in the  
33 Town that is zoned Business and located on Bogue Sound. Since this tract is likely not suitable for a future marina or  
34 dry stack boat storage facility; it made sense to consider an amendment to the UDO that would remove these facilities  
35 as a permitted use in the Business District.

36  
37 During its discussion of the matter, the Planning Board acknowledged that while it made sense to remove "Marinas" as  
38 a permitted use in the Business District, there was some desire to still allow for "watercraft related facilities" to remain  
39 as permitted uses. These types of facilities could include boat sales and boat repairs and the Planning Board felt that  
40 these types of uses should remain a permitted use in the Business District. Following its discussion of the matter, the  
41 Planning Board voted unanimously (5 to 0) to recommend to the Board of Commissioners that "Marina" be removed as  
42 permitted use in the B District, but keep "watercraft related facilities" as a permitted use. Marina and watercraft related  
43 facilities would remain a permitted use in the MV and MV-C Districts.

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

47  
48 There were no comments from the Public.

1  
2 ***Motion was made by Commissioner Messer to close the Public Hearing.***  
3 ***The Board voted unanimously 5-0 in favor. Motion carried.***

4  
5 ***Motion was made by Commissioner Wright to adopt the Ordinance***  
6 ***Amending Chapter 4 – Use Regulations – of the Unified Development***  
7 ***Ordinance in Order to Remove Marinas as a Permitted Use in the Business***  
8 ***District. The Board voted unanimously 5-0 in favor. Motion carried.***

9  
10 **Clerks Note: A copy of Ordinance Amendment 10-01-12/O1 as noted above is incorporated herein by**  
11 **reference and hereby made a part of these minutes.**

12  
13 **11. Static Line Exception**

- 14  
15 **a. Presentation of Static Line Exception Report**  
16 **b. Resolution Adopting Report (10-01-12/R4)**  
17

18 Mayor Schools introduced Tom Jarrett with Coastal Planning & Engineering who  
19 would update the Board about the Static Line Exception Report. The following  
20 excerpt from Town Manager Rush's memo to the Board is also provided for  
21 additional background:

22  
23 The Board of Commissioners is asked to approve the attached resolution adopting the attached Static Line Exception  
24 Application Report. The attached report, if approved by the Board, will be submitted to the NC Coastal Resources  
25 Commission (CRC) for consideration at their March 24 – 26 meeting. Approval of the report by the CRC would enable  
26 the Town to again utilize the actual first line of stable vegetation for oceanfront setback measurements in eastern  
27 Emerald Isle, as opposed to the static vegetation line that has been in place since 2003.

28  
29 The eastern 5.9 miles of Emerald Isle's beach were nourished in 2003 with nearly 1.87 million cubic yards of sand.  
30 CRC rules require that the actual first line of stable vegetation that exists just prior to a large beach nourishment project  
31 be surveyed prior to nourishment and then used in perpetuity for oceanfront setback measurements. The application  
32 of this rule has resulted in the perpetual non-conformity of 171 single-family and duplex properties between the Indian  
33 Beach town line and Ocean Reef. The oceanfront buildings in Ocean Reef and Pier Pointe are also nonconforming in  
34 perpetuity. Since the completion of the 2003 beach nourishment project, which included the construction of a large  
35 vegetated dune line in many locations, the actual first line of stable vegetation has moved significantly seaward. In  
36 many cases the actual first line of stable vegetation has migrated more than 60 feet seaward, and this area could be  
37 used to meet oceanfront setback requirements if not for the application of the static vegetation line. Due to the  
38 success of beach nourishment, many of the existing homes and vacant lots in this area of Town are more stable and  
39 protected from erosion than other conforming lots in Emerald Isle.

40  
41 In late 2008, the CRC adopted a new rule that recognizes the stability created by an ongoing, long-term beach  
42 nourishment program. The new rule enables local communities with ongoing long-term beach nourishment programs  
43 to apply for a static line "exception", which if granted by the CRC, enables that community to again utilize the actual  
44 first line of stable vegetation for oceanfront setback measurements. The new rule was delayed by appeals, but  
45 ultimately became effective in August 2009. In order to qualify for a static line exception, a community must petition  
46 the CRC and present a static line exception report that describes past nourishment activities and demonstrates the  
47 community's commitment to a long-term beach nourishment program. The static line exception report must include  
48 information about past nourishment projects, project performance and monitoring efforts, identify suitable sand  
49 source(s) sufficient for at least 25 years' worth of future beach nourishment, and demonstrate adequate funding for at  
50 least 25 years' worth of future beach nourishment.

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1  
2 The attached Static Line Exception Application Report was prepared for the Town of Emerald Isle by Coastal Planning  
3 & Engineering of NC (Tom Jarrett, PE), with assistance from the Carteret County Shore Protection Office (Greg "Rudi"  
4 Rudolph, Shore Protection Manager), and me. The attached report includes all of the information and plans required  
5 by the CRC to secure a static line exception. The key provisions of the report include the following:  
6  
7

- 8 • The report includes a detailed review of the Town's 2003 beach nourishment project, and the 2004 Hurricane  
9 Isabel and 2007 Hurricane Ophelia touch-up projects. The 2003 project involved the placement of 1.87  
10 million cy of sand on the beach in eastern Emerald Isle. The 2004 project involved the replacement of  
11 156,000 cy of sand in this area that was lost during Isabel. The 2007 project involved the replacement of  
12 344,000 cy of sand in this area that was lost during Ophelia (additional sand was placed in areas of western  
13 EI that lost sand during Ophelia).  
14
- 15 • The report includes maps of the static vegetation line currently in effect between Scotch Bonnet Drive and  
16 the Indian Beach town line. The Board should note that 5.9 miles are subject to the static line, however, the  
17 only practical impact of the line is in the area between the Ocean Drive dog-leg vehicle ramp and the Indian  
18 Beach town line where oceanfront properties are non-conforming in perpetuity.  
19
- 20 • The report includes a review of the performance of past nourishment activities. Based on extensive  
21 monitoring data collected each year, eastern Emerald Isle lost approximately 119,000 cubic yards of sand  
22 per year, which is considered to be a relatively low loss rate compared to other beach nourishment projects.  
23 However, much of this amount was replaced during the Isabel and Ophelia touch-up projects. As a result,  
24 this area is well above the trigger for the next beach nourishment project in this area. For purposes of  
25 projecting future nourishment needs and nourishment event dates, the report takes a conservative approach  
26 and assumes an annual loss rate of approximately 119,000 cubic yards per year from this area.  
27
- 28 • The report considers future nourishment needs in the other communities on Bogue Banks to insure that  
29 adequate sand sources are available for all of the communities on Bogue Banks. The report estimates a  
30 total future nourishment need of 357,000 cy per year for all communities on Bogue Banks, which equates to  
31 10.7 million cy over the 30-year planning period included in the report. The Offshore Dredged Materials  
32 Disposal Site (ODMDS) near the Beaufort Inlet channel off of Atlantic Beach includes more than 30 million cy  
33 of beach-compatible material. Additional sand sources are located in the Bogue Inlet channel and offshore  
34 borrow areas that may include an additional 30 million + cy of material.  
35
- 36 • Based on historical erosion losses, the report projects that all of Bogue Banks will be nourished  
37 approximately every 10 years, with the next event scheduled for the period between 2018 and 2020. A total  
38 of 3.6 million cy of sand is projected to be placed during that 3-year nourishment cycle, with Emerald Isle  
39 receiving approximately 1.65 million cy of this total. The entire length of Emerald Isle would be nourished  
40 during this cycle – both the eastern 5.9 miles subject to the static line and the western areas of Town.  
41 Subsequent 3-year nourishment cycles would occur roughly every 10 years thereafter.  
42
- 43 • The total estimated cost for beach nourishment over the 30-year planning period is \$187.2 million for all  
44 communities on Bogue Banks. The report relies on 3 funding sources to meet this expense – State funding,  
45 Carteret County room occupancy tax revenues, and Emerald Isle tax revenues. Because of uncertainty  
46 about the amount of State funding that may be available, the report presents 3 funding scenarios with various  
47 levels of State funding.  
48
  - 49 ▪ Scenario 1 (best-case scenario for Emerald Isle) assumes that the State will provide  
50 funding for 45% of the total construction cost. This assumption is consistent with the  
51 middle range of State funding recommended in the State's new Beach Inlet Management  
52 Plan (BIMP), which calls for the State to cover 40% - 50% of total nourishment costs for  
53 local communities, depending on the amount of public access provided. Under all  
54 scenarios, the County would provide funding for 50% of the total nourishment costs with

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1 room occupancy tax revenues, thus under Scenario 1 the Town would be responsible for  
2 5% of the total nourishment costs.

- 3  
4
- 5     ▪ Scenario 2 (likely-case scenario) assumes that the State will provide funding for 40% of  
6 the total construction cost. This assumption is consistent with the low end of State  
7 funding recommended in the BIMP. Again, the County would provide funding for 50% of  
8 the total nourishment costs, and under Scenario 2 the Town would provide funding for  
9 10% of the total nourishment costs.
  - 10     ▪ Scenario 3 (worst-case scenario) assumes that the State will provide funding for 25% of  
11 the total construction cost. This assumption is consistent with historical State  
12 contributions for beach nourishment projects with a Federal component. The State has  
13 historically provided 26.25% - 37.5% funding for projects with a Federal component, and  
14 the assumption is that at least this level of State funding would continue in the future.  
15 The 25% figure was selected to be conservative and also for simple explanation  
16 purposes. Again, the County would provide funding for 50% of the total nourishment  
17 costs, and under Scenario 3 the Town would provide funding for 25% of the total  
18 nourishment costs.

- 19
- 20     • The report demonstrates that the County's room occupancy tax revenues will be sufficient to enable the  
21 County to provide funding for 50% of construction costs over the 30-year planning period. Detailed financial  
22 projections are included in Appendix B.
  - 23     • The report indicates that Emerald Isle will need to provide dedicated beach nourishment funding ranging  
24 from \$4.2 million to \$21.2 million over the 30-year planning period, depending on which scenario is ultimately  
25 realized.
    - 26     ▪ Under Scenario 1 (best case), the Town will be required to contribute a total of \$4.2  
27 million over the 30-year planning period. The levy of a new ½ cent tax rate (either in the  
28 General Fund or new special tax districts) will generate approximately \$212,500 per year  
29 beginning in FY 11-12, and over the entire 30-year period this revenue source will  
30 generate approximately \$8.6 million, much more than needed.
    - 31     ▪ Under Scenario 2 (likely case), the Town will be required to contribute a total of \$8.5  
32 million over the 30-year planning period. The levy of a new 1 cent tax rate (either in the  
33 General Fund or new special tax districts) will generate approximately \$425,000 per year  
34 beginning in FY 11-12, and over the entire 30-year period this revenue source will  
35 generate approximately \$17 million, much more than needed.
    - 36     ▪ Under Scenario 3 (worst case), the Town will be required to contribute a total of \$21.2  
37 million over the 30-year planning period. The levy of new special district taxes of 3 cents  
38 for all oceanfront and inlet-front properties and 1 cent for all other properties will generate  
39 approximately \$655,000 per year beginning in FY 11-12, and over the entire 30-year  
40 planning period will generate approximately \$24.2 million.
    - 41     ▪ Based on the current special district tax rates of 16.2 cents and 1.1 cent in Emerald Isle,  
42 each of these 3 scenarios appears to be very affordable for Emerald Isle property owners  
43 going forward.

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49  
50 The Board should note that I am recommending that the Board commit to levying new special district tax rates of 3  
51 cents for all oceanfront and inlet-front property owners and 1 cent for all other property owners beginning in FY 11-12.  
52 The current special tax districts will expire after FY 10-11, and these new special district taxes would begin the  
53 following year. I am recommending that the Town be prepared for the worst-case scenario for the following reasons:  
54

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- The level of State funding that can reasonably be expected remains uncertain, especially given the State's current budget challenges.
- It is my goal to establish a reliable, routine, dedicated funding source for future beach nourishment activities that ideally will be sufficient to enable the Town to fund these activities on a "pay as you go" basis without incurring additional debt.
- The report is based on solid science and our own performance monitoring data, but we have some inherent belief that Emerald Isle may ultimately need a greater volume of sand than indicated in the report and that nourishment may be necessary earlier than 2018. In fact, we are currently exploring a relatively small-scale nourishment event for eastern Emerald Isle in the 2012 +/- time frame.
- Planning for the worst-case will enable the Town to make the best-case possible to the CRC to hopefully achieve the static line exception.

The Board should note that the nourishment volumes and schedules are merely projections based on historical data and past project performance. In reality, the timing and scope of future nourishment activities will certainly vary from the attached report. For general planning purposes, however, the attached report represents the most reasonable and likely projection of future activities.

The Board should also note that the other towns on Bogue Banks are also pursuing a static line exception, and will likely appear on the same CRC agenda as Emerald Isle. We have gone to great length in preparing the attached report to insure that the static line exception plans, and the sand and funding assumptions therein, are consistent among all Bogue Banks towns.

The Board and the affected property owners should note that the approval of the Town's static line exception report will NOT result in ALL non-conforming properties suddenly becoming conforming again. These properties will still be required to meet the required 60 ft. oceanfront setback from the first line of actual stable vegetation and also meet the Town's streetside setback (30 ft.). From a practical standpoint, a lot will need to have approximately 120 ft. of lot depth from the streetside property line to the first line of actual stable vegetation to be conforming again (allowing for a 30 ft. +/- building envelope). Some oceanfront lots in this area will meet the setbacks fairly easily because they have nurtured extensive dune growth in recent years, while others have not. Based on our familiarity with this area, however, we do believe that many of the 171 non-conforming properties will return to conforming status.

The Board and the affected property owners should also note that the static line exception comes with conditions that will affect new construction and reconstruction in this area. First, any new homes must not be located further seaward than their most landward adjacent neighbor. Because most of the homes in this area are generally in a straight line, this should not be a major concern. Second, any new homes can not exceed 2,500 heated sq. ft. This should also not be a major concern, as more than 85% of the existing homes in this area are smaller than 2,500 sq. ft.

The Board and the owners of oceanfront units in Ocean Reef and Pier Pointe should note that the 2,500 sq. ft. limitation will not restore conforming status to these units, as all of the existing condominium buildings are in excess of 5,000 sq. ft. The static line exception would at least allow for some reconstruction and recovery of equity in the event one of the condominium buildings is destroyed. The static line exception may also result in greater flexibility on the overall condominium property such that a building could be fully reconstructed in a slightly different location on the overall property.

Finally, if the CRC grants the Town a static line exception, the CRC will review the Town's adherence to its report every 5 years. If the CRC finds that the Town has not adhered to its report, the static line exception will be repealed and the static line would again be used to measure oceanfront setbacks.

As you know, the Town was one of the main proponents of the CRC rule change that created the static line exception. I am pleased that we are nearing a solution to this problem for our oceanfront property owners in eastern Emerald Isle.

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1  
2 Tom Jarrett, Greg "Rudi" Rudolph, and I look forward to discussing the report with the Board at the January 12  
3 meeting.

4  
5 Tom Jarrett, Coastal Planning & Engineering provided a brief PowerPoint  
6 presentation and highlighted key elements of the Static Line Exception Report.

7  
8 Town Manager Frank Rush commented that the critical piece to our plan that  
9 would be presented to the CRC and also for our future long term beach  
10 nourishment was how Emerald Isle would pay for our share of the cost. Mr.  
11 Rush noted that he had outlined different funding scenarios in their agenda  
12 packets; there being a best case, likely case and worst case scenario. Mr. Rush  
13 said he would ask the Board to endorse the plan to levy new special district tax  
14 rates of 3 cents for all oceanfront and inlet-front property owners and 1 cent for  
15 all other property owners beginning in FY 11-12 as part of the Static Line  
16 Exception Report that would enable building up a reliable recurring funding  
17 source for beach nourishment going forward, it would prove to CRC that they had  
18 the money to meet our obligations and therefore qualify for the Static Line  
19 Exception, and help the property owners on the east end of Town and also  
20 hopefully enable us ideally to fund future beach nourishment efforts on a pay as  
21 you go basis.

22  
23 Mr. Rush said they felt this was a sound plan and affordable plan for our  
24 community as it was important to keep our beach in a healthy condition. Mr.  
25 Rush asked the Board as part of the Static Line Exception Report to preliminarily  
26 commit to those tax rates, the Board would not actually reestablish the special  
27 tax districts until sometime in 2011 and then they would levy those taxes in June  
28 2011 when they adopt the budget for FY 11-12. Mr. Rush said that Greg  
29 Rudolph, Carteret County Shore Protection Officer was also here tonight to  
30 answer any questions and that he appreciated Rudi's hard work and efforts.

31  
32 Tom Jarrett noted that Rudi had also been working hard with the other  
33 communities on the Island to get them positioned to apply.

34  
35 Town Manager Frank Rush pointed out that there were 171 properties non-  
36 conforming because of the static vegetation line, and if the Board approved this  
37 plan and the CRC approved the plan, those properties would go back to using  
38 the first line of actual stable vegetation for their setbacks. Mr. Rush said they  
39 think that would help a lot of the 171 properties but he didn't think it would help  
40 every one of those 171 properties. Mr. Rush said if approved it doesn't mean  
41 that all those homes were automatically conforming again, what it meant is they  
42 had a good chance of being conforming again if they had substantial growth in  
43 the dune and they had done a good job of planting vegetation and putting in sand  
44 fencing.

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1  
2 Commissioner Wootten was a little concerned about the linkage of the need to  
3 save up money for beach nourishment for just 171 homes, it was much more  
4 than that in his mind, and it was the health and welfare of the entire Town.

5  
6 Town Manager Rush agreed and stated there were two goals, one to qualify for  
7 the static line exception which could benefit up to 171 property owners, but  
8 equally important was the financial plan for the Town moving forward to keep all  
9 12 miles of our beach nourished; the financial plan laid out covered the entire  
10 section of our beach for the next 30 year.

11  
12 Commissioner Messer said he looked at this as long term care. Commissioner  
13 Wootten agreed that it was insurance, if we had a major storm we would remain  
14 eligible for reimbursement from FEMA.

15  
16 Commissioner Hedreen noted that it said that every 5 years they would come  
17 back and look to be sure we had a good financial plan, and asked Mr. Rush what  
18 would happen if at some point during that time they did have an event and had to  
19 use some of the monies; would that put the Town at risk of having the static line  
20 removed even if the eastern end wasn't affected by the catastrophic event. Town  
21 Manager Rush stated that as part of this whole process the Division of Coastal  
22 Management, and Coastal Resources Commission wanted to see communities  
23 maintaining their beach, and he felt they recognized the Town had done a good  
24 job, so the scenario Commissioner Hedreen described would probably bolster  
25 our case, just another example to CRC that we were maintaining our beach,  
26 following through on our plan, reserving the money for future beach nourishment,  
27 monitoring performance of the beach, getting prepared to nourish, and seeking  
28 out FEMA funding, so all of those things would help prove to them when  
29 reviewed every 5 years that Emerald Isle was following the plan and they should  
30 continue the static line exception.

31  
32 ***Motion was made by Commissioner Hoover to adopt the Resolution***  
33 ***Adopting the Static Line Exception Report. The Board voted unanimously***  
34 ***5-0 in favor. Motion carried.***

35  
36 **Clerks Note: A copy of Resolution 10-01-12/R4 as noted above is incorporated herein by reference**  
37 **and hereby made a part of these minutes.**

38  
39 **12. Bicycle and Pedestrian Issues**

- 40  
41 **a. Presentation of Proceeds – Emerald Isle Triathlon**  
42 **b. Capital Project Ordinance Amendment – Bicycle Paths & Sidewalks**  
43 **c. Bicycle and Pedestrian Master Plan**  
44  
45  
46

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1  
2 Parks and Recreation Director Alesia Sanderson and Bicycle and Pedestrian  
3 Advisory Committee Chair Jill Searcy addressed the Board regarding this agenda  
4 item. The following excerpt from Town Manager Rush's memo to the Board is  
5 provided for additional background:

6  
7 The Board of Commissioners is scheduled to receive proceeds from the annual Emerald Isle Triathlon at the January  
8 12 meeting, and also formally consider a new Bicycle and Pedestrian Master Plan that has been prepared by the  
9 Bicycle and Pedestrian Advisory Committee.

10  
11 Presentation of Proceeds – Emerald Isle Triathlon

12 Jill Searcy, representing the Emerald Isle Business Association, and also Chair of the Town's Bicycle and Pedestrian  
13 Advisory Committee, will present a check for 50% of the net proceeds of the annual Emerald Isle Triathlon to the Town.  
14 The net proceeds from this year's triathlon were \$5,862. The Emerald Isle Business Association rounded up, and will  
15 present \$3,000 to the Town.

16  
17 As in past years, these funds will be earmarked for future bicycle and pedestrian improvements. These annual  
18 contributions have been very helpful to the Town in completing additional improvements. As you may recall, the  
19 accumulation of previous contributions helped the Town to complete the extension of the bike path on Coast Guard  
20 Road in spring 2009.

21  
22 Capital Project Ordinance Amendment – Bicycle Paths and Sidewalks

23 The new \$3,000 contribution will be deposited in this capital project fund and reserved for future improvements. The  
24 current balance in the fund is \$320, as most previous funds were used for the Coast Guard Road bicycle path  
25 extension in 2009.

26  
27 Bicycle and Pedestrian Master Plan

28 The Bicycle and Pedestrian Advisory Committee has been working on the development of a new Master Plan for the  
29 past several months, and has completed its work. Jill Searcy, Chair of the Committee, will present the recommended  
30 Master Plan for formal consideration by the Board at the January 12 meeting.

31  
32 As you know, the Town has placed a high priority on the bicycle and pedestrian amenities in recent years. The Town  
33 has constructed a total of 4.8 miles of new bicycle paths and sidewalks since 2004, and an additional 2.0 miles is  
34 currently under construction. The vast majority of these 6.8 miles has been funded by various grants and  
35 contributions. The Town's bicycle path network is among the most heavily utilized amenities in Emerald Isle, and has  
36 been very well-received by our residents, visitors, and businesses. The Bicycle and Pedestrian Advisory Committee  
37 has also been hard at work on other initiatives intended to promote bicycling and walking over that time. The  
38 Committee's recommended Master Plan seeks to continue our past success and further expand the opportunities for  
39 bicyclists and pedestrians in Emerald Isle.

40  
41 The Committee's recommended Master Plan identifies desired bicycle path and sidewalk improvements  
42 (Infrastructure), both in the short-term and long-term, including more pressing safety concerns. The Master Plan  
43 includes a total of 7.9 miles of new bicycle paths and sidewalks for future construction, including the entire length of  
44 Coast Guard Road and NC 58. The Master Plan also includes several recommendations for Enforcement and Safety,  
45 Education, and Motivation. The Master Plan recommends the continued aggressive pursuit of grant funding for future  
46 improvements.

47  
48 The new Master Plan, if adopted by the Board, will provide clear guidance for the Committee and Town staff in moving  
49 forward on future initiatives. The completion of a new Master Plan will also likely enhance the Town's future grant  
50 applications, as many grant programs require that communities have an active plan. All grant applications and Town  
51 funding decisions for future improvements, will, however, be considered by the Board at the appropriate time.

52  
53

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1  
2 As you know, the Town recently received an Honorable Mention for Bicycle Friendly Community Status as a result of  
3 the Bicycle and Pedestrian Advisory Committee's application. We are pleased to have received this designation, and  
4 will be working hard to achieve the full designation in the future. I have attached a copy of the comments received  
5 from the League of American Bicyclists, the organization responsible for making the determinations, for your  
6 information.

7  
8 Bicycle and Pedestrian Advisory Committee Chair Jill Searcy, also representing  
9 the Emerald Isle Business Association in partnership with the Town presented a  
10 check for \$3,000 which was half of the proceeds from the Triathlon held in  
11 October of 2009. Ms. Searcy said they would like the money to be earmarked to  
12 go toward bike paths and sidewalks.

13  
14 ***Motion was made by Commissioner Messer to adopt the Capital Project***  
15 ***Ordinance Amendment – Bicycle Paths and Sidewalks. The Board voted***  
16 ***unanimously 5-0 in favor. Motion carried.***

17  
18 Parks and Recreation Director Alesia Sanderson spoke about the proposed  
19 Bicycle and Pedestrian Master Plan, thanking Vice-Chair committee member  
20 Mark Brennesholtz for his efforts in spearheading the project. Ms. Sanderson  
21 stated this would be a very important document not only for outlining the future  
22 direction with bicycle and pedestrian infrastructure, safety and education, but  
23 also a highly effective tool in gaining additional grant funding as well as achieving  
24 the goal of being a Bicycle Friendly Community status. Ms. Sanderson noted the  
25 Town was chosen as an honorable mention this year with their first submission.

26  
27 Bicycle and Pedestrian Committee Chair Jill Searcy outlined the goals of the new  
28 plan, thanking all of the committee for their hard work on the plan. Ms. Searcy  
29 said they would like to continue the development of the bicycle paths and the  
30 sidewalks. Ms. Searcy discussed and outlined future goals to enhance bicycle  
31 and pedestrian opportunities in Emerald Isle.

32  
33 Mayor Schools suggested to the Board that he and Commissioner Wright review  
34 the plan further, and try to work in some county and tourism information.  
35 Commissioner Messer agreed that this was an important document and the more  
36 they could get into the plan the better in the long run and he supported that  
37 suggestion.

38  
39 **Clerks Note: A copy of the approved Capital Project Ordinance Amendment – Bicycle Paths and**  
40 **Sidewalks as noted above is incorporated herein by reference and hereby made a part of these**  
41 **minutes.**

42  
43  
44  
45  
46  
47

1  
2 **13. Ordinance Amending Chapter 5 – Beach and Shore Regulations –**  
3 **Regarding Unattended Beach Equipment (10-01-12/02)**  
4

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

8  
9 The Board of Commissioners is scheduled to formally consider an ordinance that would require unattended beach  
10 equipment (tents, canopies, cabanas, umbrellas, sporting equipment, etc.) to be removed from the beach strand on a  
11 daily basis. This issue has been discussed several times over the past couple of years, including the December 8,  
12 2009 meeting at which the Board directed me to present a formal ordinance for consideration at the Board's January  
13 12 meeting.

14  
15 The attached ordinance amendment was modeled after similar ordinances in Carolina Beach, Ocean Isle Beach, and  
16 Bald Head Island, with adjustments intended to make Emerald Isle's ordinance simpler and to focus primarily on beach  
17 tents, canopies, cabanas, etc. The attached ordinance amendment would require that unattended beach equipment  
18 be removed from the beach strand on a daily basis, and provides that any unattended equipment on the beach strand  
19 between 7 pm and 8 am the following morning will be removed and disposed of by the Town.

20  
21 The ordinance amendment also establishes requirements that all beach equipment, whether attended or unattended,  
22 be located at least 20 feet from the frontal dunes, emergency vehicle access points, public access locations, and sea  
23 turtle nests. These requirements are intended to insure that a viable vehicle travel lane exists along the beach strand  
24 for emergency services personnel and Public Works personnel, and also to promote separation between people on the  
25 beach and sea turtle nests.

26  
27 The ordinance amendment does grant authority to the Town Manager to make exceptions to these requirements on a  
28 case by case basis for special events or other reasons in the general public interest.

29  
30 As you know, the Town continues to receive an increasing number of concerns about the proliferation of unattended  
31 beach equipment left on the beach strand, often for several consecutive days and nights. Typical complaints received  
32 from the public include:

- 33
- 34 • the proliferation of unattended beach equipment detracts from the aesthetic quality of the beach,
  - 35
  - 36 • the overnight proliferation of unattended beach equipment is potentially harmful to sea turtle nesting  
37 activities,
  - 38
  - 39 • unattended beach equipment can be a safety hazard at night for pedestrians on the beach, and also impedes  
40 emergency vehicle and Public Works vehicle travel on the beach,
  - 41
  - 42 • unattended beach equipment left overnight is often destroyed in windy storm events and ends up as litter on  
43 the beach, in the dunes, or in the surf zone,
  - 44
  - 45 • certain groups "take over" a specific area of the beach for a few days or a week, and interfere with others'  
46 ability to fully enjoy the beach, and
  - 47
  - 48 • sometimes these groups are renting or staying in homes further away from the beach, and the presence of  
49 these tents detract from the views and experiences of those in oceanfront homes.
  - 50

51 In response to previously expressed concerns, Town staff gathered data on the magnitude of this problem during the  
52 2009 summer season. The Beach Patrol traveled the beach strand early in the morning two days each week of the

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1  
2 2009 summer season, and recorded the number of unattended beach tents, canopies, etc. I have attached a copy of  
3 their report for your review. In the peak of the summer season, there were approximately 200 – 300 beach tents left  
4 out overnight, or an average of approximately 17 – 25 per mile along the beach strand.  
5

6 The attached ordinance is supported by leaders of the Emerald Isle Sea Turtle Protection Program, and also Town  
7 emergency services staff. As you know, beach tents, canopies, etc. are a popular item for beach visitors. They  
8 provide an effective way to reduce harmful sun exposure, particularly for those with children. Some of the beach tents,  
9 canopies, etc. take some time to assemble and disassemble, and most people probably leave them up overnight to  
10 avoid the inconvenience of having to assemble it again the next day. There was initially some concern that a Town  
11 ordinance prohibiting overnight beach tents, canopies, etc. might be viewed as unfriendly to our visitors and potentially  
12 harm the Town's image as a family beach destination, however, this concern appears to be relatively minor. Based on  
13 recent discussions with the leaders of the vacation rental industry in Emerald Isle, there is a clear consensus among  
14 the vacation rental managers that such an ordinance is needed in Emerald Isle.  
15

16 The Town's enforcement effort will involve Town staff patrolling the beach at least every morning, very early in the  
17 morning (prior to 8 am), to review the number of unattended beach tents, canopies, etc. left on the beach strand.  
18 Initially, a warning sticker will be placed on the unattended beach tents, canopies, etc. that directs the owner or user to  
19 remove the item each night. If the unattended beach equipment remains on the beach strand on subsequent  
20 mornings, the unattended beach equipment will be removed and disposed of by Town staff. Town staff will take a  
21 more friendly enforcement approach initially, and will eventually evolve to immediate removal and disposal in the future  
22 after public awareness has increased. Town personnel on the beach strand during the daytime hours will also be  
23 educating the public on the beach strand, and we will also be working with the vacation rental industry to educate the  
24 public about the new requirements.  
25

26 The Board should note that the new ordinance will likely require some additional staff time initially, but the workload will  
27 likely decrease over time as the ordinance becomes common knowledge. Eventually, we expect the workload to  
28 decrease somewhat. The Public Works Department often collects wind-strewn, damaged beach tents, canopies, etc.  
29

30 from the beach strand after windy storm events, and theoretically this will no longer be a problem. Additionally, many  
31 beach visitors simply leave their beach tents, canopies, etc. on the beach strand when they return home to avoid the  
32 trouble of taking it down and packing it in the car. Public Works continues to collect a larger amount of discarded  
33 beach tents, canopies, etc. every summer, and perhaps this practice will decrease if people are in the habit of  
34 disassembling the beach tents, canopies, etc. on a daily basis.  
35

36 Town Manager Frank Rush pointed out that a revised version of the proposed  
37 ordinance amendment had been provided to the Board tonight for their  
38 consideration. Mr. Rush discussed the provisions of the proposed amendment  
39 with the Board. Mr. Rush stated that the replacement ordinance was almost  
40 identical to the version in their packet – noting the change in Section 5.103  
41 included a couple of extra phrases. Mr. Rush stated that essentially this  
42 ordinance would require everyone to remove unattended beach equipment such  
43 as tents, umbrellas, cabanas, chairs, volleyball nets, etc. from the beach strand  
44 by 7 pm until 8 am the following morning. The ordinance states that if the  
45 equipment remained out during those times unattended, i.e. there was no one  
46 sitting there using or enjoying the equipment, it would be classified as abandoned  
47 property subject to removal by Town staff. Town Manager Rush discussed other  
48 proposed regulations intended to promote a safe vehicle travel way primarily for  
49 emergency services personnel and Public Works staff. In addition, Mr. Rush  
50 noted that there were some exceptions granted, to be authorized by the Town  
51 Manager, or his/her designee in cases where there was some limited duration

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1  
2 special event. Mr. Rush said in the new language there was also an exception  
3 for oceanfront property owners. Mr. Rush said that language was added this  
4 afternoon after speaking with Town Attorney Richard Stanley about private  
5 property rights that provided an exception for oceanfront property owners to gain  
6 permission to leave equipment out on the beach overnight.

7  
8 Commissioner Wright wanted to clarify that oceanfront property owners didn't  
9 mean oceanfront renters. Mr. Rush stated it would mean any oceanfront  
10 property owner or anyone designated by an oceanfront property owner, so it  
11 could potentially apply to a renter if they had permission from the oceanfront  
12 property owner. Town Manager Rush said that most of our beach had been  
13 nourished in the past and any new sand placed on the beach is property of the  
14 State of North Carolina so where the actual property lines stopped on our beach  
15 strand varied depending on the location, and just to be safe with private property  
16 they added the exception; the property owner would be required to request that  
17 approval from the Town Manager or designee to go forward, so there was that  
18 potential but he felt it would be very rare, limited circumstances. Mr. Rush said  
19 that his general sense from talking with residents and vacation rental companies  
20 was there was more of a concern of unattended beach equipment left by people  
21 not on the oceanfront. A fair amount of complaints are received from oceanfront  
22 property owners because other folks on the second or third row had left these  
23 things out on the beach all week long.

24  
25 Commissioner Wright asked for clarification whether those provisions would only  
26 be for certain events limited duration; someone couldn't say they want to leave  
27 something out all summer long. Commissioner Messer said in his opinion the  
28 oceanfront homeowner shouldn't be able to designate their tenants for the entire  
29 rental season, but should have to put the request in writing for each individual  
30 tenant and receive written permission each time. Town Manager Rush stated  
31 that the intent was that it be a weekly request to be reviewed by the Town  
32 Manager or his designee. Mr. Rush said this provision was added as a  
33 safeguard for the private property owner rights on the oceanfront.

34  
35 A question was asked from a member of the public about how they would  
36 determine what items belonged to whom, whether someone had a right as an  
37 oceanfront property owner or if property was left by somebody else. Commission  
38 Messer stated that if they had a right then the Town would have an application  
39 and permit on file. Town Manager Rush added that if someone had secured a  
40 permit there would be some sort of sticker placed on the equipment with a list  
41 given to Town Staff so they knew when exceptions had been granted.

42  
43 Elizabeth Hutton, Sound of the Sea II oceanfront building, read a prepared  
44 statement of support of the proposed ordinance amendment. Ms. Hutton  
45 commented on her observations of what she called semi-permanent structures

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1  
2 that remained on the beach strand for long periods of time. Ms. Hutton noted the  
3 high number of tents counted during her walks with 58 counted within one mile.  
4 Ms. Hutton spoke of the safety concerns for people walking at night, the harm  
5 that unattended structures posed to sea turtles nesting and the change in  
6 attitudes with some people staking out their spot on the beach for the duration of  
7 their vacation.

8  
9 Commissioner Hedreen asked whether in cases of oceanfront town home or  
10 condominium buildings like Sound of the Sea if common property went up to  
11 mean water line or dunes did that mean that anyone who lived in Sound of the  
12 Sea would be able to claim they were an oceanfront property owner and qualify  
13 for the exception. Town Attorney Richard Stanley stated that common areas  
14 were under the management and administration of the associations so it would  
15 require a request from the association for a specific use after 8 pm.

16  
17 Greg Nies, 9909 Shipwreck Lane, oceanfront property owner, commented that  
18 he was happy to hear about the amendment. Mr. Nies said he didn't feel good  
19 about having to ask permission to use his property and hoped that something  
20 could be worked out where he would simply send the Town notification about  
21 what would remain on his property rather than ask the town's permission.

22  
23 Town Manager Rush said that this ordinance if adopted would require oceanfront  
24 property owners to submit a written request to the Town Manager for review and  
25 approval. Mr. Rush said that the Town clearly had the authority to regulate  
26 activities even on private property, as they do everyday with zoning ordinances  
27 with a wide array of regulations on the beach strand in Emerald Isle right now.  
28 Mr. Rush said the issue that led to this particular phrasing was the way the  
29 ordinance was written with the Town having the ability to confiscate unattended  
30 equipment, the Town clearly had the ability to determine where and when things  
31 can be placed on the beach, it was in response to Mr. Nies' concern that the  
32 language was provided in the ordinance for the Board to consider this evening.

33  
34 Town Attorney Stanley added that the point of the oceanfront exception was to  
35 be able to identify whether property was exempted and owned by the oceanfront  
36 property owner or had been left on the property by someone else so it could be  
37 removed.

38  
39 Phil Williams, Sound of the Sea ocean view building, questioned whether  
40 property owners could place equipment in areas on their property that could  
41 impede the 20 foot lane for emergency vehicles. Mr. Rush said that in those  
42 cases the beach patrol or some official Town personnel would ask the people set  
43 up in that location to please move in order to retain a lane for emergency  
44 vehicles.

45

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1  
2 Town Manager Rush added that Public Works staff this past summer had  
3 intentionally started placing the garbage containers a little further seaward away  
4 from the dunes as an attempt to keep people from setting their tents up closer to  
5 the dunes.

6  
7 Bob Schlatzer, 1904 Emerald Drive, felt this should be a zoning issue and  
8 instead of setting up some kind of bureaucracy requiring patrolling the beach,  
9 putting stickers on and looking for stickers that they just go ahead and say  
10 nothing would be allowed to be left on the beach overnight. Mr. Schlatzer said  
11 that would make sure that the temporary structures would be gone in the evening  
12 and put back up in the morning. He hated to see this start costing money to  
13 police and they should just make the rule, tell them why, and make it easy on  
14 themselves.

15  
16 Commissioner Messer stated that was the initial intent until the property rights  
17 issue came up. Mr. Schlatzer said that property rights applied to everyone on the  
18 island when they put zoning restrictions on them, he didn't think anyone was  
19 allowed to put up temporary structures that don't meet zoning requirements, and  
20 they could make it a zoning requirement applicable to people whether on the  
21 beach or not.

22  
23 The Board and Town Manager discussed the details of how unattended  
24 equipment would be removed and held, and their thoughts concerning the use of  
25 warnings and civil citations.

26  
27 ***Motion was made by Commissioner Wootten to adopt the Ordinance***  
28 ***Amending Chapter 5 – Beach and Shore Regulations – of the Code of***  
29 ***Ordinances Regarding Unattended Beach Equipment – the amended***  
30 ***replacement version of Agenda Item 13. The Board voted unanimously 5-0***  
31 ***in favor. Motion carried.***

32  
33 Clerks Note: A copy of all Ordinance Amendment 10-01-12/O2 – the amended replacement version  
34 as noted above is incorporated herein by reference and hereby made a part of these minutes.

35  
36 **14. Sale of Town-Owned Property at 218 Cedar Street (Former EMS Station**  
37 **Property)**

- 38  
39 **a. Resolution Authorizing Sale (10-01-12/R5)**  
40 **b. Resolution Authorizing Exchange of Real Property (Craven County**  
41 **Parcels) (10-01-12/R6)**  
42

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

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1  
2 The Board of Commissioners is scheduled to consider two actions associated with the sale of 218 Cedar Street at the  
3 January 12 meeting. Together, these actions will result in the sale of the property for a total value of \$350,000.  
4  
5

6 Resolution Authorizing Sale of Town-Owned Surplus Property at 218 Cedar Street

7 The attached resolution formally authorizes the sale of 218 Cedar Street for \$350,000, and directs the Town Manager  
8 and Town Attorney to proceed with closing.  
9

10 The Board initially accepted an Offer to Purchase and Contract in the amount of \$350,000 at a special meeting on  
11 December 28, 2009, and directed the Town Manager to utilize the "upset bid" process outlined in NCGS 160A-269.  
12 Under the "upset bid" process, the potential sale must be advertised and any potential "upset bidder" has a period of 10  
13 days to submit an "upset bid". If an "upset bid" is received, it must be for an amount 5% greater than the original offer,  
14 plus \$50. In this case, any "upset bid" must be for at least \$367,550, and must be accompanied by a deposit equal to  
15 5% of the bid amount.  
16

17 The required advertisement was placed in the December 30, 2009 edition of the Carteret News-Times, and the 10-day  
18 period expires on Monday, January 11, 2010 (the 10<sup>th</sup> day would have fallen on a Saturday when Town offices are  
19 closed). As of January 8, 2010, no "upset bids" have been received and no one has expressed interest in submitting  
20 an "upset bid". If no "upset bid" is received before the January 11, 2010 deadline, the Board will be asked to approve  
21 the attached resolution at the January 12 meeting. If an "upset bid" is received, the Board will be asked to accept the  
22 new offer and authorize another round of the "upset bid" process. The "upset bid" process would then continue until no  
23 "upset bid" is received.  
24

25 If no "upset bid" is received and the Board approves the attached resolution, the closing will occur no later than  
26 February 28, 2010.  
27

28 Resolution Authorizing Exchange of Real Property (Craven County Parcels)

29 The attached resolution formally authorizes the exchange of two Craven County parcels for a portion (\$63,000) of the  
30 purchase price for 218 Cedar Street.  
31

32 As discussed during the Board's December 28, 2009 special meeting, the approved Offer to Purchase and Contract  
33 includes the conveyance of two residential parcels in Craven County to the Town for a portion of the purchase price.  
34 The agreed-upon value of the two parcels is \$63,000. The balance of the \$350,000 sales price is \$287,000 and would  
35 be provided in the form of cash at closing.  
36

37 The two parcels are identified as Craven County parcel ID #s 2-015-1-011 and 2-015-1-011-L, also known as 104  
38 Sheris Court and its associated lake parcel. For practical purposes, the two parcels are essentially one residential lot  
39 and associated lake frontage in the Crosswinds Subdivision located off of Broad Creek Road in eastern Craven County  
40 near Fairfield Harbour. The residential lot is approximately .6 acres, and is located in an upscale subdivision  
41 approximately 10 minutes from downtown New Bern. The subdivision consists of newer homes in the \$300,000 + price  
42 range.  
43

44 Under normal circumstances, the Town would not be interested in owning property in Craven County, however, in this  
45 difficult real estate market the Town's willingness to accept the Craven County parcels is the difference between the  
46 sale of 218 Cedar Street occurring and not occurring. The Buyers are genuinely excited to purchase the 218 Cedar  
47 Street property, but could not complete the purchase until the Craven County parcels sell. It is in the Town's interest to  
48 accept the Craven County parcels because the Town will realize the vast majority of the desired sales price in cash  
49 (\$287,000) now, and is in essence deferring the remaining proceeds until the Craven County parcels are sold. Upon  
50 acquisition of the Craven County parcels, the Town will immediately market the parcels for sale and attempt to sell  
51 them as quickly as possible for at least \$63,000. If the Town is not willing to accept the Craven County parcels, the  
52 Town's property at 218 Cedar Street will remain on the market for an uncertain period of time, and the Town will realize  
53 no cash from the sale at this time.  
54

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1  
2 The process for the Town to exchange the 218 Cedar Street property for the Craven County parcels is outlined in  
3 NCGS 160A-271. Under this statute, the Town must advertise the potential exchange for a period of 10 days prior to  
4 the completion of the exchange. The Town placed an advertisement in the Carteret News Times on December 30,  
5 2009 indicating that the Board would formally consider this exchange at the January 12, 2010 regular meeting.  
6

7 The Board should note that the Offer to Purchase and Contract is contingent upon the exchange of the Craven County  
8 parcels, and is also contingent upon the approval of the Craven County Board of Commissioners. NC General  
9 Statutes require the approval of the County Commissioners in order for the Town to own property in Craven County. I  
10 have discussed this issue with Craven County Manager Harold Blizzard, and he does not foresee any difficulty in  
11 securing this approval. The issue will be presented to the Craven County Board of Commissioners for formal approval  
12 later in January.  
13

14 After several months of marketing the property at 218 Cedar Street for sale, I am pleased that the Town is on the verge  
15 of selling the property. The proceeds from the sale can be used to increase the General Fund balance, retire  
16 outstanding debt, or for any other purpose directed by the Board. A budget amendment will be presented to the Board  
17 after closing occurs.  
18

19 ***Motion was made by Commissioner Wootten Authorizing the Sale of Town-***  
20 ***Owned Surplus Property at 218 Cedar Street. The Board voted***  
21 ***unanimously 5-0 in favor. Motion carried.***  
22

23 ***Motion was made by Commissioner Wright to Adopt the Resolution***  
24 ***Authorizing Exchange of Real Property (Craven County Parcels). The***  
25 ***Board voted unanimously 5-0 in favor. Motion carried.***  
26

27 **Clerks Note:** A copy Resolutions 10-01-12/R5 and 10-01-12/R6 as noted above are all incorporated  
28 herein by reference and hereby made a part of these minutes.  
29

30 **15. Appointment – Eastern Carolina Council General Membership Board**  
31

32 **Brief Summary:** The term of Commissioner Wootten on the Eastern Carolina  
33 Council's General Membership Board is expiring. Commissioner Wootten has  
34 indicated that he is willing to continue to represent the Town on this Board.  
35

36 ***Motion was made by Commissioner Messer to appoint John Wootten to***  
37 ***serve on the Eastern Carolina Council's General Membership Board. The***  
38 ***Board voted unanimously 5-0 in favor. Motion carried.***  
39

40 **16. Comments from Town Clerk, Town Attorney, and Town Manager**  
41

42 There were no comments from the Town Clerk or the Town Attorney.  
43

44 Town Manager Frank Rush updated the Board on the status of the AIWW  
45 Dredging / Placement of spoils at the Point, noting they hoped to reopen the  
46 vehicle ramp at the Point the following week.  
47  
48

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1  
2 Town Manager Rush brought up for discussion Commissioner Hoover's  
3 expressed interest in having the underbrush removed from Highway 58 on the  
4 causeway between the bridge and the Welcome to Emerald Isle sign, not  
5 suggesting removing the large trees but the underbrush to open the view to the  
6 water in that area. Mr. Rush said the DOT didn't appear to have any concerns  
7 with that but he wanted to gauge the interest of the Board. The Board thought  
8 they would like to wait and see how that area looked after DOT placed the  
9 dynamic message sign on the western side of the causeway.

10  
11 Town Manager Rush noted that for the first time the Town had activated their  
12 pre-positioned pump contract and while they won't get FEMA reimbursement,  
13 those pumps were essential in helping get things back to normal as quickly as  
14 they could. Mr. Rush said the pump rental company did offer a \$3,000 credit if  
15 the Town wanted to buy a 6" pump, with the cost being \$24,000. Mr. Rush  
16 wanted to know if the Board would be interested in buying one at this time. The  
17 Board indicated they would like to discuss further during the budget workshop.

18  
19 Additionally, Mr. Rush updated the Board on the status of the public boat  
20 launching facility and the Aquarium Pier project.

21  
22 The following is an excerpt from the Town Manager Comments memo to the  
23 Board for additional background and items of importance:

24  
25 **Sea Level Rise Forum**

26 I will be attending the NC Coastal Resources Commission meeting in Raleigh on Wednesday, and then attending the  
27 NC Department of Environment and Natural Resources' Sea Level Rise Forum on Thursday and Friday in Raleigh. A  
28 news release about the Sea Level Rise Forum is attached.

29  
30 **Annual Budget Planning Workshop – Friday, February 26 – 8:30 am**

31 I have scheduled this meeting to discuss various issues with the Board and help determine the Board's collective  
32 priorities for the FY 10-11 budget process. The meeting will be held in the Conference Room at the new Town  
33 Administration Building.

34  
35 **Winter Park Hours – Emerald Isle Woods Park**

36 Emerald Isle Woods will have new winter park hours from Wednesday, January 13 through Sunday, February 28. The  
37 winter park hours will be 9 am to 4 pm daily.

38  
39 **Potential Clearing of Underbrush Along NC 58 Causeway?**

40 Commissioner Hoover has expressed interest in having some of the underbrush along the NC 58 causeway near the  
41 NC 58 bridge cleared out to open up the view of Bogue Sound in this area. NCDOT has indicated that they are  
42 comfortable with this clearing. Please let me know your thoughts on this idea.

43  
44 **Letter to Oceanfront Property Owners Near Island Circle**

45 The attached letter was mailed to all oceanfront property owners on Wyndtree Drive and Inlet Drive between Point  
46 Emerald Villas and the Channel Drive public beach access. The purpose of the letter is to gauge their interest in  
47 providing a storm water easement that would allow the Town to pump storm water from the Island Circle area to the  
48 large dune field. I requested that the property owners contact me no later than January 29.

49

MINUTES OF THE REGULAR MEETING  
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1  
2 **Update Session with Emerald Isle Real Estate Agents**

3 I will be meeting with Emerald Isle real estate agents on Thursday, January 28 to provide an update on various Town  
4 projects and issues. Similar meetings have been held annually for the past several years.  
5

6 **Municipal Star Designation Renewed**

7 We are pleased to report that the Town's "Municipal Star" designation was recently renewed by the NC Department of  
8 Labor. As you may recall, the Town is one of only a handful of local governments in NC with this designation, which  
9 reflects the Town's strong emphasis on maintaining a safe work environment. Congratulations to Fire Chief Walker  
10 and all of the members of the Town's Safety Committee on this accomplishment.  
11

12 **New Public Boat Launching Facility**

13 I will be meeting with staff from the NC Wildlife Resources Commission on January 11 at the site again as they attempt  
14 to finalize CAMA and storm water permit applications. Permit applications should be submitted in the coming weeks,  
15 with construction still expected to occur this summer. The goal is to open the new facility by September 2010.  
16

17 We should soon receive a formal notification from the NC Division of Marine Fisheries about the recent \$500,000 grant  
18 awarded for the land purchase. The closing on the 6<sup>th</sup> lot will be scheduled as soon as grant contract agreements are  
19 executed. The closing on the 6<sup>th</sup> lot should be completed solely with grant funding from the NC Division of Marine  
20 Fisheries and NC PARTF.  
21

22 **Storm Water Pump Rental Costs**

23 The total pump rental expense for the recent storm water issues was \$18,800, and this invoice has been paid. This  
24 expense was for two 6" pumps and two 4" pumps that were rented for approximately 2 weeks each. A budget  
25 amendment will be presented to the Board in February or March to address this unexpected expense.  
26

27 Godwin Pumps, the pump rental company has offered to sell us a new 6" pump identical to the large rental pump used  
28 at The Point for \$24,000, which reflects a \$3,000 credit off the original price of \$27,000 (for the rental invoice). We are  
29 considering whether or not to purchase a new 6" pump to add to the Town's fleet. Please let me know your thoughts  
30 on this idea, and whether or not we should consider a purchase now or during the budget process.  
31

32 The Fire Department is currently attempting to rehabilitate an old 6" pump that was purchased through Federal surplus  
33 that has not worked for several years. If we can make this pump operational at minimal cost, it will be a nice addition  
34 to the Town's fleet.  
35

36 **AIWW Dredging / Placement of Spoils at The Point**

37 Southwind Construction is back at work this week, and expects to complete all dredging and sand placement work by  
38 mid-January. I will be meeting with their project manager on January 11 to determine the best locations to place the  
39 remaining sand.  
40

41 **NC 58 Bicycle Path**

42 Clearing work has begun for the NC 58 bicycle path extension and is proceeding quickly. The Town also recently  
43 received the necessary permanent slope easement near Ebb Tide Drive. There are only 3 outstanding temporary  
44 construction easements, and if necessary we can work around them. We continue to push for completion of the new  
45 bicycle path extension prior to Easter weekend.  
46

47 **Residents and Visitors Guide**

48 We continue to work toward the publication of a new "Residents and Visitors Guide" this spring to better educate  
49 residents and visitors about town services and regulations. I am seeking an attractive, brief, creative, easy-to-use  
50 design for the update of this publication.  
51  
52  
53  
54

MINUTES OF THE REGULAR MEETING  
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1  
2 **Interlocal Agreement – Future Beach Nourishment Efforts**

3 The Carteret County Shore Protection Manager and Town Managers and Attorneys from the 4 Bogue Banks  
4 municipalities have been working on a formal interlocal agreement for consideration by each of the governing boards in  
5 the near future. The interlocal agreement will address cooperation on the development of a multi-decade EIS for  
6 comprehensive future beach nourishment efforts and other beach nourishment cooperation issues. We expect to  
7 present this agreement to the Board at the February or March meeting.

8  
9 **Energy Grant Application**

10 We continue to investigate a potential grant application for Federal Stimulus funding for energy improvements.  
11 Unfortunately, there has been confusion about this grant program and we have not made as much progress as we had  
12 hoped by now. If an attractive grant application can be assembled in time for the February 1 grant deadline, I may ask  
13 the Board to convene a special meeting to review a grant application.

14  
15 **Municipal Environmental Coalition**

16 I have attached information from the NC League of Municipalities about this new coalition. Please let me know if you  
17 have any interest in the Town becoming a member.

18  
19 **NFIP Resolution**

20 The Town has received the attached resolutions adopted by the Town of Nags Head and Dare County requesting that  
21 the National Flood Insurance Program provide coverage for structures suffering from gradual coastal erosion. Please  
22 let me know if you'd like to see us adopt a similar resolution.

23  
24 **17. Comments from Board of Commissioners and Mayor**

25  
26 There were no other comments from the Board of Commissioners or Mayor.

27  
28 **18. Adjourn**

29  
30 ***Motion was made by Commissioner Messer to adjourn the meeting. The***  
31 ***Board voted unanimously 5-0 in favor. Motion carried.***

32  
33 ***The meeting adjourned at 7:45 pm.***

34  
35 Respectfully submitted:

36  
37  
38  
39 Rhonda C. Ferebee, CMC  
40 Town Clerk