

1 MINUTES OF THE REGULAR SCHEDULED MEETING
2 OF THE EMERALD ISLE BOARD OF COMMISSIONERS
3 WEDNESDAY, NOVEMBER 12, 2008 – 5:30 P.M. – COMMUNITY CENTER
4

5 The regular monthly meeting of the Emerald Isle Board of Commissioners was
6 called to order by Mayor Art Schools at 5:30 PM in the Emerald Isle Community
7 Center Lounge.

8
9 Present for the meeting: Mayor Art Schools, Commissioners Tom Hoover, Floyd
10 Messer, John Wootten, and Maripat Wright.

11
12 Absent for the meeting: Commissioner Nita Hedreen
13

14 Others present during the meeting: Town Attorney Richard Stanley, Town
15 Manager Frank Rush, Asst. Town Manager/Finance Officer Mitsy Overman,
16 Town Clerk Rhonda Ferebee, Police Chief Bill Hargett, and Fire Chief Bill
17 Walker.

18
19 ***Motion was made by Commissioner Hoover to excuse the absence of***
20 ***Commissioner Hedreen. The Board voted unanimously 4-0 in favor.***
21 ***Motion carried.***

22
23 **3. CLOSED SESSION – PURSUANT TO NCGS 143-318.11(5), FOR THE**
24 **PURPOSE OF DISCUSSING REAL ESTATE ACQUISITION**

25
26 ***Motion was made by Commissioner Wright to enter Closed Session. The***
27 ***Board voted unanimously 4-0 in favor. Motion carried.***

28
29 ***Motion was made by Commissioner Hoover to return to Open Session. The***
30 ***Board voted unanimously 4-0 in favor. Motion carried.***

31
32 The Board returned to Open Session at 5:55 pm.

33
34 **4. SHORT BREAK BEFORE REGULAR MEETING**

35
36 Mayor Schools called the meeting to order following a short break, resuming the
37 regular meeting at 6:00 pm in the Emerald Isle Community Center Gymnasium.

38
39 **5. PLEDGE OF ALLEGIANCE**

40
41 All who were present recited the Pledge of Allegiance.
42
43
44
45
46

1
2 **6. ADOPTION OF AGENDA**
3

4 ***Motion was made by Commissioner Messer to adopt the Agenda. The***
5 ***Board voted unanimously 5-0 in favor. Motion carried.***
6

7 **7. PROCLAMATIONS / PUBLIC ANNOUNCEMENTS**
8

9 Mayor Schools noted the following announcements for the public:
10

- 11 • Habitat for Humanity Barbecue Fundraiser – Friday, November 14 – 11
12 am – 2 pm – Century 21 Real Estate
- 13 • Blood Drive – Friday, November 14 – 2 pm – 7 pm – New EMS Station
- 14 • Friday Free Flick – “Mr. Magorium’s Wonder Emporium” – Friday,
15 November 14 – 7 pm – Community Center
- 16 • Board of Adjustment Meeting – Wednesday, November 19 – 9 am –
17 Community Center
- 18 • Planning Board Regular Meeting – Monday, November 24 – 6 pm –
19 Community Center
- 20 • Thanksgiving Holiday – Town Hall and Community Center Closed –
21 Thursday, November 27 and Friday, November 28
- 22 • Emerald Isle Holiday Parade – Saturday, November 29 – 4 pm – Emerald
23 Drive
- 24 • Board of Commissioners Regular Meeting – Tuesday, December 9 – 6 pm
25 – Community Center
26

27 **8. INTRODUCTION OF NEW EMPLOYEES**
28

- 29 **a. Bobby Winston, Police Officer**
- 30 **b. Justin Gilgo, Fire Engineer**
31

32 Police Chief Bill Hargett introduced Bobby Winston, a new full-time Police Officer.
33 Chief Hargett stated that Bobby Winston was born in California, later moving to
34 Florida where he graduated from high school in 1999. Bobby joined the USMC in
35 2001, and was honorably discharged in 2004. Chief Hargett noted that Bobby
36 received Basic Law Enforcement Training at Coastal Carolina Community
37 College in Jacksonville, graduating in April of this year and was sworn into office
38 here in Emerald Isle on November 5. Chief Hargett said they were glad to have
39 him onboard.
40

41 Fire Chief Bill Walker introduced Justin Gilgo, a new full-time Fire Engineer.
42 Chief Walker noted that Justin graduated in 2002 from East Carteret High
43 School. Following that Justin moved to Mooresville, North Carolina where he
44 attended and graduated from the Universal Technical Institute. Chief Walker
45 noted that Justin had joined the volunteer fire departments in Atlantic and Sea

1
2 Level following high school, and had also joined the volunteer fire department in
3 Emerald Isle 3 years ago. Justin was hired as a reserve last year; he has his
4 Firefighter 1 and 2 certifications, EMT certification, and has now been hired as
5 full-time Fire Engineer.

6
7 The Board and public welcomed Officer Winston and Fire Engineer Gilgo to their
8 new positions with the Town.

9
10 **9. PRESENTATION – CROATAN HIGH SCHOOL PROJECT – SURVEY**
11 **REGARDING BEACH TENTS / CANOPIES**

12
13 Croatan High School seniors Alexis Butler and Chris Sonzogni presented results
14 from a survey conducted over the Labor Day weekend for an AP Biology class
15 project. Their survey targeted long term storage of beach tents / canopies to
16 determine who was responsible for leaving them on the beach and for how long.
17 The survey was initiated by the Biology students because of concerns about
18 possible interference with sea turtle nesting, aesthetics, and safety. Ms. Butler
19 and Mr. Sonzogni thanked the Board for the opportunity to share their concerns.

20
21 Mayor Schools noted that the Board meets each year in January to discuss
22 issues for the upcoming year and this was one of the items already planned for
23 discussion. Mayor Schools stated that they would look through their presentation
24 handout in more detail, and thanked the students for their work.

25
26 **Note: A copy of the Croatan High School AP Biology Class Survey is incorporated herein by**
27 **reference and hereby made a part of these minutes.**

28
29 **10. CONSENT AGENDA**

- 30
31 a. **Tax Refunds / Releases**
32 b. **Minutes – October 7, 2008 Regular Meeting**
33 c. **Resolution Accepting FEMA Grant for Thermal Imaging Device**
34 (08-11-12/R1)
35 d. **Budget Amendment – Regional Access Fund**
36 e. **Resolution Amending Town Manager Cell Phone Allowance**
37 (08-11-12/R2)
38 f. **Resolution Amending Personnel Policy – Supplemental Retirement**
39 **Benefits (08-11-12/R3)**

40
41 ***Motion was made by Commissioner Wootten to approve the items on the***
42 ***Consent Agenda. The Board voted unanimously 4-0 in favor. Motion***
43 ***carried.***

44
45 **Note: A copy of Resolutions 08-11-12/R1, 08-11-12/R2, 08-11-12/R3 and all other Consent Agenda**
46 **items are incorporated herein by reference and hereby made a part of these minutes.**

1
2 **11. PUBLIC COMMENT**

3
4 **Brief Summary: The public will have the opportunity to address the Board**
5 **about any items of concern not on the agenda.**

6
7 There were no comments from the Public.

8
9 **12. REZONING REQUEST– ISLAND HARBOR MARINA TRACT A – FROM**
10 **BUSINESS (B) AND MOBILE HOME (MH) TO MARINA VILLAGE (MV)**

11
12 **a. Public Hearing**

13 **b. Consideration of Zoning Map Amendment**

14
15 Town Manager Frank Rush addressed the Board and provided a visual image of
16 this agenda item, summarizing the proposed rezoning request. The following
17 excerpt from his memo to the Board is provided for additional background:

18
19 The Board of Commissioners is scheduled to consider a rezoning request from Maritime Siblings LLC (represented by
20 Mr. Andy Harris) to rezone a 7.4 acre tract of land that includes Island Harbor Marina and nearby mobile homes from
21 Business (B) and Mobile Home (MH) to the new Marina Village (MV) district. A public hearing has been advertised,
22 and is scheduled for the November 12 meeting prior to Board consideration of the rezoning request.

23
24 The attached memo from Kevin Reed, Planning and Inspections Director, includes additional information about the
25 rezoning request. A suggested "Record of Zoning Amendment", a map indicating the zoning of nearby areas and the
26 property to be rezoned, a recent survey of the property, and the rezoning application are also attached. The Board
27 should note that the tract in question, labeled as Tract "A", is approximately the western one-half of the property
28 commonly referred to as "the marina property". Tract "A" includes all land and structures roughly between Sunset
29 Harbor condominiums and the existing boat ramp. Tract "B" includes the remainder of "the marina property", including
30 the grassy parking area and the majority of the existing mobile homes, and is not part of this rezoning request. Tract
31 "B" would retain the Mobile Home (MH) zoning classification.

32
33 The Board should note that the rezoning of this tract to Marina Village (MV) would represent the first and only property
34 with the new MV zoning that was approved as part of the new Unified Development Ordinance (UDO) in September
35 2008. The MV zone is a mixed-use zoning district that intentionally allows both residential and commercial uses in
36 close proximity and/or in the same structure, and also specifically encourages marine-related business activity. The
37 new MV zone is intended by the Town to promote quality development of privately-owned and open-to-the-public
38 marina facilities and typically-associated business and residential uses.

39
40 The applicants have not yet submitted site plans for formal review by staff, the Planning Board, and the Board of
41 Commissioners, however, they have verbally indicated their intention to develop a new marina facility with both wet
42 and dry slips available to the public. The Board should note that consideration of the rezoning request is independent
43 of the applicant's stated plans, and the Board should make its decision based on the suitability of the site for all
44 permitted uses within the MV zone. An excerpt from the UDO listing the uses permitted in the MV district is attached.
45 The Board should note that mobile homes are not permitted in the MV district, and the existing mobile homes on Tract
46 "A" will be non-conforming structures until such time that any new development activity occurs and they are removed.

47
48 The proposed rezoning is consistent with the Town's Land Use Plan and planned amendments to the Land Use Plan
49 that will likely appear on the Board's December meeting agenda. The amendments planned for December are
50 associated with the recent adoption of the UDO and have been discussed by the Board for several months.
51

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1
2 The Board must make certain findings prior to approving or denying the rezoning request, and suggested findings are
3 included in the attached Record of Zoning amendment. The Board should certainly amend the language of the
4 suggested findings if it believes other findings are more appropriate.
5

6 ***Motion was made by Commissioner Messer to open the Public Hearing.***
7 ***The Board voted unanimously 4-0 in favor. Motion carried.***
8

9 Andy Harris, representing the applicants Maritime Siblings, LLC, said this new
10 (MV) zoning district was created about 3-4 months ago and his clients were
11 looking at what they could do with the 7.4 acres as far as for use as a marina.
12 He said the first step was having the property rezoned to this category. Mr.
13 Harris noted that part of the property is zone (B) and part (MH) with the marina
14 facility actually extending a little more into the (MH), this rezoning would place
15 the tract in the right zone so they can go forward in making their plans to
16 redevelop the marina.
17

18 A resident at 8609 Marina Drive asked about the relationship of the 7.4 acres in
19 relationship to the holding tanks to determine whether her mobile home would be
20 affected. Town Manager Rush provided her with a copy of the map.
21

22 Jim Heatherly, 8512 Woodcliff, commented that for people unfamiliar with the
23 area it would help if the road just before Woodcliff could be added to the map.
24

25 ***Motion was made by Commissioner Messer to close the Public Hearing.***
26 ***The Board voted unanimously 4-0 in favor. Motion carried.***
27

28 Commissioner Wootten asked if the area around Woodcliff was currently zoned
29 (MH). Town Manager Rush stated that was correct but only the part outlined in
30 red on the map was being considered for rezoning.
31

32 Commissioner Wright read aloud the following findings for the Record of Zoning
33 Amendment:
34

35 **Subject: The rezoning of Tract A of the Island Harbor Marina Subdivision**
36 **from Business (B) and Mobile Home (MH) to Marina Village (MV).**
37

38 The rezoning of Tract A of the Island Harbor Marina Subdivision from Business
39 (B) and Mobile Home (MH) to Marina Village (MV) is consistent with the Town of
40 Emerald Isle's 2004 CAMA Land Use Plan.
41

42 ***Commissioner Wright further motioned that the record of zoning***
43 ***amendment be approved because it is both reasonable and in the public***
44 ***interest for the following reasons:***
45
46

- 1
- 2 • ***A portion of the property to be rezoned is currently being used as a***
- 3 ***commercial marina,***
- 4 • ***The Town's Land Use Plan, specifically the Future Land Use Map,***
- 5 ***projects that a portion of the property is part of the Marine***
- 6 ***Commercial Area,***
- 7 • ***The Land Use Plan is currently being amended to reflect that all of***
- 8 ***Tract A will be projected as part of the Marina Village Area;***
- 9 • ***This is the initial zoning of any tract in Emerald Isle to the MV zone,***
- 10 ***the tract is relatively large, and the current uses are consistent with***
- 11 ***the MV zone, and***
- 12 • ***The community's overall interest is served in providing boat dockage***
- 13 ***and storage facilities.***
- 14

15 ***The Board voted unanimously 4-0 in favor. Motion carried.***

16

17 ***Motion was made by Commissioner Messer to approve the rezoning of the***

18 ***Island Harbor Marina Tract A from Business and Mobile Home to Marina***

19 ***Village. The Board voted unanimously 4-0 in favor. Motion carried.***

20

21 **Note: A copy of the Record of Zoning Amendment is incorporated herein by reference and hereby**

22 **made a part of these minutes.**

23

24 **13. PUBLIC BOAT LAUNCHING FACILITY**

25

- 26 **a. Offer to Purchase and Contract for 7 Vacant Lots at Shell Cove North**
- 27 **Subdivision**
- 28 **b. Resolution Authorizing Funding Request to NC Wildlife Resources**
- 29 **Commission for Land Acquisition (08-11-12/R4)**
- 30 **c. Resolution Authorizing Funding Request to Carteret County for Land**
- 31 **Acquisition (08-11-12/R5)**
- 32 **d. Capital Project Ordinance**
- 33

34 Town Manager Frank Rush addressed the Board and provided visual images of

35 this agenda item, summarizing the proposed rezoning request. The following

36 excerpt from his memo to the Board is provided for additional background:

37

38 The Board of Commissioners is scheduled to consider four actions associated with the acquisition of land for a new

39 public boat launching facility in Emerald Isle at the November 12 meeting. If approved, the Town could acquire land for

40 the development of a new public boat launching facility on 16 acres of land located in the Shell Cove North subdivision

41 directly west of Chapel By The Sea.

42

43 **Background**

44 There is currently only one location in Emerald Isle where the general public can launch a boat into Bogue Sound – the

45 privately owned (but open to the public) Island Harbor Marina. The owners of the property on which Island Harbor

46 Marina is located are currently working on plans to redevelop that site as a new, expanded, privately owned (but

47 presumably open to the public) marina facility. A new, expanded marina facility would be a welcome addition to

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2 Emerald Isle, however, the owners have indicated on several occasions that they do not intend to include a boat
3 launching facility with public vehicle / trailer parking as part of the marina redevelopment. Their stated intentions to
4 date have indicated plans for the continued use of existing wet slips and the construction of a new dry stack facility as
5 a business enterprise. It is possible that the new facility could retain the existing boat launching ramps, however, it is
6 unlikely that the owners would be willing to allocate high value soundfront land for vehicle / trailer parking in the long-
7 term.

8
9 If the public boat launching ramp is eliminated at Island Harbor Marina, boat owners in Emerald Isle and in western
10 Carteret County will be forced to use other existing public boat launching facilities in our area. There are only three
11 public locations within a 15-mile radius of the Emerald Isle bridge, and each location has a relatively small number of
12 vehicle / trailer spaces available:

- 13
- 14 • The NC Wildlife Resources Commission ramp on NC 24 in Cedar Point currently has 18 vehicle / trailer
15 spaces, and there are ongoing efforts to expand that site to create an additional 37 vehicle / trailer spaces.
 - 16
 - 17 • The US Forest Service ramp on the White Oak River near the terminus of VFW Road in Cedar Point
18 currently has 18 vehicle / trailer spaces.
 - 19
 - 20 • The NC Wildlife Resources Commission ramp at Shell Rock Landing in Onslow County near Camp Lejeune
21 currently has 25 vehicle / trailer spaces.)
 - 22

23 There is already significant and growing demand for public boat launching facilities in our area, and the expected loss
24 of the boat launching ramps at Island Harbor Marina in the next 1-2 years will further exacerbate the problem, and
25 require boat owners in Emerald Isle to travel further to launch their boats.

26 Because of these concerns, the Town has been working diligently over the past 5 months to secure land for a new
27 public boat launching facility in Emerald Isle. Due to the lack of remaining large tracts of land along Bogue Sound,
28 limited areas with deep water adjacent to the upland shoreline, and due to significant permitting challenges, there are
29 realistically only three potential locations for such a facility in Emerald Isle.

30
31 One potential location is the Island Harbor Marina property. The Town has made informal offers to the owners of that
32 land to purchase the marina property, however, the current owners have little interest in selling the property to the
33 Town and/or would demand a premium price. Another potential location is the "Gateway" tract of land on the east side
34 of NC 58 near the base of the Emerald Isle bridge. The Town has completed preliminary research on the potential
35 acquisition of that site for a public boat launching facility. The use of that site would require significant dredging in
36 Bogue Sound to provide deep water access, and it would be difficult to obtain the necessary permits for such dredging.
37 This site still has some potential, but is not as cost-effective as the third option. The third option is a 16-acre tract of
38 land directly west of Chapel By The Sea known as Shell Cove North (see attached aerial photo map).

39
40 The Shell Cove North Site

41 The Town and the NC Wildlife Resources Commission staff have completed significant research on the Shell Cove
42 North site located near Chapel By The Sea over the past 5 months. The total land area is approximately 16 acres, of
43 which approximately 5 acres is upland area suitable for vehicle / trailer parking. The Town, through the Emerald Isle
44 Parks and Recreation Association, Inc., controls the adjacent property on Bogue Sound to the east, now known as the
45 yet-to-be-developed McLean Park. McLean Park consists of approximately 8 acres total, with 4 acres of upland area.
46 In total, the two properties include approximately 24 acres, with 9 acres being upland area.

47
48 The Shell Cove North site is primarily owned by the Farrington brothers of Emerald Isle. The property has a recently
49 dredged canal and boat basin with depths of -4 ft at low water, and a new bulkhead has been installed around the boat
50 basin. The canal connects to a consistently deep natural channel (a minimum of -4 ft) that leads around Archer's
51 Point to the Atlantic Intracoastal Waterway. The presence of the dredged channel and boat basin is the single-most
52 important factor in the Town's decision to pursue the acquisition and development of this site for a new public boat
53 launching facility. Because the canal has been dredged in the past, it is relatively easy to secure new dredging
54 permits, whereas it is extremely difficult to secure permission to dredge an area that has not been dredged in the past.

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1
2 The site already includes a large driveway entrance to NC 58 across from Scotch Bonnet Drive, and has been mostly
3 cleared and graded. NC Wildlife Resources Commission engineers have developed a conceptual plan for a new public
4 boat launching facility at this site. A copy of the conceptual plan is attached, and indicates that the site can
5 accommodate up to 120 vehicle / trailer spaces and 12 single car spaces if the McLean Park site is also allocated for
6 the project. (See attached conceptual plan.) As designed in the conceptual plan, the new facility would be the largest
7 public boat launching facility in coastal North Carolina, and should adequately address the demand for public boat
8 launching facilities in Emerald Isle and western Carteret County in the short-term and long-term.
9

10 I have visited the site with numerous State and local officials in recent months, and all are very impressed with the
11 potential project and believe it will be a great asset for the central coast region of North Carolina.
12

13 Offer to Purchase and Contract for 7 Vacant Lots in Shell Cove North Subdivision

14 The Town has been negotiating with the Farrington brothers for the past 5 months, and nearly reached an agreement
15 to purchase the Shell Cove North site in late August, only to have that potential deal fall through. In early October, the
16 Farrington brothers approached the Town again to resurrect negotiations, and much of October was spent on this
17 issue. In late October, I signed a contract with the Farrington brothers to purchase 7 of the 9 lots in Shell Cove North
18 from the Farrington brothers for the development of a public boat launching facility. The contract was completely
19 executed on October 31, and is contingent on approval by the Board of Commissioners at the November 12 meeting.
20

21 A copy of the purchase contract and a separate "Summary of Purchase Contract" are attached for your review. The
22 purchase contract was written by Town Attorney Richard Stanley. The key provisions of the contract are as follows:
23

- 24 • The purchase price is \$4,250,000. This equates to \$607,143 per lot for 7 soundfront lots with 2 boat slips
25 each. The Town would purchase lots 3 – 9 in Shell Cove North, with the Farrington brothers retaining lots 1
26 & 2. (See attached survey.)
27
- 28 • The Town has provided a \$60,000 earnest money deposit, with \$35,000 being non-refundable upon Board
29 approval of the contract.
30
- 31 • The contract is contingent upon the Town securing grant funds from several State and local sources for
32 \$3,750,000. The Town will seek this funding from the NC Division of Coastal Management, NC Wildlife
33 Resources Commission, NC Parks and Recreation Trust Fund, NC Division of Water Resources, and
34 Carteret County in the next several months. Other grant funding sources may also be sought. A complete
35 list of anticipated funding sources and amounts is included on the "Summary of Purchase Contract" sheet.
36 The Town's contribution for the purchase is projected at \$375,000 - \$500,000.
37
- 38 • The projected closing date is May 31, 2009. The Town expects to have grant funding decisions from all
39 quoted sources by this date. The contract includes a provision whereby the contract may be extended
40 beyond May 31, 2009 on a monthly basis for the payment of a relatively small, formula-based fee.
41
- 42 • If the Town is unable to secure the necessary grant funds by May 31, 2009, the Town may cancel the
43 contract, forfeiting only the \$35,000 earnest money deposit. If the Town is able to secure the bulk of the
44 grant funds by May 31, 2009 but needs additional time, the Town will have the opportunity to close on a
45 portion of the property, and then extend the contract to provide ample time to secure the remaining funds
46 necessary. The Board should note that if the Town closes on at least 1 of the 7 lots, it is then obligated to
47 close on all 7 lots no later than September 1, 2010.
48
- 49 • The contract is contingent upon an underwater survey verifying the channel depths from the boat basin to
50 the AIWW, and is also contingent upon favorable comments from permitting agencies. Both contingencies
51 are expected to be met easily, however, if they are not, then the Town may cancel the contract, forfeiting
52 only the \$35,000 earnest money deposit.
53
54

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- The contract is contingent upon a satisfactory appraisal - equal to or greater than the \$4,250,000 purchase price. An appraisal has been completed by Realty Services of Eastern Carolina, and estimates the total property value at exactly \$4,250,000.
- The contract is contingent upon the approval of the Emerald Isle Parks and Recreation Association, Inc., the entity charged with overseeing McLean Park. Their approval is necessary to incorporate McLean Park into the overall project design.

If the Board approves the purchase contract, work will begin in earnest to secure the necessary funding from State and County sources. Based on preliminary discussions and meetings with potential funding partners, I remain very optimistic that the Town can secure the necessary grant funds to consummate the purchase. These are admittedly very difficult economic times, and it will be a great challenge to secure the necessary funds, however, the significant benefits associated with the project and hard work will hopefully enable us to overcome this challenge.

If the Town purchases the property, the NC Wildlife Resources Commission (WRC) has indicated that it will construct the required boat launch ramps and parking area, and will be responsible for long-term maintenance of the new facility. The Town would either convey title to the property to the WRC or enter into a no-cost, long-term (50 years+) lease with the WRC for the property to be used as a public boat launching facility.

The Town has previously been awarded grant funds to construct a new soundfront pier and bathhouse at McLean Park, and construction was scheduled to begin this fall on those improvements. If the Town purchases the Shell Cove North, efforts will be made to integrate those features into the overall project site, perhaps locating the new pier adjacent to the dredged canal and locating the bathhouse in a more central location. The ultimate project design should also reserve ample space for a future ballfield, and could perhaps incorporate a perimeter walking trail. The desired end result would be an integrated, multi-purpose soundfront park with the public boat launching facility as the primary feature.

If the Board approves the purchase contract, the following additional items should also be considered by the Board.

Resolution Authorizing Funding Request to the NC Wildlife Resources Commission for Land Acquisition

The attached resolution formally authorizes a funding request to the NC Wildlife Resources Commission (WRC) for \$500,000 for the acquisition of the property. The request to the WRC is intended to finance the cost of the recently completed canal dredging and boat basin improvements, and the cost of previous site improvements (clearing, grading, driveway construction, etc.).

WRC staff are very supportive of the project, and believe it will provide significant benefits to the boating community in central coastal North Carolina. Preliminary discussions with WRC staff indicate a strong chance for success with this funding request. Due to timing constraints, a formal request has already been submitted to the WRC, and will be considered at the WRC's December 3 meeting. If the Board does not approve the purchase contract and the attached resolution, I will immediately contact WRC staff and ask them to remove the Town's request from consideration on December 3.

If the WRC approves the Town's funding request and the Town commits up to \$500,000 for the project, there will be a remaining balance of \$3,250,000 to be secured from other funding sources.

Resolution Authorizing Funding Request to Carteret County for Land Acquisition

The attached resolution formally authorizes a significant funding request to Carteret County for a portion of the land acquisition cost. The request to the County is structured such that the Town is asking the County to contribute 75% of the non-State cost associated with acquisition, at an amount not to exceed \$1,500,000.

As outlined on the "Summary of Purchase Contract", the Town anticipates receiving a total of \$2,750,000 from several State funding sources. This leaves a balance of \$1,500,000 from Town and County funds, and the Town's request for the County to cover 75% of this amount equates to a \$1,125,000 contribution from the County and a \$375,000

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2 contribution from the Town. If all State funding sources are awarded, the County's contribution would be \$1,125,000.
3 If, for example, one of the State funding sources is not awarded, and the total non-State share is \$2 million, the County
4 would be asked to contribute \$1.5 million and the Town would contribute \$500,000. If the Town is successful in
5 obtaining additional State grant funds beyond those indicated, the County's contribution would decrease accordingly.
6

7 The requested contribution from the County is significant, however, I believe the Town can put forth a convincing
8 request considering that this project will provide immense benefits for the taxpayers of western Carteret County and
9 Bogue Banks (which includes the County taxpayers in Emerald Isle). The new public boat launching facility will draw
10 boaters from all over western Carteret County and Bogue Banks, and will easily be the largest public boat launching
11 facility in coastal North Carolina. Several County officials have visited the site in recent months, and all have been
12 impressed with the potential for the site and have expressed support for the project. In the end, it will simply come
13 down to the County's comfort level with the expense, which may prove to be more difficult given the current state of the
14 economy. Regardless, I believe that the Town can put forth a convincing request and I believe that the Town should
15 make a strong effort.
16

17 As you know, Emerald Isle represents the largest portion of the County tax base, with nearly 23% of the total County
18 tax base. (The combined tax base of Morehead City, Beaufort, and Newport is equal to approximately 18% of the
19 County's tax base.) Emerald Isle contributes approximately \$9.5 million per year to the County's General Fund, and
20 this amount is up considerably from approximately \$6.5 million per year prior to the 2007 revaluation. The Town rarely
21 seeks financial assistance from the County, while the County has often assisted other municipalities with important
22 projects.
23

24 There is precedence for the County's financial assistance with this project. The Town of Morehead City is developing a
25 new public boat launch facility on leased land on Radio Island, and the total project cost is approximately \$2 million +,
26 which includes construction costs. The County has agreed to contribute \$500,000 toward this project over a 5-year
27 period, and this amount equates to nearly 25% of the total project cost. For the Emerald Isle boat ramp land purchase,
28 the requested County contribution of \$1,125,000 equals 26.5% of the total land acquisition cost of \$4.25 million. If the
29 construction costs for the parking lot and ramp are added in (to be borne by the WRC), the total project cost increases
30 to more than \$5.5 million and the County's contribution would represent approximately 20% of the total project cost.
31 To put the \$1,125,000 request in perspective, the County's annual General Fund budget is approximately \$80 million,
32 and the County's total General Fund balance is in excess of \$32 million.
33

34 If the County takes a similar funding approach with the Emerald Isle project as the Morehead City project, the County
35 may be willing to contribute the requested funds over a 5-year period. If the County takes this approach, the Town
36 should consider borrowing the necessary funds to complete the purchase in 2009 and then retire the associated debt
37 with the County's annual contribution.
38

39 If the Board approves the attached resolution, I will send a formal funding request to the County Manager on
40 November 13. The County Manager will likely forward the request to the County's Water Access Committee for review
41 and for their recommendation to the County Commissioners. The Town's request could appear on the agenda for the
42 County Water Access Committee sometime in November or December, and reach the County Commissioners as early
43 as December or January.
44

45 Additional funding requests to other State agencies will be put forth in December and January.
46

47 Capital Project Ordinance Amendment

48 The attached capital project ordinance amendment formally appropriates the necessary funds for the acquisition of the
49 Shell Cove North property. Total anticipated revenues are \$4,250,000, with \$500,000 committed from the Town and
50 \$3,750,000 from State and County funding sources. Total expenditures for land acquisition are \$4,250,000.
51

52 The attached capital project ordinance indicates that the Town's contribution will be provided by installment financing
53 proceeds. If the Town finances \$500,000 for 5 years at a 4% interest rate, the annual debt service payment is equal to
54 approximately \$112,000, or approximately .25 cents on the Town's General Fund tax rate. I have drafted the capital

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1
2 project ordinance to indicate the use of installment financing proceeds for now, but I would also like the Board to
3 consider appropriating the entire amount necessary for the Town's contribution in the FY 09-10 budget to avoid the
4 issuance of additional debt, or perhaps some combination of fund balance and an FY 09-10 appropriation. This issue
5 can be explored in more detail during the FY 09-10 budget process, which will begin in February 2009.
6

7 Mayor Schools called for public comment on the public boat launching facility.
8

9 Jim Heatherly, 8512 Woodcliff, questioned whether this new boat launching
10 facility would collect fees or be a free facility for the day trippers.
11

12 Mayor Schools noted that it would be managed by the Wildlife Resources
13 Commission which would be operated the same as other Wildlife sites.
14

15 Mr. Heatherly said that would mean we would not recoup any money.
16 Commissioner Hoover stated that businesses would benefit. Mr. Heatherly said
17 that he wasn't a business so he wouldn't benefit. He mentioned when the
18 western park was proposed they were going to charge \$5 per day for people to
19 park instead of a free gift. He said all it does is bring more people over here to
20 pollute our roads and properties through summertime. He felt this would be a
21 freebie to all the day trippers.
22

23 Town Manager Rush clarified that if the Town purchased the property, the Town
24 would convey it in fee simple title to the Wildlife Resources Commission, they
25 would then operate and maintain as they do all the other public boat launching
26 facilities which do not charge a fee and that is a service to the people of North
27 Carolina including the residents of Emerald Isle, there would be no fee for those
28 who live in Emerald Isle, Cape Carteret, Cedar Point, Pine Knoll Shores or
29 elsewhere. Mr. Rush stated that in terms of the long term maintenance of the
30 site, dredging, ramp maintenance, parking lot maintenance, and those sorts of
31 issues, the Wildlife Resources Commission would maintain the facility, there
32 remained the possibility that the Town may be responsible for mowing grass or
33 picking up trash which would be a minor obligation for the benefits received of
34 the project, though that has not yet been decided, and may still be negotiated.
35

36 Commissioner Wootten added that the Town might even be reimbursed for those
37 services, but the Town hasn't even gotten that far in discussions.
38

39 ***Motion was made by Commissioner Messer to approve the Purchase***
40 ***Contract for 7 Vacant Lots in Shell Cove North Subdivision for the***
41 ***development of a public boat launching facility. The Board voted***
42 ***unanimously 4-0 in favor. Motion carried.***
43

44 ***Motion was made by Commissioner Wootten to approve the Resolution***
45 ***Authorizing a Funding Request to the NC Wildlife Resources***
46 ***Commissioner. The Board voted unanimously 4-0 in favor. Motion carried.***

1
2 ***Motion was made by Commissioner Hoover to approve the Resolution***
3 ***Authorizing a Funding Request to Carteret County. The Board voted***
4 ***unanimously 4-0 in favor. Motion carried.***

5
6 ***Motion was made by Commissioner Wright to approve the Capital Project***
7 ***Ordinance. The Board voted unanimously 4-0 in favor. Motion carried.***

8
9 **Note: A copy of Resolutions 08-11-12/R4, 08-11-12/R5 and all other items noted above under Agenda**
10 **Item 13 are incorporated herein by reference and hereby made a part of these minutes.**

11
12 **14. THE AQUARIUM PIER AT EMERALD ISLE**

- 13
14 **a. Pier and Ocean Access Agreement**
15 **b. Option Agreement (To Transfer Eastern Ocean Regional Access to**
16 **the NC Aquariums)**
17

18 Town Manager Frank Rush addressed the Board providing the key points
19 pertaining to this agenda item. The following excerpt from his memo to the
20 Board is provided for additional background:

21
22 The Board of Commissioners is scheduled to consider two significant and important actions associated with the
23 development of The Aquarium Pier at Emerald Isle at the November 12 meeting. A formal Pier and Ocean Access
24 Agreement outlining the partnership between the Town and the Aquariums and a formal Option Agreement to transfer
25 the Eastern Ocean Regional Access to the State of North Carolina are presented for the Board's consideration.
26

27 After much hard work and thorough review by the Town, the Aquariums, the State Property Office, and the NC
28 Attorney General's Office, the terms of the partnership between the Town and the Aquariums and the terms of the
29 conveyance of the Eastern Ocean Regional Access (EORA) have been resolved at the staff level, and are now ready
30 for consideration by the Board of Commissioners, the Secretary of the NC Department of Environment and Natural
31 Resources (DENR), and the NC Council of State. If approved by the Board on November 12, we anticipate that the
32 DENR Secretary and the NC Council of State will approve the agreements later in 2008 or early 2009, and actual
33 conveyance of the EORA will occur shortly thereafter. Architect selection will also begin soon, and design work should
34 be underway by spring 2009.
35

36 Initially, the terms of the partnership between the Town and the Aquariums and the conveyance of the EORA were
37 combined into one document. After review by the NC Attorney General's Office, these actions are now split into two
38 documents. The Pier and Ocean Access Agreement primarily addresses the partnership, with reference to the
39 conveyance. A new Option Agreement has been prepared to govern the conveyance, with the actual Special Warranty
40 Deed (that includes a reverter clause) attached as an exhibit to the Option Agreement. Although the format of the
41 agreement is different than when presented to the Board over the past few months, the substance of the agreement is
42 essentially the same. Town Attorney Richard Stanley and I have participated in the dialogue with the NC Attorney
43 General's Office and have carefully reviewed the documents, and we are pleased to recommend approval to the
44 Board.
45

46 The Pier and Ocean Access Agreement is between the Town and the NC Department of Environment and Natural
47 Resources, of which the Aquariums is a division. As noted above, the substance of the agreement is essentially the
48 same as presented earlier, and is based on ideas presented to the Board at the February 2008 meeting, negotiations
49 between Town and NC Aquarium officials, and input from other State agencies over the past several months. The
50 agreement outlines the understanding between the Town and the NC Aquariums as we move forward on the project,
51 and represents the foundation of a strong partnership for this beneficial project.

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1
2 The Pier and Ocean Access Agreement references the Option Agreement that outlines the transfer of the EORA to the
3 State and the reverter clause. The EORA property consists of a 2.8 acre tract of land currently titled to the Town and
4 also includes the Park Drive right of way, a Town street right of way. The Option Agreement (and Special Warranty
5 Deed) stipulates that the Town will convey title to the 2.8 acre tract to the State and that the Town will also assign a
6 non-exclusive right of way easement to the State for additional parking facilities, access to the 2.8 acre tract, and
7 construction of a soundside pier in the Park Drive right of way. The Town will convey the title to the 2.8 acre tract and
8 the right of way easement at no cost to the State of NC.
9

10 The most significant and important provision in the Option Agreement (and Special Warranty Deed) is the inclusion of a
11 reverter clause that calls for the 2.8 acre tract and the right of way easement to be returned to Town ownership if, for
12 whatever reason, the project does not get constructed as planned. The Town's and the Aquariums' goal is to open the
13 facility to the public by 2012, however, due to the potential for delays during project development and construction, the
14 agreements stipulate that the Town may not activate the reverter clause earlier than December 31, 2015 if the
15 Aquariums are continuing work to fund and construct the project. The agreements also include the ability for the
16 parties to extend the December 31, 2015 deadline if necessary at that time. The inclusion of the reverter clause will
17 guarantee that the property will continue to be used for public beach and sound access in perpetuity in the event that
18 the Aquarium Pier is not ultimately constructed. The reverter clause may also be activated if, for whatever reason after
19 construction, the Aquarium Pier is not used for the intended purposes. Of course, both parties will be working hard to
20 avoid any need to activate the reverter, however, the reverter clause is included for the "worst-case" scenario.
21

22 A significant provision in the Pier and Ocean Access Agreement is the affirmation of the close partnership between the
23 Aquariums and the Town. The agreement stipulates that the Town will work closely with the Aquariums to secure
24 future funding sources for construction of the project, to be used to supplement the planned allocation of Aquarium
25 operating receipts and hopefully expedite construction of the project. Although the Aquariums will have ultimate
26 authority and control over the project, the agreement stipulates that the Town Manager and Mayor will serve in an
27 advisory capacity to the project development team that will likely include the NC Aquariums Director, the Director of the
28 NC Aquarium at Pine Knoll Shores, and the Director of the NC Aquarium Society. Additionally, a special citizen
29 advisory committee will be established to provide input into the development of the project. The committee will be
30 advisory in nature, and will consist of 8 members – with 4 members appointed by the Aquariums and 4 appointed by
31 the Town. The Town Manager and Mayor will serve as non-voting members of the committee and help provide
32 support to the committee. The 4 members appointed by the Town will represent the following interests:
33

- 34 • one member of the Board of Commissioners,
- 35
- 36 • one member who is a neighboring property owner in the general vicinity of the project,
- 37
- 38 • one member who is an avid pier fisherman, and
- 39
- 40 • one at-large member.
41

42 The 4 members appointed by the Aquariums will represent the following interests:
43

- 44 • one member of the NC Aquarium at Pine Knoll Shores Advisory Committee,
- 45
- 46 • one member of the Carteret County surfing community,
- 47
- 48 • one member of the Carteret County university research community, and
- 49
- 50 • one at-large member.
51

52 The Aquariums and the Town will likely conduct a joint application process in November and December, and formal
53 appointments will likely be made in January by the Aquariums and the Board of Commissioners. Appropriate
54

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1
2 advertising will be used to inform potential applicants of the opportunity to apply to serve. We will also put information
3 on the Town's website.

4
5 Other key provisions in the agreement include the following:

- 6
7
- 8 • The Park Drive right of way must remain available for access to private property currently served by Park
9 Drive.
 - 10 • The EORA site will continue to be operated as a public beach access facility prior to construction and to the
11 maximum extent practical during construction.
 - 12 • The Town will continue to maintain the EORA site (routine day to day maintenance, etc.) in a similar manner
13 in the interim period after transfer to the State up until construction of the project. The Town will not charge
14 the Aquariums for these services. The Town and the State will be liable for negligent acts or omissions by its
15 own employees, agents, or contractors during this interim period.
 - 16 • The Aquariums will submit a detailed project budget and financing plan to the Town prior to actual transfer of
17 the EORA site later this year or early next year.
- 18
19
20

21 I am extremely pleased to present these agreements to the Board for consideration at the November 12 meeting. The
22 Aquarium Pier at Emerald Isle will bring tremendous benefits to Emerald Isle, Carteret County, and all of North
23 Carolina, and will insure the perpetual existence of a public ocean fishing pier along the central NC coast. The Town
24 could not ask for a better partner than the Aquariums for this project, and the addition of Aquarium facilities, exhibits,
25 educational programs, and public meeting spaces will significantly enhance the quality of life in Emerald Isle and
26 strengthen the Town's standing as a prime tourism destination.

27
28 Town Manager Rush noted that he was pleased to present the updated Pier and
29 Ocean Access Agreement (as approved at the Attorney General's Office level)
30 for the Board to consider regarding the transfer of the Eastern Ocean Regional
31 Access property to the State for the development of the Aquarium Pier at
32 Emerald Isle. Mr. Rush stated that the Pier and Ocean Access Agreement
33 outlines the partnership between the Town and the Aquariums for the project.
34 He stated the Board also has an Option Agreement which will be used to actually
35 transfer the property from the Town to the State of North Carolina to be used by
36 the Aquariums. Mr. Rush said the closing will occur later this year after the NC
37 Council of State approves the acquisition of the land by the State for this
38 purpose.

39
40 Mr. Rush briefly described the key points in the agreements, noting the most
41 significant one being that the agreements do include a reverter clause that says if
42 the project is not completed by 2012 and the Aquariums are no longer making
43 progress, the property will convert back to Emerald Isle. The agreements do say
44 that if 2012 comes and the Aquariums are still making good progress and
45 working in good faith for the project that the reverter clause can not be activated
46 until December 31, 2015. If by December 31, 2015 the project has not occurred
47 and does not appear to be on its way to occurring the Town will receive the
48 property back in whatever condition it is in at that point, perhaps in a slightly
49 better condition at that time. That is certainly a worst case scenario because it is

1
2 in everyone's best interest for the project to go forward and it will be a wonderful
3 facility to add to Emerald Isle in the future.

4
5 Mr. Rush noted there was also a provision for the creation of an Aquarium
6 Advisory Committee, total of 8 individuals, 4 being appointed by the Aquariums,
7 and 4 being appointed by the Board of Commissioners. Mr. Rush said the
8 advisory committee would provide input to the Project Development Team and
9 offer insights and opinions as they move forward on the development of the
10 project. Mr. Rush added that applicants for the advisory committee would be
11 solicited with formal appointments being brought before the Board to consider at
12 the January meeting.

13
14 ***Motion was made by Commissioner Messer to approve the Pier and Ocean***
15 ***Access Agreement and authorize the Mayor to execute the agreement. The***
16 ***Board voted unanimously 4-0 in favor. Motion carried.***

17
18 ***Motion was made by Commissioner Wootten to approve the Option***
19 ***Agreement to transfer the EORA to the State and authorize the Mayor to***
20 ***execute the agreement. The Board voted unanimously 4-0 in favor. Motion***
21 ***carried.***

22
23 **Note: A copy of Pier and Ocean Access Agreement and Option Agreement to transfer EORA to the**
24 **NC Aquariums are incorporated herein by reference and hereby made a part of these minutes.**

25
26 **15. INTERIOR IMPROVEMENTS – OLD EMS STATION**

- 27
28 **a. Resolution Authorizing Construction Contract (08-11-12/R6)**
29 **b. Budget Amendment – General Fund**

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

34
35 The Board of Commissioners is scheduled to consider two actions to authorize interior improvements to the old EMS station
36 at the November 12 meeting. The proposed interior improvements are intended to enhance the marketability of the property
37 for sale, with the proceeds being earmarked to retire existing Town debt.

38
39 First, the Board is asked to approve the attached Resolution Authorizing a Construction Contract with Island Home Care,
40 Emerald Isle, NC, for the proposed interior improvements in an amount not to exceed \$21,000.

41
42 A complete list of the proposed improvements is included on the attached sheet distributed to all contractors who quoted the
43 work. The proposed improvements are intended to improve the appearance of the interior, and include items such as
44 wallboard repairs, painting, new doors, new hardware, new lighting fixtures, and new flooring, among others. The goal of
45 the project is to make the interior attractive and livable upon purchase, and eliminate the need for significant interior
46 improvements by the ultimate buyer. The exterior of the old EMS station is in excellent condition, with recent improvements
47 to the roof, siding, doors, windows, and decking, and recent landscaping improvements. Several prospective buyers who
48

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1
2 have visited the property have been very pleased with the exterior but disappointed with the interior. In my opinion, it will be
3 difficult to sell the old EMS station without some investment in the interior.

4
5 The Town received a total of 5 quotes for this work. I provided each of the contractors with the attached list of desired
6 improvements and also personally met the contractors at the site and explained the desired improvements in detail.
7 Although there are always unknowns with renovation projects, I made a significant effort to verify that the quotes received
8 were accurate and comparable. Each contractor provided an overall quote and a flooring allowance. Because some
9 contractors suggested slightly different allowance amounts for flooring, the quotes were evaluated on the base quote only,
10 as the allowance can be whatever the Town would like it to be. The 5 quotes received are listed below:

11

<u>Contractor</u>	<u>Base Quote</u>	<u>Flooring Allowance</u>	<u>Total</u>
12 Island Home Care, Emerald Isle, NC	\$15,587	\$5,307	\$20,894
13 House Menders, Emerald Isle, NC	\$16,047	\$5,900	\$21,947
14 Roger's Home Improvement, Cape Carteret, NC	\$19,773	\$7,649	\$27,422
15 Marshall Home Repairs, Emerald Isle, NC	\$20,436	\$2,332	\$22,768
16 Logan Remodeling, Cape Carteret, NC	\$20,707	\$6,000	\$26,707.

17 Because Island Home Care provided the most favorable quote, I am recommending that the Board approve the attached
18 resolution authorizing a contract with Island Home Care.

19
20
21 Second, the Board is asked to approve the attached budget amendment appropriating \$21,000 for this work. Because this
22 work was not originally anticipated, there are currently no funds budgeted for this work. The attached budget amendment
23 recommends appropriating General Fund balance for this work. I am reluctant to recommend the use of General Fund
24 balance, however, as noted earlier, I believe it will be very difficult to sell the old EMS station without completing interior
25 improvements. I remain hopeful that the cost of these improvements will be recouped in the ultimate sale price of the
26 property.

27
28 I will update the Town's sale flyer and photos upon completion of the interior improvements, and inform area real estate
29 agents of the completed improvements. I will also publicize the improvements on the Town's website and in the Emerald
30 Tidings newsletter in hopes of stimulating a return visit by one of the previous prospective buyers.

31
32 Commissioner Messer asked if there was any possibility of saving some money
33 on the flooring allowance or other areas so that it will come in less. Mr. Rush
34 said he was hopeful that it would and intended to try to minimize the costs on the
35 flooring in particular, and discuss with the contractor any other small things on
36 which they may be able to save money.

37
38 Commissioner Wootten mentioned the possibility of renting this unit once
39 improved until the real estate market shows sign of turning around, at least for
40 income to cover the debt service.

41
42 Mr. Rush agreed that was a viable option going forward, once improvements
43 were complete it would be a nice residence for someone, and could probably
44 generate around \$15,000 year rental income if necessary.

45
46 **Motion was made by Commissioner Hoover to approve the Resolution**
47 **Authorizing a Construction Contract for Interior Improvements to the Old**
48 **EMS Station by Island Home Care. The Board voted unanimously 4-0 in**
49 **favor. Motion carried.**

50

1
2 ***Motion was made by Commissioner Wright to approve the General Fund***
3 ***Budget Amendment. The Board voted unanimously 4-0 in favor. Motion***
4 ***carried.***

5
6 **Note: A copy of Resolution 08-11-12/R6 and any other items noted above under Agenda Item 15 are**
7 **incorporated herein by reference and hereby made a part of these minutes.**

8
9 **16. FY 08-09 EMERGENCY BUDGET REDUCTIONS**

- 10
11 **a. Anticipated Revenue Shortfall and Proposed Expenditure Reductions**
12 **b. Budget Amendment – General Fund**

13
14 Town Manager Frank Rush addressed the Board regarding this agenda item.
15 The following excerpt from his memo to the Board is provided for additional
16 background:

17
18 Due to declining revenues associated with the current economic slowdown, the Board of Commissioners is scheduled
19 to consider the attached budget amendment reducing General Fund revenues and expenditures by a total of \$160,000.
20 An additional \$10,000 reduction is also included in the attached budget amendment due to the fact that the recent Fire
21 Engine purchase was less than anticipated. The total amount of revenue and expenditure reductions included in the
22 attached budget amendment is \$170,000.

23
24 Revenue Reductions

25 The most significant revenue issue facing the Town is a continued decline in monthly sales tax revenues. Due to
26 reduced levels of retail spending by consumers and the continued slowdown in new construction (and less spending on
27 construction materials), sales tax revenues are not being realized at budgeted amounts. This trend is expected to
28 continue and perhaps worsen in the coming months. The Town's FY 08-09 budget adopted by the Board in June
29 anticipated a total of \$1,897,500 from sales tax revenues to balance FY 08-09 expenditures. In May, the Town revised
30 its FY 07-08 sales tax estimate to \$1,860,000, and the FY 08-09 budget assumed modest 2% growth in sales tax
31 revenues for FY 08-09. (For comparison, FY 06-07 actual sales tax revenues were approximately \$1,908,000.)
32 Because there is a 75-day +/- lag in sales tax distributions by the State, the Town did not receive the final FY 07-08
33 sales tax distribution until mid-September, and learned that actual sales tax collections for FY 07-08 were only
34 approximately \$1,826,000 (a total of \$34,000 less than the revised May estimate).

35
36 The continued decline in sales tax revenues is the result of decreased retail sales activity, but is also associated with
37 Emerald Isle's declining share of the overall Carteret County sales tax distribution. The overall Carteret County sales
38 tax distribution is based on the annual tax levy by the County and the other municipalities in the County, and because
39 Emerald Isle has enacted relatively smaller tax increases than other local governments, the Town's share of the overall
40 County sales tax distribution has now decreased from 7.52% to 7.15%. The percentage seems small, but when
41 applied to millions of dollars it has a profound impact on the Town's sales tax distribution. The Town will continue to
42 receive 7.15% of the overall County sales tax distribution until May 2009, when the percentage will be adjusted either
43 upward or downward, depending on the relative change in the Town's FY 08-09 tax levy compared to other towns and
44 the County.

45
46 The attached budget amendment reduces anticipated sales tax revenues by \$140,000, from \$1,897,500 included in the
47 adopted FY 08-09 budget down to the new revised estimate of \$1,757,500. The new revised estimate is based on a
48 sales tax growth assumption of 0% (no growth anticipated) and factors in the 7.15% distribution percentage for the
49 entire fiscal year.
50
51

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1
2 Although the Town's estimate for building permit revenues was believed to be very conservative when the budget was
3 adopted in June, the Town continues to see a steady decline in permit activity and building permit revenues. Through
4 October 31, 2008, the Town has permitted only 6 new residential structures, whereas a total of 15 had been permitted
5 through October 31, 2007. Building permit revenues were estimated at \$135,000 in the FY 08-09 budget adopted in
6 June, and through the first 4 months of the fiscal year the Town has collected only approximately \$35,000. (To put
7 these figures in perspective, the Town permitted a total of 114 new residential structures in FY 04-05 and collected
8 nearly \$270,000 of building permit revenues.) Because of the continued decline in building permit revenues, the
9 attached budget amendment decreases anticipated building permit revenues by \$10,000. I am fearful that this
10 reduction may not be large enough, and building permit revenues will be watched closely throughout the year. An
11 additional reduction may be necessary later in the fiscal year.
12

13 The remaining \$10,000 of revenue reductions in the attached budget amendment is associated with lower than
14 expected revenues from the sale of surplus property in 2009. As noted below, I am recommending that the Town
15 delay the replacement of two Town vehicles as part of the recommended expenditure reductions, and if these vehicle
16 replacements are delayed the Town will not realize any revenue from auctioning the old vehicles.
17

18 Finally, there is an additional \$10,000 revenue reduction due to the lower cost of the Town's new Fire Engine ordered
19 in July 2008. Because of the lower cost, the Town borrowed \$10,000 less for this purchase, and the attached budget
20 amendment includes a reduction in anticipated installment financing proceeds.
21

22 Expenditure Reductions

23 In response to the revenue concerns outlined above, I have instituted a limited hiring freeze for all vacant Town
24 positions and have also delayed two planned vehicle replacements. In addition, I have asked the Town's department
25 heads to identify operational savings in their department budgets to achieve expenditure reductions equal to the
26 revenue reductions described above.
27

28 A total of \$160,000 of expenditure reductions is included in the attached budget amendment that is associated with
29 declining revenues. There is also an additional \$10,000 reduction in the Fire Department budget associated with the
30 lower cost of the new Fire Engine. The total of \$160,000 of expenditure reductions is summarized below:
31

- 32 • \$31,000 by delaying the replacement of a Police Lieutenant vehicle. This vehicle has approximately 60,000
33 miles on it, but is planned to become the new Beach Patrol vehicle, which has in excess of 85,000 miles.
34 Based on discussions with Police Chief Hargett, we are hopeful that we can stretch out the life of the Beach
35 Patrol vehicle.
36
- 37 • \$25,000 by delaying the replacement of a Public Works pickup truck. This truck has approximately 90,000
38 miles on it. Based on discussions with Artie Dunn, Public Works Director, we believe we can stretch out the
39 life of this vehicle until next year.
40
- 41 • \$35,000 of salary and benefits savings by freezing a vacant Police position. This position will be revisited in
42 the spring and early summer when visitation returns to peak levels.
43
- 44 • \$23,000 of salary and benefits b freezing a vacant Public Works position. This position will be revisited in the
45 spring and early summer when visitation returns to peak levels.
46
- 47 • \$46,000 of miscellaneous reductions in the Governing Body, Administration, Planning and Inspections, Fire,
48 Public Works, and Parks and Recreation budgets. These reductions may impair the department's ability to
49 provide quality services slightly, but we will all be working hard to avoid any negative service consequences.
50 I greatly appreciate the department heads' cooperation as we address the current budget challenges.
51

52 We will continue to monitor FY 08-09 revenues and expenses as the fiscal year progresses, and will identify additional
53 budget adjustments if / when necessary. Fortunately, the Town remains in a solid financial position and continues to
54 operate with relatively new, well-maintained capital equipment that make it somewhat easier to accept vehicle

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1
2 replacement delays. The timing of the hiring freeze is also helpful, as we are better able to absorb personnel
3 reductions in the off-season due to reduced visitor activity. Any additional positions that become vacant in the coming
4 months will be carefully scrutinized before authorization is given to fill the position. Depending on the nature of the
5 position, the timing of the vacancy, the impact the vacancy may create on other expenses (overtime and part-time
6 expenses), and the consequences of not filling the position, I may authorize the filling of certain positions on a case-by-
7 case basis.
8

9 The Board should also note that I remain highly concerned about building permit revenues and the building inspections
10 workload, and will be watching revenues and the workload very carefully in the coming months. I sincerely hope that I
11 am wrong, but I fear that we will not experience an increase in new construction activity for many months, and perhaps
12 years. If we do not see signs of increasing activity, it may become necessary to lay-off one of our two building
13 inspectors. This is obviously a drastic action that will have serious personal consequences for the affected employee,
14 however, it may become necessary at some point later in the year. I have discussed this possibility with the affected
15 employee and Kevin Reed, Planning and Inspections Director, and have put them on notice that this is a possibility
16 later in the fiscal year.
17

18 As noted, we will continue to carefully monitor the Town's budget situation in the coming months, and will take
19 appropriate actions as necessary to insure that the Town remains in a solid financial position. For all of our sakes, we
20 hope that the economy will begin to improve and that no further actions will be necessary.
21

22 Commissioner Wootten asked Town Manager Rush to describe the timing of the
23 distribution of sales tax and the potential further reductions. Mr. Rush noted that
24 the distribution within the county changes each year in May and is based on the
25 property tax levied the year before, so in May of 2008 there was an adjustment
26 made in how the pieces of the pie were sliced up within the county. Mr. Rush
27 said that we have benefited from this method in the past, but it is now fluctuating
28 down more, and next year in May 2009 it will be based on the tax rates levied in
29 June 2008. Emerald Isle had a relatively small tax increase this year; some of
30 the other communities had bigger increases. Mr. Rush said you really get hurt by
31 that system if you decrease the tax rate, but he added that as a resort beach
32 community with a very large tax base you wouldn't want it any other way
33 because the alternative would be worse.
34

35 Commissioner Messer said in this particular instance we are being penalized for
36 having a lower tax rate. Mr. Rush said that it is all relative, it changes each year
37 depending on how the tax rate has changed, or if a particular community had a
38 significant annexation or new development.
39

40 Commissioner Wootten also mentioned the decision not to include the solid
41 waste as part of the tax base which does in the future make a significant impact.
42

43 ***Motion was made by Commissioner Wootten to approve the General Fund***
44 ***Budget Amendment. The Board voted unanimously 4-0 in favor. Motion***
45 ***carried.***
46

47 **Note: A copy of all items noted above under Agenda Item 16 are incorporated herein by reference**
48 **and hereby made a part of these minutes.**
49

1
2 **17. COMMENTS FROM TOWN CLERK, TOWN ATTORNEY, AND TOWN**
3 **MANAGER**
4

5 Town Manager Rush provided a brief update for the Board on the status of
6 various projects. The following is an excerpt from his Manager Comments memo
7 to the Board for additional information:
8

9 **Update – Town Administration Building**

10 Initial clearing, grading, and site work is complete, and construction of the block foundation should begin soon. There
11 was some concern expressed about the removal of excess earth material from the site. The dramatic existing
12 topography, desire to avoid the use of expensive retaining walls, and storm water management features made it more
13 cost effective to remove excess earth material from the site rather than increasing the elevation of the building pad.
14

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

16 Onslow County and Carteret County both approved their respective \$83,000 contributions to this project in October.
17 The Corps of Engineers is currently soliciting bids for the dredging work, and will open bids on November 25. We are
18 still awaiting permit approvals to place the sand directly at The Point, but the permits are expected in the coming
19 weeks. Assuming that the bids are reasonable and the contractor does not have any significant equipment problems,
20 this dredging work should be done sometime between December and April, with placement of up to 75,000 cy of sand
21 at The Point.
22

23 **Reopening of the Inlet Drive Vehicle Ramp**

24 I have arranged for LB Page to bulldoze sand from the existing flat beach near the Inlet Drive vehicle ramp to enable
25 the reopening of the Inlet Drive vehicle ramp. Work should occur soon after November 15, the first day bulldozing is
26 allowed under our permit. I am planning to hold off on any additional bulldozing at The Point due to the planned
27 placement of AIWW dredge spoils later this winter or spring.
28

29 **30-Year Beach Nourishment Plan – To Qualify for Static Line Exception**

30 I have not yet had an opportunity to begin detailed work on this plan, but hope to complete a draft by the December
31 Board meeting. Early financial projections indicate that the Town can likely meet its needs with a combination of
32 anticipated State funding, room occupancy taxes (collected by the Beach Commission), and an annual Town
33 contribution (perhaps equivalent to 1-2 cents on the General Fund tax rate). I still hope to have the Town's plan
34 considered by the Coastal Resources Commission in the spring 2009, assuming Board approval of the plan.
35

36 **Update – Beach Walkway Improvements**

37 Additional benches have been added at the Cedar Tree Lane and Santa Maria Drive beach walkways. Additional
38 benches have also been added to the new observation decks at the Western Ocean Regional Access and Eastern
39 Ocean Regional Access. The new Channel Drive walkway is now complete.
40

41 Alesia Sanderson, Parks and Recreation Director, is currently soliciting quotes for the reconstruction of the Gregg
42 Street and Ocean Oaks Drive walkways. Quotes are due on November 20, and we hope to have a contract award on
43 the Board's December meeting agenda.
44

45 A new "Hatteras"-type ramp will also be installed at the end of the new handicapped ramp at the Western Ocean
46 Regional Access to prevent steep drop-offs at the end of the ramp.
47

48 **Update – Parks Maintenance Building**

49 Public Works continues to make progress on the completion of office space in the new Parks Maintenance Building.
50 All work is complete except for HVAC and interior finish work. We hope to have the new office space complete before
51 Thanksgiving, at which time Parks Maintenance staff will be fully transitioned to the new building.
52
53

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1
2 **Bushwhackers / Bogue Inlet Pier Sign**

3 I have attached a copy of the Order and Final Judgment signed by Judge Jack Jenkins on October 11. The Order
4 establishes a November 30 deadline for the removal of the sign. Public Works will install new public directional signs
5 at the corner of NC 58 and Bogue Inlet Drive at the same time, if not sooner.
6

7 **Community Center Schedule – Closed on Thanksgiving Day and Friday After**

8 The Community Center is always closed on major holidays, and will be closed again on Thanksgiving Day this year. In
9 recent years we have opened the Community Center on the Friday after Thanksgiving in order to provide the best
10 possible service for our customers. Attendance has generally been very poor on that Friday, however, and we are not
11 planning to open the Community Center on that Friday this year. We are also likely to take the same approach for the
12 Friday after Christmas this year.
13

14 **June 30, 2008 Financial Report and Audit**

15 I have reviewed a draft of this report, and it will likely be ready for presentation to the Board at the December Board
16 meeting. The Town's General Fund ended FY 07-08 with a \$196,000 surplus, of which \$150,000 was a direct
17 appropriation to fund balance by the Board.
18

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

20 I have not yet had an opportunity to schedule a meeting with the local business owners about these issues, but still
21 plan to do so. My goal is to have proposed ordinance amendments for Board consideration prior to next summer.
22

23 **Surfing / Pier Ordinance Amendment**

24 Mayor Schools, Chief Hargett, and I continue to work with the local surfing community and Mike Stanley, owner of
25 Bogue Inlet Pier, to develop mutually agreeable amendments to the Town's surfing ordinance. I hope to have a draft
26 amendment for the Board's consideration at the December meeting.
27

28 **Vacant Part-Time Position – AfterSchool Program Director**

29 The Town's AfterSchool Program Director abruptly resigned without communications recently, and this departure has
30 created difficulties for Parks and Recreation staff. Please refer interested applicants to Alesia Sanderson, Parks and
31 Recreation Director. The position has an average weekly schedule of 20 – 25 weeks at an hourly rate of \$12.
32

33 **Coastal Resources Advisory Council (CRAC) Appointment**

34 My term on the CRAC will expire soon, and I am currently up for re-appointment. Mayor Schools has sent a letter
35 nominating me for reappointment, and also solicited similar letters from other area towns. I am enjoying my service on
36 the CRAC, and I am learning a great deal more about CAMA, etc. I am hopeful that the Coastal Resources
37 Commission will re-appoint me to the CRAC.
38

39 **CAMA Land Use Plan Amendments Associated with New Unified Development Ordinance (UDO)**

40 We have scheduled a public hearing for several CAMA Land Use Plan amendments for the December Board meeting.
41 These amendments are all associated with the recent adoption of the new UDO. Upon approval by the Board, the
42 amendments will be forwarded to the CRC for approval in February.
43

44 **Fairfax Road Beach Walkway**

45 The Fairfax Road beach walkway is widely used by the general public to access the beach in that area of town,
46 however, it is a private access easement. The residents in that area have asked the Town to accept the walkway for
47 maintenance and the Town is willing to do so, however, we can not accept it unless the private owner assigns the
48 easement to the Town.
49

50 Research by Town Attorney Richard Stanley indicates that the walkway easement is still owned by the original
51 developer of that subdivision, which in this case is the Howe Family. Residents in the Fairfax Drive area and the Town
52 have made numerous requests for the Howe Family to assign the easement to the Town going back as far as 2004,
53 but we have not received a response.
54

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1
2 I was reviewing some old files the other day and came across the correspondence on this matter. I have attached
3 copies of all formal correspondence since June 2005 (however, initial requests began in 2004) for your review. I would
4 like to be able to help the residents in this area and have the Town accept maintenance responsibilities for the
5 walkway, and have considered asking the Board to condemn the easement. My sense is that it is not important to the
6 Howe Family, but that they just have not had the time or the urgency to execute the easement prepared by Richard
7 Stanley back in 2005.

8
9 Please let me know if you have any interest in pursuing the condemnation of this easement.

10
11 **Time Warner Cable Letter**

12 I received the attached letter from Time Warner Cable on November 7, 2008 (right before I prepared this memo). In all
13 honesty, I'm not sure what it means or if it's anything to be concerned about, but I wanted to pass it along to you. I will
14 try to get more information prior to the November 12 meeting.

15
16 **Offshore Oil and Gas Exploration Symposium**

17 I have attached a flyer for this symposium at the Carteret Community College on Wednesday, November 19 from 8:30
18 am to 1:00 pm if you are interested.

19
20 **Potential Purchasing Partnerships**

21 Several towns and the County recently met to discuss the potential benefits of group purchasing arrangements among
22 the towns and the County. I am not sure if this will yield any meaningful opportunities for Emerald Isle, however, we
23 plan to explore the possibilities. I will update the Board on any beneficial arrangements that might come out of this.

24
25 **My Schedule**

26 I will be out of the country between November 23 and November 28. Mitsy Overman, Assistant Town Manager, and
27 Rhonda Ferebee, Town Clerk, will be available to assist you during that time if necessary. I can also likely be reached
28 on my cell phone during that time. (I will be in Cancun, Mexico during the week of Thanksgiving.)

29
30 **18. COMMENTS FROM BOARD OF COMMISSIONERS AND MAYOR**

31
32 There were no further comments from the Board of Commissioners or Mayor.

33
34 **19. ADJOURN**

35
36 ***Motion was made by Commissioner Messer to adjourn. The Board voted***
37 ***unanimously 4-0 in favor. Motion carried.***

38
39 ***The meeting was adjourned at 7:10 pm.***

40
41 Respectfully submitted:

42
43
44
45 Rhonda C. Ferebee, CMC
46 Town Clerk
47