

1 **MINUTES OF THE REGULAR SCHEDULED MEETING**
2 **OF THE EMERALD ISLE BOARD OF COMMISSIONERS**
3 **TUESDAY, DECEMBER 8, 2009 – 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.
12

13 **2. Roll Call**
14

15 Present for the meeting: Mayor Art Schools, Commissioners Tom Hoover, Floyd
16 Messer, John Wootten, and Maripat Wright.
17

18 Absent for the meeting: Commissioner Nita Hedreen.
19

20 Others present during the regular meeting: Town Attorney Richard Stanley,
21 Town Manager Frank Rush, Asst. Town Manager / Finance Officer Mitsy
22 Overman, and Town Clerk Rhonda Ferebee.
23

24 ***Motion was made by Commissioner Messer to excuse the absence of***
25 ***Commissioner Hedreen. The Board voted unanimously 4-0 in favor.***
26 ***Motion carried.***
27

28 **3. Opening Prayer**
29

30 Kevin Jones, youth member from Emerald Isle Chapel by the Sea offered the
31 Opening Prayer for the Town Board meeting.
32

33 **4. Pledge of Allegiance**
34

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

37 **5. Adoption of Agenda**
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39 ***Motion was made by Commissioner Hoover to adopt the Agenda. The***
40 ***Board voted unanimously 4-0 in favor. Motion carried.***
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2 **6. Proclamations / Public Announcements**
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4 Mayor Schools announced the following public announcements for the public:

- 5
6 • **Breakfast With Santa – Saturday, December 12 – 10 am – Community**
7 **Center (must pre-register by Dec 11)**
8 • **Bicycle and Pedestrian Advisory Committee – Tuesday, December 15**
9 **– 9 am Community Center**
10 • **Christmas Holiday – Town Offices and Community Center Closed, No**
11 **Trash Collection – Thursday, December 24 and Friday, December 25**
12 • **New Year’s Holiday – Town Offices and Community Center Closed,**
13 **No Trash Collection – Friday, January 1**
14 • **Friday Free Flick – Friday, January 8 – 7 pm – Community Center**
15 • **4 v 4 Co-Ed Volleyball Tournament – Saturday, January 9 – 8 am until**
16 **– Community Center**
17 • **Board of Commissioners Regular Meeting – Tuesday, January 12 – 6**
18 **pm – Town Board Meeting Room**
19

20 Mayor Schools announced that Commissioner Wootten had nominated Town
21 Manager Frank Rush for the Leadership Award of the Year with Eastern Carolina
22 Council of Governments and that Frank would be receiving this award on
23 Thursday night. Commissioner Wootten noted that the award focused on his
24 efforts towards making the public boat launching facility a viable project.
25

26 **7. Installation of Elected Officials**
27

- 28 a. **Oath of Office to Mayor Schools**
29 b. **Oaths of Office to Commissioners Hedreen, Wootten and Wright**
30 **(Commissioner Hedreen was absent / Oath to be performed at a later time)**
31 c. **Election of Mayor Pro-Tem**
32 d. **Oath of Office to Mayor Pro-Tem**
33

34 Senator Jean Preston administered the Oaths of Office to the Elected Officials.
35

36 ***Motion was made by Commissioner Hoover to nominate Commissioner***
37 ***Floyd Messer for Mayor Pro-Tem. The Board voted unanimously 4-0 in***
38 ***favor. Motion carried.***
39

40 Senator Jean Preston administered the Oath of Office to Mayor Pro-Tem Floyd
41 Messer.
42

43 Senator Preston praised the government and staff of the Town for the marvelous
44 job they do for everyone; that being the reason she chose to live here in Emerald
45 Isle.

1
2 Mayor Schools thanked Senator Preston and said it was a joy to have her
3 represent them and he was pleased to have her as our Senator.

4
5 **8. Consent Agenda**

- 6
7 a. Tax Refunds / Releases
8 b. Minutes – November 10, 2009 Regular Minutes
9 c. 2010 Official Meeting Dates – Board of Commissioners, Planning
10 Board, Board of Adjustment

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

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

18
19 **9. Public Comment**

20
21 **Brief Summary:** The public will have the opportunity to address the Board about
22 any items of concern not on the agenda.

23
24 Paul Schwartz, 10550 Wyndtree Drive, spoke of the recent flooding. Mr.
25 Schwartz complemented the Public Works staff for their hard work around the
26 clock, including the inmates. Mr. Schwartz said they did the best they could
27 under pretty bad circumstances and he wanted to congratulate the department
28 as a whole.

29
30 Charles Laughinghouse, 10512 Island Circle, clarified that he didn't blame the
31 Town for the rain, but felt there was a major problem in their area which he was
32 sure the Town was aware of, but asked what was planned to try to solve the
33 problem and if this was a priority.

34
35 Anna Neltner, 10501 Island Circle, thought that when the plans were originally
36 made for the pumping stations that Island Circle would be the first to get a pump
37 and now they were without a pump. Ms. Miller felt they had been shoved to the
38 bottom of the list and wondered why. Ms. Miller also thanked Town Manager
39 Rush for his efforts.

40
41 Dottie Tata, 10505 Island Circle, spoke of her concerns about the school bus not
42 being able to get down there. She asked if there was any plan to do something
43 temporary like keep pumps running all the time, noting that they run out of gas
44 and turn off frequently causing the water to accumulate. Mayor Schools said that
45 the pumps are turned off only when the NC Division of Water Quality (DWQ)
46

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1
2 says they must be turned off, understanding that they may run out of gas at
3 times.

4
5 Mayor Schools and Commissioner Wootten said that there was a plan and that
6 they would be glad to meet and speak about these issues in detail. Town
7 Manager Rush said he would set up a meeting with the folks at the Island Circle
8 area along with a couple of Commissioners and the Mayor.

9
10 **10. Discussion – Deer Population Issues**

11
12 Town Manager Frank Rush addressed the Board regarding this agenda item.
13 The following excerpt from Town Manager Rush's memo to the Board is provided
14 for additional background:

15
16 In response to recent concerns about the deer population in Emerald Isle, I have scheduled time on the Board's
17 December 8 meeting agenda to discuss this issue. Robbie Norville, District Wildlife Biologist for the NC Wildlife
18 Resources Commission, will attend the Board meeting and offer his insights and discuss options for addressing these
19 concerns.

20
21 At the Town's request, the Mr. Norville coordinated a deer population estimate along the Coast Guard Road corridor in
22 November 2005. A copy of the November 2005 report is attached for your information. At that time, the estimated
23 deer population in the Coast Guard Road area was 66 to 92 deer, and this population density was generally
24 considered to be an acceptable range for a community such as Emerald Isle. In recent months, there have been more
25 concerns about deer expressed by our residents, and there is a belief that the deer population in Emerald Isle has
26 likely grown since the November 2005 population estimate. In response to these concerns, Mr. Norville coordinated a
27 new deer population estimate in November 2009. Mr. Norville did not prepare a new report for the Town, however, he
28 did summarize his findings in the attached email dated November 18, 2009. As noted in the attached email, the new
29 deer population estimate is 149 deer, approximately double the estimate from 4 years ago. This estimate is
30 considered to be relatively high for a community such as Emerald Isle, and other coastal communities with similar deer
31 populations have taken action to thin the population.

32
33 We have also compiled data on deer-related vehicle accidents. This information is also attached for your review. The
34 data we have goes back to 2004, and it is difficult to determine if there's a significant increase in the number of deer-
35 related accidents over time without going back further. As you will note, the average over the past 6 years is
36 approximately 12 deer-related vehicle accidents per year, and most of these occur in the fall months. There have been
37 13 deer-related vehicle accidents in Emerald Isle thus far in 2009. Many of the accidents have occurred in the area
38 near NC 58 and Coast Guard Road, which makes sense because this location is near the higher deer population along
39 Coast Guard Road and is also the area where motor vehicles are generally traveling at the greatest speeds. It is quite
40 common to see deer when driving along Coast Guard Road, however, motor vehicle speeds are generally slower and
41 the driver has more time to react and take precautions.

42
43 As you know, the Town has long had an ordinance that prohibits hunting in Emerald Isle, both with a gun or bow &
44 arrow. A copy of the ordinance is attached for your review.

45 At this time, there appear to be 4 options for the Board to consider:

- 46
47 1. The Town could amend its ordinance and allow hunting in Emerald Isle, either with a gun and bow & arrow,
48 or perhaps only with a bow & arrow. If this action is taken, hunting would be allowed in Emerald Isle with
49 permission of the property owner during annual hunting seasons established by the State. If this option is
50 pursued, hunting could occur in fall 2010, as it is too late for the 2009 hunting season. This option is likely
51 not prudent for many reasons, but is an option nonetheless.

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2. The Town could make a request to the NC Wildlife Resources Commission to establish an "urban archery season". This is a special season for bow & arrow hunting in urban areas, and is typically scheduled after the regular hunting season in January and early February of each year. The Town could likely also implement a Town permit program for participation in the Town's urban archery hunting season. The hunter would need permission from the private property owner to hunt on private property. This option is likely more realistic than option 1, but may also cause concern in the community. The Board should note that the implementation of this option could not occur until January 2011. A special Town application to the NC Wildlife Resources Commission would need to be submitted by April 2010.
3. The Town could apply for a special "depredation" permit that would allow the Town to authorize a limited group of bow & arrow hunters to hunt deer in Emerald Isle during a short period of time. Permission would be necessary from private property owners for hunting to occur. In order to secure the depredation permit, the Town would need to justify the reasons for the permit. I believe the Town could justify such a permit with the higher population counts, motor vehicle accident data, and property damages reported by residents. If this option is chosen, it could probably be implemented as early as January or February, depending on the timing of the Board's decision. It would be necessary to secure approval from adjacent clusters of willing property owners (perhaps some of the larger land owners on the north side of Coast Guard Road?), and hunting could also occur at the Town-owned Emerald Isle Woods Park if desired. If this option is chosen, the Town should carefully select qualified hunters (perhaps Town Police Officers who are avid bow & arrow hunters, or other qualified individuals). It may also be prudent to require that any deer meat be donated to help feed the hungry or homeless, if possible. Ideally, this option would be implemented in the winter months when there are few visitors in Town, and would likely be scheduled for night hours.
4. The Town could simply do nothing. Many people in Emerald Isle enjoy watching the deer, and are willing to tolerate any inconvenience or risks associated with a high deer population.

The Board should note that other options that are perceived as more humane (trapping and relocation, deer contraceptives / sterilization) are likely not viable. Robbie Norville can expand on these options at the December 8 meeting.

The Board should also note that the majority of concerns about deer come from the Coast Guard Road corridor, and that area generally has the highest concentration of permanent residents. For this reason, the deer population count was limited to the Coast Guard Road corridor. We don't have actual data, but generally we do not receive as many concerns about deer in other areas of Emerald Isle. If the Town pursues one of the options above (except for #4), other areas of Emerald Isle could also be targeted as necessary or desired. There are some larger wooded areas along the soundfront in central Emerald Isle that may be frequented by deer.

Town Manager Rush spoke about recent concerns expressed about the current deer population. Mr. Rush introduced Robbie Norville, District Wildlife Biologist for the NC Wildlife Resources Commission.

Mr. Norville provided his insight on these issues, discussed survey methods, and outlined several options that could be considered.

Brian Watson, 10114 Coast Guard Road, asked about the deer count in the public Emerald Isle Woods Park, and if that area could be used for the depredation permit and possibly bait that area to bring more deer to that space since it was a safer spot to hunt, and it made sense to start there. Mr. Norville stated that they had at times allowed hunters through a depredation permit to use

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2 enticement to bring the deer to the buffer zones, areas where they could more
3 safely and efficiently handle removal.
4

5 Jane Diloretto, 205 Marsh Wren Court, wondered about the option of using
6 managed birth control as they do with the Shackleford horses on the Outer
7 Banks. Ms. Diloretto expressed her opinion that she enjoyed seeing the deer so
8 much and to please not do this, they were here first. She suggested putting wire
9 fencing or buy shrubs the deer don't like. Mr. Norville responded that birth
10 control had been tried on deer herds and failed each time and it was extremely
11 expensive, close to \$1,000 per deer.
12

13 John Henrickson, 105 Indigo, asked whether the survey included the Archers
14 Creek area. Mr. Norville detailed the areas and roads covered in the recent
15 survey.
16

17 Kim Hebert, 126 Page Place, said she also loved the deer and did feed them
18 \$3,000 worth of shrubs in one month, but felt the population needed to be
19 addressed and thinned. She said she felt this would be safer for the environment
20 and for the children, as well as for people driving down Coast Guard Road. Ms.
21 Hebert said she had a diseased deer come into her yard and felt that could
22 spread. Ms. Hebert said she sees about 50 deer a day on Page Place. Ms.
23 Hebert agreed with Mr. Watson's theory to lure them to the woods so to be out of
24 sight out of mind to those who may be offended. Ms. Hebert said they hunt every
25 year; that was what the nation does; people who do hunt eat the meat and it
26 wasn't just slaughtering to slaughter. Ms. Hebert said they would continue to
27 populate and next year it would just be worse.
28

29 Bill Flynn, 9702 Lord Berkeley Drive, asked about Mr. Norville's comments that
30 he didn't think there was an overpopulation problem at this time. Mr. Norville
31 responded that when he said overpopulation he was talking about a cultural
32 issue and not a biological issue. Mr. Norville said when he used the word
33 overpopulation he was really saying that it is more deer than you could stand
34 eating your bushes, striking your vehicles, or causing other problems. Mr.
35 Norville said he based doing the thinning not for the deer's purpose but for the
36 humans living there. Mr. Norville said the biggest issue he had seen in areas
37 with an extreme number of deer was the parasites they carry which were really
38 what had moved Kure Beach and areas there to try and take some action
39 because they had so many people coming down with Lyme disease because of
40 the ticks. Mr. Norville said other animals carry ticks but they didn't have a tick
41 problem until the deer population exceeded what would be considered a normal
42 density.
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Anna Neltner, Island Circle, expressing her concerns said she didn't want the deer hunted at all and that she had found arrows in her back yard. Ms. Neltner said she had seen trucks riding around and had told them it was against the law to hunt here. Her concern was if they miss with the bow and arrow and she didn't want the deer hurt.

Bob Kaminski, 104 White Sands Drive, said he had property damage as well and supported the initiative to take a look at the number of deer and reduce them. He spoke of seeing the deer while driving Coast Guard Road, even deer lying down in the road causing problems. He felt residents in his area supported reducing the population. Mr. Kaminski said his concern was that he would like to have it handled by professionals, perhaps in the area as proposed, one of the parks for safety rather than just opening it up to just the general population for hunting.

The Board indicated that they would not be allowing hunting by the general public.

Carol Osika, Channel Drive, spoke of the deer jumping in front of her on Channel Drive, an everyday occurrence. Ms. Osika said she also enjoyed seeing the deer. She said five years ago when they redid their lawn they used all deer resistant plants and this was the first year the deer had devastated their plants, they had eaten everything. Ms. Osika stated that her biggest concern was Lyme disease; she said she came from an area in upstate New York where they had a high incidence of Lyme disease, a devastating disease. Ms. Osika said she loved the deer and they were here first but it was the overpopulation that was the problem and asked if they do hunt the deer if there would be a way to give that meat to charity, a food bank to be used by people who could really use it. She said the people she knew who do hunt use the meat, they don't hunt indiscriminately and are very dedicated hunters. She felt something needed to be done with disease especially.

Ed Fulford, 102 Shorerush, asked about the possibility of sedating deer and moving them over to the national park where they would have a natural habitat. Mr. Norville responded that capturing had been tried on small scales but on large scale with the type of habitat it was not effective. Mr. Norville said the mortality was very high in the deer when you move them as much as 40% die regardless from shock. Mr. Norville also stated that no areas wanted more deer because they were already overpopulated.

Commissioner Messer asked based on the numbers for the last 4 years showing that the population has doubled whether it would be reasonable to assume that in 4 more years it would double again. Mr. Norville said that it would be close. Mr. Norville also stated in response to a question posed by Commissioner Messer

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1
2 about hunting, that all of the removal with groups he worked with and assisted
3 had been from elevated positions for safety reasons.
4

5 Commissioner Hoover mentioned an unsolicited comment he received from a Dr.
6 John McDonald. Commissioner Hoover said Dr. McDonald felt there was a deer
7 problem in Emerald Isle, and said the reason he knew that was because they
8 had a similar situation in Maryland, his primary residence, where they let the deer
9 get out of control and a lot of people came down with Lyme disease and other
10 diseases. Commissioner Hoover said he didn't want to kill deer either but there
11 comes a point where we as humans have to be protective; so it was his opinion
12 that they needed to thin this herd out.
13

14 Commissioner Wootten said he agreed now seeing the numbers. Commissioner
15 Wootten said he would like to proceed with the depredation permit, doing it as
16 rapidly as possible this winter, in the park with archery, using a professional
17 group coordinated with Mr. Norville in a controlled manner, and a means to put
18 the meat to use by donation.
19

20 ***Motion was made by Commissioner Hoover for a special depredation***
21 ***permit that would allow the Town to authorize a limited bow and arrow hunt***
22 ***in Emerald Isle Woods Park. The Board voted unanimously 4-0 in favor.***
23 ***Motion carried.***
24

25 **11. Discussion – Potential Prohibition of Beach Tents on the Beach Strand**
26 **Overnight**
27

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

32 In response to ongoing concerns about the proliferation of unattended beach tents and canopies on the beach strand, I
33 have scheduled time on the Board's December 8 meeting agenda to discuss this issue. I am seeking direction from
34 the Board as to whether or not the Town should prohibit the practice of leaving beach tents, canopies, etc. assembled
35 on the beach overnight.
36

37 As you know, these concerns have been growing in recent years. Typical complaints received from the public include:
38

- 39 • the proliferation of unattended beach tents, canopies, etc. detracts from the aesthetic quality of the beach,
- 40
- 41 • the overnight proliferation of unattended beach tents, canopies, etc. is potentially harmful to sea turtle nesting
42 activities,
- 43
- 44 • unattended beach tents, canopies, etc. can be a safety hazard at night for pedestrians on the beach, and
45 may also impede emergency vehicle travel on the beach,
- 46
- 47 • unattended beach tents, canopies, etc. left overnight are destroyed in windy storm events and end up as litter
48 on the beach, in the dunes, or in the surf zone,

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- certain groups “take over” a specific area of the beach for a few days or a week, and interfere with others’ ability to full enjoy the beach, and
- sometimes these groups are renting or staying in homes further away from the beach, and the presence of these tents detract from the views and experiences of those in oceanfront homes.

The Board discussed this issue at the annual planning workshop in February 2009, and directed staff to gather data on the magnitude of this problem during the 2009 summer season. The Beach Patrol traveled the beach strand early in the morning two days each week of the 2009 summer season, and recorded the number of unattended beach tents, canopies, etc. I have attached a copy of their report for your review. In the peak of the summer season, there were approximately 200 – 300 beach tents left out overnight, or an average of approximately 17 – 25 per mile along the beach strand.

As you know, beach tents, canopies, etc. are a popular item for beach visitors. They provide an effective way to reduce harmful sun exposure, particularly for those with children. Some of the beach tents, canopies, etc. take some time to assemble and disassemble, and most people probably leave them up overnight to avoid the inconvenience of having to assemble it again the next day. Some may also enjoy them in the dusk or evening hours.

Mayor Schools, Mayor Pro-Tem Messer, and I recently met with owners and managers of the vacation rental agencies in Emerald Isle, and we discussed this issue. I had been, and I am still somewhat concerned that a Town ordinance prohibiting overnight beach tents, canopies, etc. might be viewed as unfriendly to our visitors and potentially harm the Town’s image as a family beach destination. Some may also question whether or not government should become involved in regulating something like this. I was surprised by the apparent consensus among the vacation rental agencies that they believe such an ordinance is needed in Emerald Isle.

I have sought input from other NC beach towns, and learned that most towns do not have an ordinance prohibiting beach tents, canopies, etc. on the beach strand overnight, but that the issue is being discussed more frequently. The towns of Ocean Isle Beach, Wrightsville Beach, Sunset Beach, and Bald Head Island do have such an ordinance, and I have attached copies of their ordinances for your review.

If the Board adopts such an ordinance, I would suggest that the penalty for violating the ordinance should simply be that the property would be considered abandoned and then removed and disposed of by the Town. I would suggest that the first year of a new ordinance focus heavily on education through the vacation rental agencies and the Beach Patrol, and also a more friendly enforcement approach. For the first year, I envision that Town staff would make an early morning patrol of the beach each day, and would initially place a warning sticker of some sort on the unattended beach tent, canopy, etc. Repeat violations would result in the removal of the beach tent, canopy, etc. This approach would hopefully “spread the word” and result in the new ordinance becoming relatively common knowledge during the first year. Enforcement efforts in the second and future years would not involve warning stickers, and would simply result in removal as a result of the initial violation. The confiscated beach tents, canopies, etc. would be temporarily stored at a Town facility, and the violator would be welcome to claim the beach tent or canopy if desired. After a few days, the confiscated equipment would be disposed of by Town staff.

The Board should note that a new ordinance would likely require some additional staff time, particularly at the beginning, but the workload would likely decrease over time as the ordinance became common knowledge. In a best-case scenario, workload could potentially decrease. The Public Works Department often collects wind-strewn, damaged beach tents, canopies, etc. from the beach strand after windy storm events, and theoretically this would no longer be a problem. Additionally, many beach visitors simply leave their beach tents, canopies, etc. on the beach strand when they return home to avoid the trouble of taking it down and packing it in the car. Public Works continues to collect a larger amount of discarded beach tents, canopies, etc. every summer, and perhaps this practice would decrease somewhat if people were in the habit of disassembling the beach tents, canopies, etc. on a daily basis.

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2 Following general discussion the Board's direction to Town Manager Rush was
3 to prepare an ordinance amendment for the Board's consideration at the January
4 meeting.

5
6 **12. Resolution Requesting NCDOT Funding for NC 58 Turn Lane for New**
7 **Public Boat Launching Facility (09-12-08/R1)**

8
9 Town Manager Frank Rush addressed the Board regarding this agenda item.
10 The following excerpt from Town Manager Rush's memo to the Board is provided
11 for additional background:

12
13 The Board of Commissioners is scheduled to consider the attached Resolution Requesting NCDOT Funding for a new
14 NC 58 Turn Lane for the New Public Boat Launching Facility. If approved, this resolution will be forwarded to Hugh
15 Overholt, our area's representative on the NC Board of Transportation, and Neil Lassiter, NCDOT Division Engineer for
16 Division 2, for formal consideration.

17
18 I have attached a near-final conceptual plan for the new public boat launching facility that was prepared by the NC
19 Wildlife Resources Commission. You will note that the plan relies on the use of the existing driveway access located
20 across NC 58 from Scotch Bonnet Drive for both ingress and egress into the site. You will also note that the
21 conceptual plan includes the construction of a new left-turn lane from NC 58 eastbound into the site, which will be
22 required by NCDOT to promote safe vehicle turning movements and to promote efficient traffic flow. (I have also
23 attached an enlarged map of the proposed turn lane.)

24
25 The turn lane depicted on the attached conceptual plan begins near the western boundary of the site and extends to a
26 location near the current driveway of Chapel By The Sea, including the tapers on each end of the turn lane. The actual
27 vehicle storage length in the left turn lane is 100 feet, and should be sufficient storage for either two or three vehicle-
28 trailer combinations attempting to make a left turn into the site. The Board should note that the proposed turn lane is
29 based on NCDOT guidelines, but the design has not yet been finalized, and thus there may be some modifications to
30 the design indicated on the attached plans. Based on a cursory review by NCDOT staff, we believe that the ultimate
31 turn lane design will be similar to that shown on the attached conceptual plan. One change that I hope will be made is
32 the striping of a left turn lane from the westbound lane of NC 58 into Scotch Bonnet Drive. This is not currently
33 depicted on the plan, but would simply involve the striping of the turn lane (the pavement will be in place anyway to
34 accommodate the opposite turn lane).

35
36 We do not have an exact cost estimate for the new turn lane, however, we believe it may be in the \$200,000 +/- range.
37 If the construction of the new turn lane is funded by NCDOT, this will provide the NC Wildlife Resources Commission
38 (NC WRC) with a greater ability to complete the construction of the actual facility improvements sooner and also at a
39 higher quality. Mayor Schools and I recently met with Mr. Overholt and Mr. Lassiter, and they expressed their strong
40 support for our request and requested a formal resolution from the Board of Commissioners. We are optimistic that
41 NCDOT will fund the new turn lane, to be coordinated either by NCDOT or as part of the overall scope of construction
42 work coordinated by NC WRC for the new facility. The Board should note that NCDOT will not bear the cost for any
43 necessary right of way acquisition or utility relocations, and that cost will need to be borne by the NC WRC and/or the
44 Town. Right of way acquisition is not expected to be necessary, as there appears to be ample NC 58 right of way on
45 the north side of NC 58, plus our site is located directly adjacent. Utility relocation costs are not expected to be
46 significant, and my expectation is that NC WRC will bear these costs as part of the overall construction of the project.

47
48 ***Motion was made by Commissioner Wright to approve the Resolution***
49 ***Requesting NCDOT Funding for NC 58 Turn Lane for New Public Boat***
50 ***Launching Facility. The Board voted unanimously 4-0 in favor. Motion***
51 ***carried.***

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1
2 **Clerks Note: A copy of Resolution 09-12-08/R1 is incorporated herein by reference and hereby made**
3 **a part of these minutes.**

4
5 **13. NC 58 Bicycle Path Project – Utility Relocation Costs**

- 6
7 **a. Capital Project Ordinance Amendment**
8 **b. Budget Amendment – General Fund**
9

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

13
14 The Board of Commissioners is scheduled to consider two budget amendments associated with the NC 58 bicycle path
15 extension project. The attached capital project ordinance amendment and General Fund budget amendment
16 appropriate a total of \$30,000 for utility relocation costs associated with the upcoming construction of the bicycle path
17 extension along the south side of NC 58 between Black Skimmer Drive and Hurst Drive.

18
19 The attached budget amendments reflect unanticipated Town costs associated with the project. Town staff certainly
20 expected costs for utility relocation and planned accordingly for them when design work was completed earlier this
21 year, however, we expected that these costs would be covered with NCDOT funding from the American Recovery and
22 Reinvestment Act (ARRA). In an effort to expedite the utility relocation work associated with the project, we decided to
23 coordinate this work directly with the telephone, cable tv, electric, and water companies early in the process rather than
24 waiting until a construction contractor was selected. Our approach was to coordinate this directly, have the utility
25 companies bill the Town, and then file for reimbursement from NCDOT. Unfortunately, we recently learned that
26 NCDOT and ARRA will only allow for the reimbursement of construction costs, and will not allow for the reimbursement
27 of utility relocation costs. In hindsight, I regret that we chose to coordinate the utility relocation work ourselves, and
28 now wish we had simply included this expense in the construction contract, in which case it likely would have been
29 considered part of the construction scope and likely would not have been questioned. We have since attempted to 1)
30 amend the scope of the NCDOT agreement to include the utility relocation work, and/or 2) execute a change order to
31 the construction contract to include this work, however, these requests have been denied by NCDOT.

32
33 Construction of the new bicycle path extension is expected to begin later this month, and the nearly \$416,000
34 construction contract will be funded by NCDOT with ARRA funding. It obviously does not make sense to cancel the
35 construction contract and significant grant funding because of this additional Town expense, and the Board is asked to
36 approve the attached capital project ordinance amendment and General Fund budget amendment to cover this
37 expense. The attached amendments rely on additional anticipated sales tax revenue to provide the necessary funds.
38 As you may recall, the FY 09-10 General Fund budget included a conservative estimate of sales tax revenues. With
39 the economy slowly improving, I am recommending increasing the sales tax estimate by \$30,000 and allocating these
40 funds for the utility relocation costs associated with the bicycle path project. The only other alternative at this time
41 would be to appropriate General Fund balance. If for some reason the additional sales tax revenues do not
42 materialize, General Fund balance will ultimately fund this expense anyway.

43
44 ***Motion was made by Commissioner Wootten to approve the Capital Project***
45 ***Ordinance Amendment for the NC 58 Bicycle Path Project. The Board***
46 ***voted unanimously 4-0 in favor. Motion carried.***

47
48 ***Motion was made by Commissioner Wootten to approve the General Fund***
49 ***Budget Amendment. The Board voted unanimously 4-0 in favor. Motion***
50 ***carried.***

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Clerks Note: A copy of Capital Project Ordinance Amendment and Budget Amendment – General Fund as noted above are incorporated herein by reference and hereby made a part of these minutes.

14. June 30, 2009 Audit Report

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

Thompson, Price, Scott, & Adams (TPSA) CPAs has completed the Town's FY 08-09 audit, and a copy of the June 30, 2009 audit report is attached for your review. Mitsy Overman, Assistant Town Manager / Finance Officer, will brief the Board on the highlights of the financial audit at the December meeting. The Board-appointed Audit Committee will meet on Tuesday, December 8 prior to the Board meeting to review the audit report with TPSA and Town staff, and will also be available to comment on the audit report at the December 8 meeting.

I am pleased to report that the Town has received a clean audit report. TPSA did not identify any major concerns with our financial operations, and expressed their opinion that the Town's assets are well-managed by our staff. I am again pleased to report that the Town maintains an excellent financial position, and staff and I are committed to maintain and improve that financial position in the future.

Some of the highlights of the June 30, 2009 Financial Report include:

OVERALL FINANCIAL POSITION

- The Town had officially reported net assets of \$10,062,691 as of June 30, 2009. The Board should note, however, that the calculation of net assets does not include the Town's investment in two significant beach nourishment projects. The remaining outstanding debt on the beach nourishment bonds (\$6,150,000) is, however, included in the calculation of net assets.

Net assets increased by \$2,884,016 during FY 08-09, primarily due to the payment of another year of principal on the Town's beach nourishment bonds (\$2,125,000).

- As of the close of the current fiscal year, the Town's governmental funds reported combined ending fund balances of \$4,817,987, a decrease of \$1,244,411 in comparison with the prior year. The primary reason for this decrease is the expenditure of funds allocated for in-progress capital projects that were completed during FY 08-09.
- The Town had \$4,372,177 of cash and cash equivalents on hand as of June 30, 2009. This cash (and cash equivalents) on hand makes it possible for the Town to meet cash-flow needs in the summer and fall months when expenditures routinely exceed revenue collections (prior to receipt of annual property taxes in December and January).
- The Town's total outstanding debt decreased by \$1,874,436 during the fiscal year. Total outstanding debt at June 30, 2009 was \$8,283,484. The Town made principal payments of \$2,125,000 on the outstanding beach nourishment bonds during FY 08-09, and also fully retired the full \$500,000 of debt associated with the new EMS station. The Town also issued new installment financing debt for a new Fire Engine (\$440,000) and for the new Town Administration Building (\$875,000).
- The Town's outstanding debt at June 30, 2009 is equal to 0.19% of the total assessed value in Emerald Isle, based on the 2007 taxable value. The Town's officially adopted Fiscal Policy establishes a debt limit of 2% of total taxable value. North Carolina General Statutes limit the amount of General Obligation debt that a unit of government can issue to 8% of the total assessed value.

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- The Town maintained an outstanding property tax collection percentage of 98.87%. This percentage is down slightly from previous years, presumably because of the difficulties in the local real estate market. A total of \$61,663 of property taxes was uncollected at June 30, 2009, however, this amount is now down to \$12,811 as of December 3, 2009.

GENERAL FUND

- As of June 30, 2009, the Town's General Fund had a total fund balance of \$1,945,371. A total of \$1,350,780 is classified as undesignated fund balance. The Town's total General Fund balance decreased by \$122,537 over the course of the fiscal year, due primarily to the use of \$60,000 for the land purchase for the new public boat launching facility and less than anticipated revenue collections as a result of the recession.
- The total General Fund balance of \$1,945,371 is equal to 25.6% of total General Fund expenditures (including transfers out) during the previous year (\$7,607,310). This percentage is down slightly from the previous year (28.6%). Total General Fund balance represents 29.3% percent of the FY 09-10 adopted budget of \$6,638,711.
- The undesignated General Fund balance is \$1,350,780. This amount is equal to 17.6% of total General Fund expenditures (including transfers out) during the previous year (\$7,607,310). Undesignated General Fund balance represents 20.3% of the FY 09-10 adopted budget of \$6,638,711.
- General Fund revenues (including transfers in) in FY 08-09 totaled \$7,484,773, and came in \$406,454 less than the amended budget amount. The main reason for this shortfall was the fact that actual sales tax revenues were only \$1,564,978, or \$192,522 less than the amended budgeted amount. General Fund expenditures (including transfers out) totaled \$7,607,310 and were \$283,917 less than budgeted. This resulted in the use of \$122,537 of General Fund balance in FY 08-09.
- The Town's two largest sources of General Fund revenue are property taxes and sales taxes. General Fund property tax revenues were \$2,983,347, while sales tax revenues totaled \$1,564,978. Solid waste fees are the third largest revenue source, with \$1,168,999 collected in FY 08-09.
- Public Safety expenditures (Police, Fire, and EMS) continue to represent the largest portion of the General Fund budget. Total expenditures were \$3,189,747 in FY 08-09. This amount includes \$440,000 for the purchase of a new Fire Engine and associated equipment.

BEACH NOURISHMENT DEBT SERVICE FUND

- The Town's Beach Nourishment Debt Service Fund had a year-ending fund balance of \$2,186,177. This amount decreased by \$201,257 from the previous year, in accordance with the financial plan established to retire the Town's beach nourishment bonds. The Town intentionally maintains a large fund balance in the Beach Nourishment Debt Service Fund in the earlier years of the debt service payments for the beach nourishment bonds and will gradually deplete this balance over the 8-year term of the bonds. Fund balance levels in this fund peaked in FY 06-07, and will be gradually depleted until the final bond payments in FY 12-13.
- The Town continues to make timely principal and interest payments on the beach nourishment bonds. The Town made the 6th annual principal payment (\$1,175,000) on the 2002 bonds and the 4th annual principal payment (\$950,000) on the 2004 bonds.

OTHER FUNDS

- The Special Drug Fund had an ending fund balance of \$28,826 as of June 30, 2009. These funds are restricted for Police Department expenses only.

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- The Town utilizes several capital project accounts for ongoing, multi-year capital projects. Several capital projects have been completed in recent years, and the Town is not initiating many new projects, thus the number of capital project accounts is decreasing. Notable active capital project funds include the new Town Administration Building, the NC 58 Bicycle Path Extension, and the New Public Boat Launching Facility.
- All capital project accounts have a positive ending balance as of June 30, 2009, with the exception of two. The capital project account for the new EMS station has a negative balance of \$2,543, and necessary funds will be transferred into this account to close it out. The capital project account for the new Town Administration Building showed a negative balance of \$28,974 as of June 30, 2009, but this negative balance is due to timing differences in the draw-down of debt proceeds for construction of the building, and has already been reversed.
- There is currently a total balance of \$25,000 being reserved in a capital project account for the Archers Creek Storm Water Project. The Town's Clean Water Management Trust Fund grant for this project is on hold, and the \$25,000 reserved represents the required local match.
- The Town has a total balance of \$63,727 in the Special Separation Allowance Fund that is being accumulated for future, statutorily-mandated separation payments to law enforcement officers. This amount is believed to be sufficient to cover anticipated future liabilities at this time.

Motion was made by Commissioner Wright to accept the June 30, 2009 Audit Report. The Board voted unanimously 4-0 in favor. Motion carried.

Commissioner Messer commented that the Auditors were very complimentary of Town Manager Rush, Asst. Town Manager / Finance Officer Overman and the entire staff and their methods of accounting.

Clerks Note: A copy of June 30, 2009 Audit Report as noted above is incorporated herein by reference and hereby made a part of these minutes.

15. Appointments

- a. Bicycle and Pedestrian Advisory Committee – 4 vacancies**
- b. Recommendation – Carteret County Beach Commission – 1 vacancy**

Brief Summary: The terms of the 3 current Bicycle and Pedestrian Advisory Committee members expire in December 2009 and there is one additional vacancy. The 4 new terms will expire in December 2011.

The Board is also asked to make a recommendation to the Carteret County Board of Commissioners to reappoint Commissioner Hoover to a 3-year term on the Beach Commission.

Commissioner Wright noted that three of the current members had expressed an interest in being reappointed and there was one vacancy and one other individual had also expressed interest in being appointed to the committee.

1
2 **Motion was made by Commissioner Wright to appoint Mark Brennesholtz,**
3 **Ed Johnson, Carole Warren, and Paul Schwartz to terms on the Bicycle and**
4 **Pedestrian Advisory Committee that expire in December 2011. The Board**
5 **voted unanimously 4-0 in favor. Motion carried.**
6

7 **Motion was made by Commissioner Wootten to recommend that**
8 **Commissioner Tom Hoover be reappointed to the Carteret County Beach**
9 **Commission for a new 3-year term. (clerks note: term to expire January 2013). The**
10 **Board voted unanimously 4-0 in favor. Motion carried.**
11

12 **16. Comments from Town Clerk, Town Attorney, and Town Manager**
13

14 There were no comments from the Town Clerk or the Town Attorney.
15

16 Town Manager Rush briefed the Board on the status of the AIWW Dredging
17 contract. Mr. Rush also noted that due to recent stormwater issues the static
18 vegetation line exception report had been delayed and he hoped to bring that to
19 the Board in January.
20

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

24 **Coastal Recreational Fishing License Grant Awarded**

25 The NC Marine Fisheries Commission gave final approval to the Town's \$500,000 grant request last week. These
26 funds should be available for the Town to use for the purchase of the 6th lot for the new public boat launching facility
27 sometime in the next couple of months. Depending on the grant conditions, it may be possible to use these grant
28 proceeds and remaining PARTF grant proceeds to schedule a lot closing in March or April.
29

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

31 I will be meeting with representatives from the Corps of Engineers and the dredging contractor on December 8 to
32 discuss the exact location of spoils placement and other logistics. Work is expected to begin within the next 1-2
33 weeks.
34

35 **Holiday Schedule**

36 Town offices, including the Community Center, will be closed on Thursday, December 24, Friday, December 25, and
37 Friday, January 1. There will also be no trash collection on these days.
38

39 **Public Beach Walkway Replacement Policy**

40 This issue was discussed at the November meeting, and I had hoped to have a formal policy for Board consideration
41 on the December 8 meeting agenda. Due to recent storm water challenges, this item has been delayed. I hope to
42 have something on the January meeting agenda.
43

44 **Public Directional Sign Policy**

45 This issue was also discussed at the November meeting, and I had hoped to have a formal policy for Board
46 consideration on the December 8 meeting agenda. Due to recent storm water challenges, this item has been delayed.
47 I hope to have something on the January meeting agenda.
48
49
50

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1
2 **Static Vegetation Line Exception Report**

3 A draft report is 95% complete, and I had hoped to have this report on the December 8 meeting agenda. Due to recent
4 storm water challenges, and also a need to make sure that the financing plan (involving County room occupancy tax
5 revenues) is consistent with the static line report submitted by other Carteret County towns, this item has been
6 delayed. I will be meeting with the Carteret County Shore Protection Manager and the Town of Atlantic Beach later
7 this week to resolve this issue. I also hope to share the draft report with staff at the NC Division of Coastal
8 Management before presenting it to the Board of Commissioners, hopefully in January. The Town's report could be
9 considered by the Coastal Resources Commission in late January, but their March meeting is now more likely.

10
11 **Interlocal Agreement – Future Beach Nourishment Efforts**

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

17
18 **Bicycle and Pedestrian Plan**

19 The Bicycle and Pedestrian Advisory Committee is nearing completion of a formal long-range Bicycle and Pedestrian
20 Plan for the Town to use as a guide for future improvements. I expect the Committee to present this plan to the Board
21 at the January meeting.

22
23 **UDO Amendment – Prohibit Marinas and Dry-Stack Facilities in the Business District**

24 The Planning Board has approved an ordinance amendment removing marinas and dry-stack facilities from the Table
25 of Permitted Uses in the Business district. Such an amendment would limit such facilities to the Marina Village zoning
26 district only. This amendment will appear on the Board's January meeting agenda.

27
28 **LCD / LED Sign Ordinance Amendment**

29 This ordinance amendment was discussed by the Board at the October meeting and no action was taken. Staff will
30 continue to work on this issue and may present an alternative ordinance amendment for Board consideration at a
31 future meeting.

32
33 **Energy Grant Application**

34 The Town's Green Challenge Committee is working on a potential Town grant application for energy improvements to
35 Town buildings. We are currently attempting to secure free energy planning assistance offered through the State, and
36 the result of this planning effort will likely be a recommended Town grant application. We are focusing on energy
37 efficiency improvements, and perhaps solar panels, at this time. I have directed the Green Challenge Committee to
38 limit the amount of any required Town match to \$25,000 - \$50,000. Any potential grant application will be submitted for
39 Board consideration first, likely at the January meeting.

40
41 **Trash Container Roll-Out / Roll-Back Service for Vacation Rental Units**

42 The vacation rental agencies have requested that the Town consider providing trash container roll-out and/or roll-back
43 service for vacation rental units as part of the Simmons & Simmons contract or some other comprehensive Town
44 contract. I am currently researching cost implications and will report back to the vacation rental agencies and the
45 Board in the coming weeks.

46
47 **Residents & Visitors Guide**

48 I would like to update the Town's "Residents & Visitors Guide" (last updated 5 or 6 years ago) in the next few months
49 and have it ready for the 2010 tourism season. If possible, I would like the Board to consider any significant changes
50 to Town ordinances, trash services, etc. by February so that the new Guide will be as accurate as possible.

51
52
53
54

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1
2 **Countywide EMS Proposal**

3 We continue to try to learn more about the County's EMS proposal. I hope to schedule a meeting between County
4 officials, Town officials, and EMS personnel in the next week or so to learn more about the County's proposal and
5 provide input about Emerald Isle's concerns.
6

7 **Police Management Training** Police Lieutenant Jeff Waters recently completed the Management Development
8 Program offered for law enforcement personnel by the NC Justice Academy. Admission into this comprehensive
9 training program is very competitive, and is designed to enhance the management abilities of law enforcement
10 personnel. Program areas include employment law, communication skills, leadership, motivation, project
11 management, and budget management. The program involves 11 weeks of coursework over a one-year period. We
12 hope to have additional Emerald Isle Police Department personnel complete this training in the future.

13 **17. Comments from Board of Commissioners and Mayor**

14
15 Commissioner Hoover wished everyone a Merry Christmas, Happy Hanukkah,
16 and Happy New Year.
17

18 There were no further comments from the Board of Commissioners or Mayor.
19

20 **18. Adjourn**

21
22 ***Motion was made by Commissioner Messer to adjourn the meeting. The***
23 ***Board voted unanimously 4-0 in favor. Motion carried.***
24

25 ***The meeting was adjourned at 7:40 pm.***
26

27 Respectfully submitted:
28
29
30

31 Rhonda C. Ferebee, CMC
32 Town Clerk
33
34