

1                                   **MINUTES OF THE REGULAR SCHEDULED MEETING**  
2                                   **OF THE EMERALD ISLE BOARD OF COMMISSIONERS**  
3                                   **TUESDAY, FEBRUARY 10, 2009 – 6:00 P.M. – COMMUNITY CENTER**  
4

5  
6                   **1. Call To Order**  
7

8                   The regular monthly meeting of the Emerald Isle Board of Commissioners was  
9                   called to order by Mayor Art Schools at 6:00 PM in the Emerald Isle Community  
10                  Center.  
11

12                  **2. Roll Call**  
13

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

17                  Others present during the meeting: Town Attorney Richard Stanley, Town  
18                  Manager Frank Rush, Asst. Town Manager/Finance Director Mitsy Overman,  
19                  Town Clerk Rhonda Ferebee, Planning Director Kevin Reed, Parks and  
20                  Recreation Director Alesia Sanderson, and Public Works Director Artie Dunn.  
21

22                  **3. Opening Prayer**  
23

24                  Kevin Jones youth member from Emerald Isle Chapel by the Sea offered the  
25                  Opening Prayer for the Town Board meeting.  
26

27                  **4. Pledge of Allegiance**  
28

29                  After opening prayer all who were present recited the Pledge of Allegiance.  
30

31                  **5. Adoption of Agenda**  
32

33                  ***Motion was made by Commissioner Messer to adopt the Agenda with the***  
34                  ***exception of Item 7 to be removed. The Board voted unanimously 5-0 in***  
35                  ***favor. Motion carried.***  
36

37                  **6. Proclamations / Public Announcements**  
38

39                  Mayor Schools also noted the following public announcements for the public:  
40

- 41                  • Public Information Meeting – Potential Basing of New Joint Strike Fighters  
42                  at MCAS Cherry Point / Bogue Field – Wednesday, February 11 – 4 pm –  
43                  7 pm – Community Center
- 44                  • Friday Free Flick – “Horton Hears a Who” – Friday, February 13 – 7 pm –  
45                  Community Center  
46

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- 1
- 2 • President's Day / Employee Appreciation Day – Town Offices Closed –
- 3 Monday, February 16 – All Day (Community Center Open on February 16)
- 4 • Community Meeting – 2009 Community Health Assessment – Monday,
- 5 February 16 – 7 pm – 8 pm – Community Center
- 6 • Board of Commissioners Budget Workshop – Tuesday, February 17 –
- 7 8 am – 2 pm – EI EMS Station
- 8 • Bicycle and Pedestrian Advisory Committee – Tuesday, February 17 –
- 9 9 am – Community Center
- 10 • Teen Event – “Open Mic Night” – Friday, February 20 – 7 pm –
- 11 Community Center
- 12 • Planning Board Regular Meeting – Monday, February 23 – 6 pm –
- 13 Community Center
- 14 • Board of Commissioners Regular Meeting – Tuesday, March 10 – 6 pm –
- 15 Community Center
- 16 • 18<sup>th</sup> Annual Emerald Isle St. Patrick's Festival – Saturday, March 14 – All
- 17 Day – Emerald Plantation
- 18

19 Parks and Recreation Director Alesia Sanderson noted that Chapel by the Sea  
20 would be having their missionary chili fundraiser here in the Community Center  
21 on February 21.

22  
23 ~~7. Introduction of New Employee - Item #7 Removed from Agenda by Motion.~~

24  
25 ~~a. Toby Henderson, Police Officer~~

26  
27 **8. Consent Agenda**

28  
29 **a. Tax Refunds / Releases**

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

33  
34 **Note:** A copy of above noted Consent Agenda item is incorporated herein by reference and hereby  
35 made a part of these minutes.

36  
37 **9. Public Comment**

38  
39 **Brief Summary: The public will have the opportunity to address the Board**  
40 **about any items of concern not on the agenda.**

41  
42 Molly Saitta, 412 Holly Street, spoke on behalf of the Mayor's Committee for  
43 Persons with Disabilities, and asked the Board to consider putting ramps in at the  
44 new boardwalks for senior citizens as well as handicapped.  
45

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1  
2 Mayor Schools explained that the problem with constructing a ramp at the  
3 boardwalk locations currently under construction was that there was just not  
4 enough room to construct a ramp within the easements. Mayor Schools thanked  
5 Mrs. Saitta for her long service on the Mayor's Committee for Persons with  
6 Disabilities.

7  
8 **10. FY 09-10 Budget**

9  
10 **a. Budget Calendar**

11 **b. Public Hearing – Early Citizen Comment on FY 09-10 Budget**

12  
13 Town Manager Frank Rush presented details of this agenda item to the Board.  
14 Town Manager Rush noted for the Board the Budget Workshop meeting  
15 scheduled for the following Tuesday, February 17 to start the budget process.  
16 The following excerpt from Mr. Rush's memo to the Board is also provided as  
17 additional background:

18  
19 The Board is scheduled to formally initiate the FY 09-10 budget process with two budget-related items scheduled for  
20 the February 10 meeting. First, the Board is asked to adopt the official FY 09-10 Budget Calendar, and second, the  
21 Board is scheduled to conduct a public hearing to receive early citizen input on the FY 09-10 budget.

22  
23 FY 09-10 Budget Calendar

24 A copy of the suggested FY 09-10 Budget Calendar is attached for the Board's review. This calendar outlines the  
25 Town's budget process and includes key target dates in the process.

26  
27 Please note that the FY 09-10 Recommended Budget will be presented to the Board at the May 12 regular meeting,  
28 and that 3 special budget workshop meetings are tentatively scheduled for May 19, May 26, and June 2. The official  
29 public hearing on the budget is planned for the June 2 workshop meeting, with Board adoption planned for the June 9  
30 regular meeting.

31  
32 The Board has the flexibility to adjust this schedule as we go through the budget process if necessary and/or desired,  
33 however, the establishment of the FY 09-10 Budget Calendar will help to keep this lengthy process on track.

34  
35 Public Hearing – Early Citizen Input on FY 09-10 Budget

36 We have scheduled and advertised a public hearing on the upcoming FY 09-10 budget for the February 10 meeting.

37  
38 NC General Statutes require the Town to conduct a public hearing on the annual budget after the Town Manager  
39 presents the Recommended Budget in May, but many communities also hold a public hearing prior to the start of the  
40 annual budget process in order to get citizen input at the front-end of the budget process. The purpose of the February  
41 10 public hearing is simply to receive comments or suggestions from our citizens regarding budget priorities for the  
42 coming fiscal year before we begin the budget process. The hearing will give citizens a chance to voice their concerns  
43 about the tax rate, suggest funding for certain programs or projects, encourage the Board and staff to address new  
44 issues that require funding, etc. As you know, the FY 09-10 budget process is likely to be very difficult, as the Town  
45 will be facing significant revenue challenges.

46  
47 ***Motion was made by Commissioner Hoover to adopt the FY 09-10 Budget***  
48 ***Calendar. The Board voted unanimously 5-0 in favor. Motion carried.***  
49  
50

1  
2 ***Motion was made by Commissioner Hedreen to open the Public Hearing.***  
3 ***The Board voted unanimously 5-0 in favor. Motion carried.***  
4

5 Ronnie Watson, 9102 Coast Guard Road, encouraged the Board to visit the  
6 merchants in Town and see the kind of problems they are facing in these tough  
7 times. Mr. Watson said he hoped they would not raise taxes this year, he felt it  
8 would be the worst message to send to our citizens, senior citizens and those  
9 trying to survive. He asked that the Board pay close attention to what the  
10 merchants are facing, trying to survive, and he felt there were many who would  
11 just not make it this year. Mr. Watson felt there would be a real downturn in our  
12 economy this year and when it gets tough you had to buckle down.  
13

14 Courtney Pelley, 10213 Corree Cove Drive, thanked the Board for what they had  
15 done with the finances for the Town for so many years and hoped in these tough  
16 times that they would be mindful not to start too many new programs because  
17 she didn't think it would be the time and place to do it, too many people and  
18 businesses who are in real trouble.  
19

20 ***Motion was made by Commissioner Wootten to close the Public Hearing.***  
21 ***The Board voted unanimously 5-0 in favor. Motion carried.***  
22

23 **Note: A copy of FY 09-10 Budget Calendar is incorporated herein by reference and hereby made a**  
24 **part of these minutes.**  
25

26 **11. Update – Bicycle and Pedestrian Advisory Committee**  
27

28 Mayor Schools noted that he had requested Jill Searcy, Chair of the Bicycle and  
29 Pedestrian Advisory Committee update the Board on the committee's status and  
30 future plans.  
31

32 Jill Searcy, began by speaking as President of the Emerald Isle Business  
33 Association, and presented to Parks and Recreation Director Alesia Sanderson a  
34 check from the proceeds of the 2008 Emerald Isle Triathlon held in October. The  
35 check presented in the amount of \$4,195 represented half of the proceeds  
36 collected and they wanted these funds to go toward future bike paths and  
37 sidewalks.  
38

39 Parks and Recreation Director Sanderson stated that on behalf of the Town and  
40 the Emerald Isle Parks and Recreation Department how much she valued the  
41 relationship with the Emerald Isle Business Association, a wonderful partnership  
42 that makes some great things happen such as the Triathlon, St. Patrick's  
43 Festival, and she said it was their ultimate goal to kick back into the economic  
44 stimulus of Emerald Isle and Carteret County.  
45  
46

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1  
2 Ms. Searcy also updated the Board about the Bicycle and Pedestrian Advisory  
3 Committee, noting that the committee had gone through a lull, and now they had  
4 come back together, and had decided to look toward fundraising activities that  
5 would help put more money toward completing the bike paths. Ms. Searcy noted  
6 that one of the phases they would really like to see completed was the leg  
7 between Pebble Beach and Deer Horn Dunes to make that a safer place for our  
8 pedestrians, visitors and residents. Ms. Searcy said the committee hoped when  
9 the Board looks over the budget they would please consider putting money  
10 toward that one leg.

11  
12 Ms. Searcy stated they are also looking into other grants and sources to help  
13 with funding for bike paths and sidewalks.

14  
15 Mayor Schools thanked Ms. Searcy for her help with the Emerald Isle Business  
16 Association and the Bicycle and Pedestrian Committee.

17  
18 **12. Commercial Plan Review – Proposed Reconstruction of Holiday Trav-L-**  
19 **Park Building – NC 58 & Coast Guard Road**

20  
21 Planning Director Kevin Reed addressed the Board regarding this agenda item.  
22 The following excerpt from Mr. Reed’s memo to Town Manager Rush is provided  
23 for additional background:

24  
25 A request has been submitted by the Watson’s Inc. for commercial review of the proposed Holiday Trav-L-Park,  
26 Watson-Matthews Real Estate and Emerald Isle Wine Market building located at 9102 Coast Guard Road. The  
27 previous structure at this location was damaged in a recent fire and was found to be “beyond repair”. The damaged  
28 structure has been demolished and the owner is intending to build a very similar structure at the same location. The  
29 new building will house the offices for the Holiday Trav-L-Park, the offices for Watson-Matthews Real Estate and the  
30 Emerald Isle Wine Market (including a convenience store and gas station). The property is currently zoned Business  
31 (B). The Town’s Unified Development Ordinance (UDO) requires all commercial development to go through the  
32 commercial review process and receive approval from the Board of Commissioners.

33  
34 You will find attached a copy of a site plan/survey for the project which shows the proposed structure meeting all  
35 building setback requirements. Attached you will also find copies of a plan sheet showing the proposed building  
36 elevations, proposed building colors and other pertinent information. There are no plans to change the existing exterior  
37 lighting at this location; therefore, no lighting plan has been requested from the owner. Any lighting on the proposed  
38 building will be recessed and will be for accent purposes only. The owner currently utilizes a nearby solid waste  
39 disposal and compaction unit to handle all trash generated by the businesses; therefore, no plans have been submitted  
40 for a dumpster location. Since no previously undisturbed property will be disturbed as part of the redevelopment  
41 process, there is no concern by Town staff on compliance with the Town’s natural area requirements.

42  
43 The Town’s Technical Review Committee (TRC) reviewed the project at a meeting held on February 4, 2009. During  
44 the TRC meeting it was noted that the proposed project is consistent the Town’s requirements for building setbacks,  
45 building colors, building height limitations, and parking. The Town’s Unified Development Ordinance (UDO),  
46 specifically Chapter 6, Section 6.1.3(4), requires that commercial structures have building offsets in order to avoid  
47 buildings having the appearance of being large box type structures. That section states:

48 “Each exterior wall of a building that is viewable from any street or road shall have one offset each twenty  
49 (20) feet of each exterior wall. The offset shall be a minimum of eight (8) feet of each exterior wall and

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1  
2 extend a minimum of four (4) feet in depth. A projecting porch, gable or other similar structure may serve  
3 as an offset if it creates a visual break in the exterior wall. All plans for exterior walls will be approved by  
4 the Board of Commissioners as part of the commercial review process."

5  
6 As you will note on the plan sheet, the owner is proposing to use a covered porch along the front of the building as well  
7 as dormers in the roof structure to create an aesthetically pleasing structure that satisfies the offset requirements noted  
8 above. On the left and right sides of the structure, the owner is proposing the use of a constructed awning to meet the  
9 offset requirements and to insure that there is a visual break in those wall segments. The use of awnings to meet  
10 offset requirements is consistent with how the Town has reviewed and approved other commercial structures,  
11 specifically the Ice House located on Islander Drive.

12  
13 To date, the Town has received information from the Carteret County Health Department that the proposed structure  
14 may connect to the existing on-site sanitary septic. Since the Carteret-Craven Electric Cooperative and Bogue Banks  
15 Water Corporation had previously served the building at this location, Town staff has concluded that these entities can  
16 effectively serve the new building. The owner has provided a letter from a professional engineer that the stormwater  
17 runoff associated with the redeveloped site approximates the rate of flow and timing of runoff that would have occurred  
18 under the existing conditions (prior to fire) and to the extent practicable, the redevelopment conditions. The Town's  
19 consulting engineer has concluded that this information will satisfy the Town's stormwater requirements without the  
20 need to develop an engineered stormwater plan for this redevelopment effort.

21  
22 The Planning Board is scheduled to consider the commercial review request at a special meeting on Monday, February  
23 9 and Town staff expects to present the Planning Board's findings at the Board of Commissioners' meeting on  
24 February 10. I look forward to discussing this issue with the Board of Commissioners at its February 10 meeting.  
25 Please let me know if you have any questions regarding the foregoing information.

26  
27 Planning Director Kevin Reed stated that the Planning Board held a special  
28 meeting on February 9 and following that meeting they recommended  
29 unanimously to the Board of Commissioners that the commercial review be  
30 approved. Mr. Reed noted that the Board had in their packets renderings of the  
31 building as well as proposed colors. Mr. Reed provided samples of the actual  
32 siding materials, essentially the same as what was on the previous structure. Mr.  
33 Reed noted that Mr. Watson and Mr. Matthews were both in attendance on  
34 behalf of this request should there be questions.

35  
36 ***Motion was made on behalf of Commissioner Wootten to approve the site***  
37 ***plan, building elevations, and building colors for the new Holiday Trav-L-***  
38 ***Park Building. The Board voted unanimously 5-0 in favor. Motion carried.***  
39

40 Mr. Watson thanked the Board, staff, and the community.

41  
42 **13. Resolution Authorizing 2009 Street Resurfacing Contract (09-02-10/R1)**  
43

44 Public Works Director Artie Dunn presented information to the Board regarding  
45 this agenda item. The following excerpt from Mr. Rush's memo to the Board is  
46 also provided as additional background:  
47  
48  
49

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1  
2 The Board of Commissioners is asked to approve the 2009 street resurfacing program at the February 10 meeting.  
3 The attached resolution authorizes the Town Manager to execute a contract with Onslow Grading and Paving, Inc. at  
4 specified unit costs for a total amount not-to-exceed \$172,261. This contract amount is within the budget established  
5 this contract, however, the Board should note that the total street mileage to be resurfaced is only 1.6 miles, below our  
6 2.3 mile annual goal.

7  
8 Artie Dunn, Public Works Director, prepared the bid packages and requested bids to resurface approximately 2.66  
9 miles of various public street segments. You may recall that our goal is to resurface at least 2.3 miles of public streets  
10 annually in order to remain on a 20-year life-cycle for all Town streets. (The Town has a total of 46 miles of public  
11 streets.) The 2.66 mile total was requested initially because we had been hopeful that asphalt prices had come down  
12 somewhat and that we may at least be able to get close to the 2.3 mile goal. This was obviously wishful thinking, as  
13 the low bid is higher than last year's. Onslow Grading and Paving was the low bidder for the total 2009 street  
14 resurfacing package with a total bid of \$260,054 for the 2.66 mile package, and the amount authorized in the attached  
15 resolution has been reduced by removing .98 miles of street segments from the package. The Town received two  
16 other bids for this project, and a copy of the bid minutes is attached for your information.

17  
18 The Town's FY 08-09 Powell Bill Fund budget includes a total of approximately \$160,000 for this contract. There is  
19 also an additional \$12,500 available for a portion of this work (to repair streets damaged in Spinnakers Reach during  
20 construction of storm water pump facilities in summer 2008) in the capital project account for the Coast Guard Road  
21 Storm Water Project. These storm water funds were withheld from the storm water contractor's final payment and  
22 have been allocated for the street repairs that are included in the 2009 street resurfacing program.

23  
24 As noted, the low bid submitted by Onslow Grading and Paving was approximately \$88,000 more than the amount  
25 available. Artie Dunn and I have reviewed the 2.66 miles of street segments included in the 2009 package, and have  
26 eliminated a length of .98 mile of street segments to reduce the total cost of the 2009 street resurfacing contract to the  
27 \$172,261 included in the attached resolution. A list of the specific street segments to be resurfaced in 2009 and maps  
28 are attached, along with a list of the segments that were included in the bid package but that are not recommended for  
29 inclusion in the contract at this time. The Board should note that our primary strategy in preparing this  
30 recommendation is to fully complete the resurfacing of more heavily traveled Town streets (Reed Drive and Cedar  
31 Street) and also address those streets that are judged to be in the greatest need of resurfacing (Piney Street, Station  
32 Street, Parker Street). The remaining street segments address isolated drainage issues and large dips / pothole areas.

33  
34 As noted, it is now essentially impossible to reach our 2.3 mile annual street resurfacing goal. The actual miles of  
35 Town streets resurfaced in recent years is indicated below:

36

37	2009 (recommended)	1.60 miles
38	2008	1.80 miles
39	2007	2.15 miles
40	2006	2.00 miles
41	2005	2.30 miles
42	2004	2.37 miles
43	2003	2.40 miles.

44  
45 We will continue to strive to meet the 2.3 mile goal in 2010 and beyond, however, the only way this goal can be met in  
46 the future is to supplement annual Powell Bill revenues with a General Fund contribution. In order to meet the 2.3 mile  
47 goal for the 2009 resurfacing contract, an additional \$63,000 would need to be added. Because of the Town's current  
48 budget situation this year, I am not comfortable recommending the use of General Fund balance at this time. It is also  
49 highly unlikely that the FY 09-10 General Fund budget will be capable of providing additional funds for street  
50 resurfacing.

51  
52 Although we continue to be more and more concerned about our inability to meet the 2.3 mile annual goal, the good  
53 news is that overall the Town's street are in fairly good condition. We did not identify any one Town street in dire need  
54 of resurfacing in 2009, although the condition of some streets is less than ideal. In our judgment, Piney Street is

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1  
2 perhaps the street most in need of resurfacing in 2009, and it's likely not critical that it be resurfaced in 2009. It should  
3 also be noted, fortunately, that we have not experienced an increase in street surface quality complaints. Our first  
4 preference would be to allocate enough funding to meet the 20-year goal, however, the Board may also wish to  
5 reconsider our 20-year goal in the future.  
6

7 The contract will require that all 2009 street resurfacing work be completed prior to Easter weekend, with a requirement  
8 to avoid the St. Patrick's Festival weekend.  
9

10 Public Works Director Dunn noted that the Town was making a lot of progress  
11 toward being in a situation where there was nothing that was in dire need of  
12 resurfacing. Mr. Dunn added there would always be streets where asphalt is  
13 failing or due to age needed resurfacing, but they are not getting the phone calls  
14 anymore about the quality of the streets like they were. He felt they were able  
15 now to see light at the end of the tunnel.  
16

17 Commissioner Hedreen asked if we had to do anything since there was no dire  
18 need. Mr. Rush stated that there was no legal obligation to spend the Powell Bill  
19 money right now; however, it must be used for street, and drainage purposes, so  
20 if you didn't spend it this year it could be spent for street resurfacing next year.  
21 Mr. Rush said the recommendation is to go ahead and address the streets that  
22 have been identified now. Mr. Rush said they continue to be disappointed not to  
23 be reaching the 2.3 mile goal, but the silver lining was that they have things in  
24 fairly decent shape; they focused this year on longer segments.  
25

26 Commission Hedreen asked if there was anything else for which the money  
27 could be spent. Mr. Rush said the only other things would be sidewalk projects  
28 or drainage projects but his recommendation would be to continue to invest in  
29 street resurfacing, but the Board does have that flexibility if they wanted to  
30 explore something else.  
31

32 Commissioner Hoover asked about the cost to resurface Coast Guard Road, to  
33 which Mr. Dunn responded he didn't know exact cost, but felt it would take up an  
34 entire years funding.  
35

36 Commissioner Hedreen said she would like to look at spending some of this  
37 money for sidewalks. Mr. Dunn said that he felt good that they were keeping up  
38 with the streets but was afraid if they let it slip this year they may fall back behind.  
39

40 Commissioner Hedreen appreciated that concern but felt it was worth looking into  
41 in order to cover the parts where there are so many pedestrians. Mr. Rush said  
42 the Board certainly had that flexibility though he shared Mr. Dunn's concern  
43 about skipping a year of street resurfacing because they may find in a few years  
44 that they had some dire problems. Mr. Rush said the Board could decide not to  
45 approve this contract and redirect the money for sidewalks or consider that  
46 approach for next year's budget.



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1  
2 Commissioner Hedreen asked how much the Pebble Beach to Deer Horn Dunes  
3 portion would cost. Mr. Rush said the quote for that connection was  
4 approximately \$30,000, with the donation this evening of the additional \$4,195,  
5 they probably had about \$14,000 sitting in a reserve account, and so they would

6  
7 be about \$16,000 short to make that project happen. Commissioner Hedreen  
8 said she would absolutely like to hold \$16,000 out for the bike path.

9 Commissioner Wootten said he would like to consider during the retreat and  
10 budget process that the extension to Deer Horn Dunes become a priority that  
11 could be squeezed out of next years budget or taken out of fund balance, he  
12 would rather for that amount of money just leave the Powell Bill alone.

13  
14 Commissioner Messer said he wouldn't want to see it come out of the general  
15 fund and asked Mr. Dunn what would have to be cut out in order to come up with  
16 the \$16,000. Mr. Dunn mentioned the possibility of cutting out Station Street or  
17 Parker Street.

18  
19 Mayor Schools asked if Mr. Dunn could review the list of streets and let the  
20 Board know at the February 17 workshop which streets were least in need.  
21 Commissioner Hedreen wondered if they would be able to use this money right  
22 now plus the other money and have a bike path by summer, she felt this would  
23 serve a lot of visitors and residents.

24  
25 ***Motion was made by Commissioner Hedreen to approve the Resolution***  
26 ***Authorizing the 2009 Street Resurfacing Contract with Onslow Grading and***  
27 ***Paving, Inc. in the amount of \$156,000. The Board voted 4-1 in favor with***  
28 ***Commissioner Wootten opposed. Motion carried.***

29  
30 **Note: A copy of Resolution 09-02-10/R1 is incorporated herein by reference and hereby made a part**  
31 **of these minutes.**

32  
33 **14. Ordinance Amending Chapter 5 – Beach and Shore Regulations –**  
34 **Regarding Activities in the Atlantic Ocean and Other Town Waterways**  
35 **(09-02-10/O1)**

36  
37 Town Manager Frank Rush presented details of this agenda item to the Board.  
38 The following excerpt from Mr. Rush's memo to the Board is also provided as  
39 additional background:

40  
41 The Board of Commissioners is scheduled to consider the attached ordinance amendment pertaining to surfing and  
42 other activities in the Atlantic Ocean, Bogue Sound, and Bogue Inlet. The ordinance amendment is intended to  
43 promote public safety and harmony among the various user groups in the ocean and other waterways.

44  
45 The attached ordinance amendment was drafted in response to 1) opinions expressed by a local attorney (and surfer)  
46 about the constitutionality of the Town's existing ordinances governing surfing near ocean fishing piers, and also 2) in  
47 response to a goal of the Police Department and mine to make the ordinance clearer and, hopefully, to insure that the

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1  
2 Town's ordinance is an effective deterrent to surfing too close to ocean fishing piers. In an effort to also address safety  
3 and harmony concerns along other stretches of the Atlantic Ocean and other Town waterways, the scope of the  
4 ordinance was broadened to also include other waterways (in the areas within the Town limits only – ½ mile into the  
5 ocean and ¼ mile into the sound).  
6

7 The attached ordinance amendment includes the following key provisions:  
8

- 9
- 10 • A clear statement is included to note that the intent of the ordinance is to promote public safety and harmony  
11 among various user groups in the ocean and other waterways.
  - 12 • New language is included that makes it illegal to operate any boat, personal watercraft, other vessel,  
13 surfboard, water skis, or other similar floatation device in the ocean and other waterways in a reckless or  
14 negligent manner so as to endanger persons and/or property. This new language is modeled after an  
15 existing State law that includes similar language, and simply provides an alternative enforcement  
16 mechanism for the Police Department for surfing issues and issues involving other watercraft, etc. in waters  
17 immediately adjacent to Emerald Isle.
  - 18 • The language regarding surfing near ocean fishing piers has been strengthened to address the  
19 constitutionality claim, and now prohibits nearly everyone (swimmers, boaters, surf fishermen, etc.) from  
20 being too close to an ocean fishing pier. The distance that surfers and everyone else must remain from a  
21 pier has been reduced from the current 250 ft. to 200 ft. A swimming zone within 350 ft. seaward of the pier  
22 house is exempt from the 200 ft. requirement. The owner of the fishing pier is responsible for installing the  
23 appropriate buoys and signage.
  - 24 • The provisions pertaining to surfing near ocean fishing piers continue to apply only to the time period from  
25 March 16 to November 30.
  - 26 • The provision requiring leashes on surfboards remains in the amended ordinance.
  - 27 • A violation of the ordinance is a civil penalty of \$50 per occurrence.
- 28  
29  
30  
31  
32

33 The attached ordinance amendment was drafted by a working group that included Mayor Art Schools, Police Chief Bill  
34 Hargett, myself, Greg Rudolph (owner of Emerald Isle Surf Shop, local surfer), Roy Brownlow (local surfer), Ron Butler  
35 (owner of eilivesurf.com, local surfer), and Mike Stanley (owner of Bogue Inlet Pier). Local attorney and surfer Andy  
36 Wigmore initially raised the concerns that led the group to begin meeting, however, he became frustrated with the  
37 process and dropped out of the discussions. All other members of the working group are satisfied with the language in  
38 the amended ordinance, and it was a pleasure to work with them. Their input was greatly appreciated.  
39

40 Town Attorney Richard Stanley has also reviewed and approved the ordinance amendment, and is confident that it can  
41 be defended in a court of law if necessary.  
42

43 The Board should note that neither the Mayor, Police Chief, nor I want to issue citations for the violations included in  
44 the attached ordinance amendment. Our goal is simply to have an effective deterrent to these actions. Citations will  
45 only be issued when necessary to promote public safety and harmony among the various user groups. For situations  
46 that escalate, the Police Department will also have the option of writing a State citation (for violations involving  
47 endangerment of persons or property).  
48

49 Commissioner Wootten noted the concern he had discussed with Mr. Rush  
50 regarding section 5-52 when it mentions boats within a ½ mile in the ocean and a  
51 ¼ mile in the sound since they have no way of enforcing any of that, but felt okay  
52 with it now as Mr. Rush had indicated the similarity with the State's ordinance  
53 which lays the entire foundation of the Town ordinance. Mr. Rush said that all

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1  
2 enforcement activities would be land based, the Town doesn't have a police boat  
3 and they don't envision purchasing one anytime soon. Mr. Rush said the reason  
4 for the ½ mile into the ocean and ¼ mile into the sound was because that was  
5 the official Town limits in Emerald Isle.

6  
7 ***Motion was made by Commissioner Wright to adopt the Ordinance***  
8 ***Amending Chapter 5 – Beach and Shore Regulations – Regarding Activities***  
9 ***in the Atlantic Ocean and Other Town Waterways. The Board voted***  
10 ***unanimously 5-0 in favor. Motion carried.***

11  
12 **Note: A copy of Ordinance Amendment 09-02-10/O1 is incorporated herein by reference and hereby**  
13 **made a part of these minutes.**

14  
15 **15. Discussion – Terminal Structures Adjacent to Inlets**

16  
17 Town Manager Frank Rush presented details of this agenda item to the Board.  
18 The following excerpt from Mr. Rush's memo to the Board is also provided as  
19 additional background:

20  
21 I have scheduled time on the February 10 meeting agenda for the Board to again consider making a contribution  
22 toward efforts to legalize terminal structures adjacent to inlets in North Carolina. As you know, the Board took no  
23 action on this issue when it was initially discussed at the Board's January 13 meeting.

24 A terminal structure (or terminal groin) is a shoreline protection structure placed perpendicular to the shoreline in an  
25 area adjacent to an inlet. A terminal structure stabilizes the beach in the area near the inlet by temporarily trapping  
26 sand before it reaches the inlet. Once the sand forms an "accretion fillet" to protect the shoreline, sand continues its  
27 normal flow by moving over, through or around the structure. Terminal structures are designed to be relatively  
28 unobtrusive - they are limited in length and built as low as possible to the waterline. A terminal structure is not a  
29 seawall that runs parallel to the beach, nor is it the type of structure that is typically shown along the ocean beach  
30 shoreline in New Jersey (with a series of ocean shoreline groins placed perpendicular to the ocean beach). A good  
31 example of a terminal structure is located adjacent to Beaufort Inlet at Fort Macon in Atlantic Beach.

32 As you know, North Carolina law prohibits all hardened structures, including seawalls, groins, and jetties, along the  
33 ocean and inlet shorelines. There are only a few locations in North Carolina where such structures exist, all of which  
34 were constructed many years ago. Over the past few years, there has been increasing interest among NC beach  
35 communities to explore the use of terminal structures adjacent to inlets. With several NC beach communities  
36 experiencing erosion problems along inlet shoulders, the use of a terminal structure potentially represents the most  
37 cost-effective long-term solution for stabilizing developed areas adjacent to inlets. If properly designed and  
38 constructed, terminal structures do not appear to cause erosion of downdrift beaches.

39 The Board has previously gone on record in support of previous efforts pertaining to terminal structures. At the  
40 February 12, 2008 meeting, the Board approved a Resolution Supporting Senate Bill 599 – Inlet Stabilization Pilot  
41 Program. That resolution expressed the Town of Emerald Isle's support for Senate Bill 599, which would have  
42 provided a regulatory mechanism to allow the construction of a terminal groin adjacent to an inlet in North Carolina as  
43 a pilot project. Senate Bill 599 was approved by the North Carolina Senate in May 2007 by a vote of 41-8, but was not  
44 considered by the NC House of Representatives during the 2008 short session.

45  
46 Several NC beach communities are again seeking legislation in the 2009 session that would allow the use of terminal  
47 structures in North Carolina adjacent to inlets. A key difference is that the group is now seeking general authorization

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1  
2 for the use of terminal structures at any inlet (not just for a pilot project), provided an Environmental Impact Statement  
3 is favorable and appropriate permits are issued by the NC Division of Coastal Management and other regulatory  
4 agencies.

5 At the January 13 meeting, the Board requested additional information about the group leading this effort and their  
6 strategy for seeking this legislation. The effort is being led by a consortium of local governments along the coast, with  
7 leadership provided by Caswell Beach Mayor Harry Simmons, Ocean Isle Beach Mayor Debbie Smith, and Figure  
8 Eight Island Administrator David Kellam. Brunswick County Government is expected to be the lead coordinating  
9 agency among the various local governments. The group is being assisted by Raleigh law firm SZD Wicker on this  
10 effort, and intends to hire additional lobbyists once a firm budget has been established. The principals involved from  
11 SZD Wicker are former Lieutenant Governor Dennis Wicker and Mr. Joseph Lanier. The NC Beach, Inlet, and  
12 Waterway Association (NCBIWA) is involved in the educational aspects of this effort, however they are not a primary  
13 sponsor due to their status as a 501(c)(3) corporation. The group's goal is to raise \$140,000 for this effort. Several NC  
14 beach communities have already contributed, including Dare County (\$15,000), Nags Head (\$10,000), Ocean Isle  
15 Beach (\$10,000), Topsail Beach (\$2,500), and others. If the Board chooses to join this effort, I recommend a  
16 contribution of \$5,000 from the Town of Emerald Isle.

17 The Board is obviously very familiar with our historical challenges at Bogue Inlet, our response to those challenges,  
18 and the current stability at Bogue Inlet and The Point. A terminal structure was never seriously considered when the  
19 EIS was prepared for the Bogue Inlet channel project, however, it may be a viable option for the Town to consider in  
20 the future if needed. In addition, the sheer legal ability to construct a terminal structure adjacent to Bogue Inlet in the  
21 future could strengthen the Town's permitting position for our long-term goal of stabilizing the main ebb channel in the  
22 center of Bogue Inlet by periodic dredging and use of Bogue Inlet shoals for future beach nourishment projects. I  
23 believe it is important to have multiple management tools available for these situations, and I would like to see  
24 legislation approved to add this potential tool for NC beach communities in the future. Although it does not appear to  
25 be needed at Bogue Inlet anytime soon, it may be helpful to Emerald Isle 5, 10, or 20 years or more from now. It may  
26 also provide an immediate solution for inlet-related problems facing other NC beach communities.

27 It is important to note that the proponents of this new legislation do not support the use of other types of hardened  
28 structures along the NC coast, nor the use of groins at locations other than inlet shoulders.

29 Mr. Rush noted that the Board had been provided at their places tonight a copy  
30 of a draft interlocal agreement. Mr. Rush stated again that this was an issue that  
31 thankfully he didn't see any immediate need for a terminal structure in Emerald  
32 Isle, however it may be helpful to have this additional tool in the toolbox many  
33 years from now when dealing with issues at Bogue Inlet, as well as our ability to  
34 help other towns with similar concerns and issues.

35  
36 Commissioner Wootten said he didn't see any benefit to the Town getting in the  
37 middle of this fray and he worried about the downside risk of harming  
38 relationships with the Coastal Federation, CAMA, and other agencies that the  
39 Town needs for grant monies for major projects. Commissioner Messer agreed  
40 with Commissioner Wootten but added that with the times and the budget they  
41 were facing this year that \$5,000 could be used somewhere else. Commissioner  
42 Wright felt the one disadvantage to not doing this would be that we could be  
43 viewed as not being a team player by other municipalities.

44  
45 ***The Board following further discussion took no action on this item.***  
46

1  
2 **16. Appointments**  
3

- 4     **a. Bicycle and Pedestrian Advisory Committee – 4 vacancies**  
5     **b. Eastern Carolina Council General Membership Board**  
6

7 **Brief Summary:** There are 4 members on the Bicycle and Pedestrian Advisory  
8 Committee whose terms have expired. These members should be reappointed  
9 or new members should be identified for the Committee.

10  
11 The Term of Mayor Pro-Tem Messer on the Eastern Carolina Council's General  
12 Membership Board is also expiring. Mayor Pro-Tem Messer has indicated that  
13 he does not wish to be reappointed. The Board should designate a replacement  
14 from Emerald Isle.

15  
16 Mayor Schools also pointed out that the Bicycle and Pedestrian Advisory  
17 Committee following these appointments would still have 3 slots vacant, and said  
18 that he had encouraged Jill Searcy to try to identify people who would be  
19 supportive of the direction they are trying to go and the Board could decide at a  
20 later time whether they would appoint them.

21  
22 ***Motion was made by Commissioner Messer to appoint Mark Brennesholtz***  
23 ***and Ed Johnson to terms on the Bicycle and Pedestrian Advisory***  
24 ***Committee that expire in December 2009. The Board voted unanimously***  
25 ***5-0 in favor. Motion carried.***

26  
27 ***Motion was made by Commissioner Wright to appoint Jill Searcy and***  
28 ***Wayne Crigler to the terms on the Bicycle and Pedestrian Advisory***  
29 ***Committee that expire in December 2010. The Board voted unanimously***  
30 ***5-0 in favor. Motion carried.***

31  
32 ***Motion was made by Commissioner Hedreen to appoint Commissioner***  
33 ***John Wootten to serve on the Eastern Carolina Council's General***  
34 ***Membership Board. The Board voted unanimously 5-0 in favor. Motion***  
35 ***carried.***

36  
37 **17. Comments from Town Clerk, Town Attorney, and Town Manager**  
38

39 There were no comments from the Town Clerk or the Town Attorney.

40  
41 Town Manager Rush stated that he had attached a proposal from Marlowe &  
42 Company, a Washington DC lobbyist in their packets. Mr. Rush wanted to get  
43 feedback from the Board about the potential hiring of a lobbyist for Federal  
44 funding request for the new public boat launch facility and whether they felt this  
45 was something helpful to pursue, or hold off until they found out more about

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1  
2 some of the grants, or not pursue at all and continue to work directly with  
3 Representative Jones, Senator Burr, and Hagan's offices. The Board was in  
4 general agreement that they should hold off until hearing more about the other  
5 grants, but keep the verbal relationship with Marlowe & Company.

6  
7 Mr. Rush also pointed out the Town would have the new fire engine sometime in  
8 early or mid-March.

9  
10 In addition, the following is an excerpt from the Town Manager Comments memo  
11 to the Board for additional items of note

12  
13 **Annual Budget Planning Workshop**

14 This meeting is set for Tuesday, February 17 from 8 am until early afternoon – likely ending around 2 pm or so. The  
15 meeting will be held in the Training Room at the new EMS Station. You may want to park at the Rec Center or Town  
16 Hall and walk over to the new EMS Station. Breakfast snacks, coffee, juice, etc. will be available at 8 am, and the  
17 meeting will begin at 8:30 am. Lunch will be catered by the Village Market at around 12 noon.

18  
19 **Boat Ramp Grant Decisions**

20 The NC Wildlife Resources Commission will consider the Town's \$500,000 request for funding for the land acquisition  
21 at their meeting on February 11. I am optimistic that these funds will be approved. If these funds are approved, I will  
22 inform our other potential grant funding partners. I am hopeful that each grant success will improve our chances with  
23 the next one.

24  
25 **Consider Lobbying Effort for Federal Funding Request?**

26 I have attached a proposal from Marlowe & Company, a Washington, DC lobbying firm that also does work for Carteret  
27 County and Emerald Isle on beach nourishment issues, for lobbying services associated with the Town's recent \$1  
28 million request for Federal funding.

29  
30 The proposal includes a fee of \$3,000 per months for a minimum of 3 months, with the ability to cancel with 30 days  
31 notice after that time. Realistically, the lobbying efforts will be most beneficial to us within the next 9-10 months, and it  
32 is less likely that we'd still be pursuing the Federal money after October 2009. The total cost to the Town for 10  
33 months of service is \$30,000. I have been discussing other scenarios with Marlowe in the past few days, and I am  
34 attempting to reduce this cost or make it more incentive-based.

35  
36 Does the Board have any interest in something like this?

37  
38 **Update - The Aquarium Pier at Emerald Isle**

39 Despite a brief issue with the State Budget Office and the release of funds to hire an architect, the architect selection  
40 process is now moving forward for The Aquarium Pier at Emerald Isle. The State Construction Office is scheduled to  
41 narrow the list of potential architects from 16 to 3 - 5 early next week. It is likely that interviews will occur within the  
42 next 2 weeks after that, and an architect should be under contract by early March.

43  
44 The first meeting of the Aquarium Pier Advisory Committee is being planned for mid-March. We expect to send out  
45 notices about the meeting to committee members in late February.

46  
47 The Aquariums and others continue to work through issues with the Nags Head Pier. There is now a good chance that  
48 they can reduce the construction cost and identify additional funds to enable construction to move forward in the near  
49 future. They expect to have some resolution to this issue within the next few weeks.

50  
51  
52

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1  
2 **New Fire Engine**

3 Assembly of the Town's new Fire Engine at the manufacturing facility in Florida is complete, and the truck has been  
4 delivered to the dealer in Rocky Mount for final preparations. We expect to take delivery of the truck in early March.  
5

6 **Update – Replacement of Beach Walkways**

7 Deane Rice Construction is close to finishing the construction of the new walkway at Ocean Oaks Drive, and hopes to  
8 call for final inspection next week. The existing walkway at Gregg Street will be removed within the next week.  
9

10 **Update – Town Administration Building**

11 Construction of the project continues at a good pace. Framing is essentially complete, with the exception of the  
12 covered porches. I have ordered the new tide clock for the building, which will be identical to one on the oceanfront in  
13 Atlantic City, NJ. Bluewater Builders' official schedule indicates the new building be completed by the end of July /  
14 beginning of August.  
15

16 Thus far, Bluewater Builders is performing well on the project, and I have been pleased with Burnette Architecture's  
17 construction administration services. I have, however, asked John Yost, our former full-time and sometimes fill-in  
18 Building Inspector, to assist me in reviewing the project from time to time. John will make his first review later this  
19 week.  
20

21 **Old EMS Station**

22 The renovations to the old EMS Station are complete, and look good. I recently showed the property twice to the same  
23 potential buyer, and I am awaiting further communication from that potential buyer. I will also soon be updating the  
24 sale flyer for the old EMS Station and re-sending it to all Emerald Isle real estate agencies as an open listing. Please  
25 let me know if you have any interest in reducing the asking price.  
26

27 **Update – Bogue Inlet AIWW Crossing Dredging**

28 The Corps of Engineers' contractor is currently working in Brunswick County, and expects to arrive in Bogue Inlet by  
29 mid/late March, which may require us to secure a permit extension to allow the sand to be placed on the beach into  
30 April. The Corps will continue to monitor the contractor's progress, and we are scheduled to talk in late February to  
31 consider their progress and schedule for Bogue Inlet. If necessary, a permit extension will be submitted shortly  
32 thereafter. We continue to work hard to get this work done this spring. The worst-case scenario is that the contractor  
33 will come back in November.  
34

35 As of conditions at The Point today, the sand would be used to raise the elevation near the sandbags and cover the  
36 sandbags along the entire sandbag line from the Coast Guard Channel to Channel Drive walkway.  
37

38 **Parks Maintenance Building is Complete, In Use**

39 The Parks Maintenance Building is finally complete, and is being fully utilized by Parks Maintenance staff.  
40

41 **Itinerant Merchants / Outdoor Display of Merchandise**

42 I have not yet had an opportunity to schedule a meeting with the local business owners about these issues, but still  
43 plan to do so. My goal is to have proposed ordinance amendments for Board consideration prior to the summer.  
44

45 **NCDOT Requests Input on Transportation Reform**

46 Governor Perdue has made it a priority for the NCDOT to reform its operations, and the attached letter from new  
47 NCDOT Secretary Gene Conti requests input from local governments. Please let me know if you have any  
48 suggestions you'd like the Town to convey.  
49

50 **18. Comments from Board of Commissioners and Mayor**

51  
52 There were no further comments from the Board of Commissioners or Mayor.  
53

1  
2 **19. Closed Session – Pursuant to NCGS 143-318.11(5), for the Purpose of**  
3 **Discussing Potential Real Estate Acquisition**

4  
5 *Motion was made by Commissioner Messer to enter Closed Session. The*  
6 *Board voted unanimously 5-0 in favor. Motion carried.*

7  
8 *Motion was made by Commissioner Hedreen to return to Open Session.*  
9 *The Board voted unanimously 5-0 in favor. Motion carried.*

10  
11 There was no action taken as a result of Closed Session.

12  
13 **20. Adjourn**

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

17  
18 *The meeting was adjourned at 7:20 pm.*

19  
20 Respectfully submitted:

21  
22  
23  
24 Rhonda C. Ferebee, CMC  
25 Town Clerk