

1 MINUTES OF THE REGULAR SCHEDULED MEETING
2 OF THE EMERALD ISLE BOARD OF COMMISSIONERS
3 TUESDAY, OCTOBER 7, 2008 – 6:00 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 6:00 PM.
7

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

11 Others present: Town Attorney Richard Stanley, Town Manager Frank Rush,
12 Asst. Town Manager/Finance Officer Mitsy Overman, Town Clerk Rhonda
13 Ferebee, and Planning Director Kevin Reed.
14

15 After roll call all who were present recited the Pledge of Allegiance.
16

17 **4. ADOPTION OF AGENDA**
18

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

22 **5. PROCLAMATIONS / PUBLIC ANNOUNCEMENTS**
23

24 Mayor Schools noted the following announcements for the public:
25

- 26 • **Friday Free Flick – Friday, October 10 – 7 pm – Community Center –**
27 **“Spiderwick Chronicles”**
- 28 • **6th Annual Gordie McAdams Speckled Trout Fishing Tournament –**
29 **October 18 - November 19**
- 30 • **5th Annual Emerald Isle Triathlon – Saturday, October 18 – 8 am –**
31 **Eastern Ocean Regional Access**
- 32 • **Household Hazardous Waste Collection – Saturday, October 18 –**
33 **8 am – 1 pm – Lowe’s Home Improvement (NC 24, Cape Carteret)**
- 34 • **Halloween Carnival – Friday, October 24 – 6 pm – 8 pm – Community**
35 **Center**
- 36 • **Planning Board Regular Meeting – Monday, October 27 – 6 pm –**
37 **Community Center**
- 38 • **Dedication Ceremony – New EMS Station – Saturday, November 8 –**
39 **11 am – New EMS Station**
- 40 • **Board of Commissioners Regular Meeting – Wednesday**
41 **November 12 - 6 pm – Community Center – (note that this is the**
42 **second Wednesday of the month, as indicated in annual meeting**
43 **schedule adopted on December 11, 2007)**
- 44 • **Emerald Isle Holiday Parade – Friday, November 29 – 4 pm – Emerald**
45 **Drive**
46

1
2 **6. CONSENT AGENDA**
3

- 4 a. Tax Refunds/ Releases
5 b. Minutes – September 9, 2008 Regular Meeting
6 c. Resolution Authorizing Beach Vitex Grant Agreement (08-10-07/R1)
7 d. Budget Amendment – Parks and Recreation
8

9 *Motion was made by Commissioner Wright to approve the items on the*
10 *Consent Agenda. The Board voted 5-0 in favor. Motion carried.*

11
12 Note: A copy of Resolutions 08-10-07/R1 and all other Consent Agenda items are incorporated
13 herein by reference and hereby made a part of these minutes.
14

15 **7. PUBLIC COMMENT**
16

17 There were no comments from the Public.
18

19 **8. PROPOSED ZONING MAP AMENDMENTS – BOGUE BANKS WATER**
20 **CORPORATION – 7412 EMERALD DRIVE (GOVERNMENT TO**
21 **RESIDENTIAL-2), BOGUE BANKS WATER CORPORATION – 9204 COAST**
22 **GUARD ROAD (GOVERNMENT TO RESIDENTIAL MULTI-FAMILY), AND**
23 **RONNIE THIGPEN – 2412/2414 EMERALD DRIVE (RESIDENTIAL-2 TO**
24 **RESIDENTIAL MULTI-FAMILY)**
25

- 26 a. Public Hearing
27 b. Consideration of Zoning Map Amendments
28

29 Planning Director Kevin Reed addressed the Board regarding this agenda item,
30 summarizing the proposed zoning map amendments based on public input
31 received during public hearing at the Board's August meeting. The following
32 excerpt from Frank Rush, Town Manager's memo to the Board is provided for
33 additional background:
34

35 The Board of Commissioners is scheduled to consider 3 proposed zoning map amendments at the October 7 meeting.
36 All 3 zoning map amendments stem from public input received during the Board's review of the new Unified
37 Development Ordinance and associated zoning map amendments in July, August, and September. For procedural
38 reasons, these 3 amendments could not be incorporated into those actions at the September meeting. The Board is
39 now asked to consider these amendments at the October 7 meeting.
40

41 The attached memo from Kevin Reed, Planning and Inspections Director, includes additional information about the
42 proposed zoning map amendments. Maps of each proposed amendment are attached, along with an official Record of
43 Zoning Amendment for each. Additional comments about each are presented below:
44

- 45 1. Bogue Banks Water Corporation (BBWC) – 7412 Emerald Drive – Government (G) to
46 Residential-2 (R-2)
47
48

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE COMMISSIONERS
OCTOBER 7, 2008
Page 3 of 13

1
2 This amendment involves the BBWC's main facility adjacent to Town Hall. BBWC requests that the
3 property be rezoned to a residential zone in the event that BBWC ever ceases operations at this site.
4 Although there are no plans to do so, this change would preserve flexibility for BBWC.
5

6 The property to the east is zoned R-2, thus this rezoning would be contiguous to existing R-2 zoned
7 properties. The Town Hall campus to the west is zoned G, while the property to the north is zoned
8 Residential Multi-Family (RMF). The property to the south, across NC 58, is zoned Business (B).
9

10 The proposed rezoning is not consistent with the Town's Land Use Plan, which projects this area as
11 "Commercial Corridor". Town staff have no significant concerns about the proposed rezoning, however,
12 and if approved by the Board, the Land Use Plan will be amended. The property directly east is
13 projected as "Single-Dual Family Residential" (the appropriate classification for this rezoning request) in
14 the Land Use Plan.
15

16 2. Bogue Banks Water Corporation (BBWC) – 9204 Coast Guard Road – Government (G) to Residential
17 Multi-Family (RMF)

18 This amendment involves the BBWC's water tank site near the intersection of Coast Guard Road and
19 Pebble Beach condominiums. BBWC requests that the property be rezoned to a residential zone in the
20 event that BBWC ever ceases operations at this site. Although there are no plans to do so, this change
21 would preserve flexibility for BBWC.
22

23 The property to the west and north is zoned RMF, thus this rezoning would be contiguous to existing
24 RMF zoned properties. The property to the east is zoned R-2, while the property to the south is zoned
25 Government.
26

27 The proposed rezoning is consistent with the Town's Land Use Plan, which projects this area as "Mixed
28 Residential". Town staff have no significant concerns with the proposed rezoning.
29

30 3. Ronnie Thigpen – 2412 / 2414 Emerald Drive – Residential-2 (R-2) to Residential Multi-Family (RMF)

31 This proposed zoning map amendment involves properties previously zoned Residential Motel-Hotel
32 (RMH) under the old zoning ordinance. With the elimination of the RMH zone as part of the UDO, these
33 properties were rezoned to R-2. The property owner, Mr. Thigpen, requests that his right to construct
34 multi-family units under RMH be preserved with the adoption of the UDO, which would necessitate a
35 rezoning to RMF.
36

37 The property to the east is zoned RMF, thus this rezoning would be contiguous to existing RMF zoned
38 properties. The property to the west and south are zoned R-2. Bogue Sound is located to the north.
39

40 The proposed rezoning is not consistent with the Town's Land Use Plan, which projects this area as
41 "Single-Dual Family Residential". Town staff have no significant concerns with the proposed rezoning,
42 however, and if approved by the Board, the Land Use Plan will be amended. The property directly east
43 is projected as "Mixed Residential" (the appropriate classification for this rezoning request) in the Land
44 Use Plan.
45

46 ***Motion was made by Commissioner Messer to open the Public Hearing for***
47 ***all 3 proposed zoning map amendments. The Board voted unanimously 5-0***
48 ***in favor. Motion carried.***
49

50 Larry Spell, President, Bogue Banks Water Corporation, a non-profit corporation,
51 noted that all people who had meters were owners of the company, and so, in
52

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE COMMISSIONERS
OCTOBER 7, 2008
Page 4 of 13

1
2 the rare event that these properties might not be used for the water company,
3 they wanted to have the flexibility to get the most money for those properties.

4
5 ***Motion was made by Commissioner Hoover to close the Public Hearing.***
6 ***The Board voted unanimously 5-0 in favor. Motion carried.***

7
8 Commissioner Wright read aloud the following findings for the Record of Zoning
9 Amendments:

10
11 **Subject: The rezoning of 7412 Emerald Drive from Government (G) to**
12 **Residential-2 (R-2)**

13
14 The above subject rezoning is not consistent with the Town of Emerald Isle's
15 2004 CAMA Land Use Plan, however, it is both reasonable and in the public
16 interest because it is immediately adjacent to property zoned R-2, and the
17 Town's Land Use Plan can easily be amended to make the rezoning consistent
18 with the community's goals; and the community's overall interest in maintaining a
19 small-town atmosphere.

20
21 **The Board agreed with this statement by a unanimous 5-0 vote.**

22
23 **Subject: The rezoning of 9204 Coast Guard Road from Government (G) to**
24 **Residential Multi-Family (RMF)**

25
26 The above subject rezoning is consistent with the Town of Emerald Isle's 2004
27 CAMA Land Use Plan. The rezoning is both reasonable and in the public interest
28 because the property to be rezoned is immediately adjacent to existing property
29 zoned RMF, the Town's Land Use Plan projects this areas as Mixed Residential;
30 and the community's overall interest in maintaining a small-town atmosphere.

31
32 **The Board agreed with this statement by a unanimous 5-0 vote.**

33
34 **Subject: The rezoning of 2412 and 2414 from Residential (R-2) to**
35 **Residential Multi-Family (RMF)**

36
37 The above subject rezoning is not consistent with the Town of Emerald Isle's
38 2004 CAMA Land Use Plan, however, it is reasonable and in the public interest
39 because it is immediately adjacent to existing property zoned RMF, the Town's
40 Land Use Plan can be easily amended to make the rezoning consistent with the
41 community's goals; and the community's overall interest in maintaining a small-
42 town atmosphere.

43
44 **The Board agreed with this statement by a unanimous 5-0 vote.**
45

1
2 ***Motion was made by Commissioner Hoover to approve the zoning map***
3 ***amendment for 7412 Emerald Drive from Government to Residential-2. The***
4 ***Board voted unanimously 5-0 in favor. Motion carried.***

5
6 ***Motion was made by Commissioner Messer to approve the zoning map***
7 ***amendment for 9204 Coast Guard Road from Government to Residential***
8 ***Multi-Family. The Board voted unanimously 5-0 in favor. Motion carried.***

9
10 ***Motion was made by Commissioner Hedreen to approve the zoning map***
11 ***amendment for 2412 / 2414 Emerald Drive from Residential-2 to Residential***
12 ***Multi-Family. The Board voted unanimously 5-0 in favor. Motion carried.***

13
14 **Note:** A copy of all above noted Record of Zoning Amendments are incorporated herein by
15 reference and hereby made a part of these minutes.

16
17 **9. MEMORANDUM OF AGREEMENT – TRANSFER EASTERN REGIONAL**
18 **ACCESS TO THE NORTH CAROLINA AQUARIUMS FOR THE**
19 **CONSTRUCTION OF “THE AQUARIUM PIER AT EMERALD ISLE”**

20
21 Town Manager Frank Rush requested that the Board again defer consideration
22 of this item until November as the appropriate feedback on the Memorandum of
23 Agreement from the State Attorney General’s Office had still not been received.

24
25 **10. BOGUE INLET AIWW CROSSING DREDGING**

- 26
27 **a. Resolution Authorizing Funding Partnership with NC Division of**
28 **Water Resources and Area Local Governments for Bogue Inlet AIWW**
29 **Crossing Dredging (08-10-07/R2)**
30 **b. Budget Amendment – Beach Nourishment Debt Service / Reserve**
31 **Fund**

32
33 Town Manager Frank Rush addressed the Board concerning this agenda item.
34 The following excerpt from Mr. Rush’s memo to the Board is provided as
35 additional background:

36
37 The Board of Commissioners is asked to approve two items associated with a new funding partnership for
38 maintenance dredging of the Atlantic Intracoastal Waterway (AIWW) crossing at Bogue Inlet. First, the Board is asked
39 to authorize the attached Resolution Authorizing a Funding Partnership with the NC Division of Water Resources and
40 Area Local Governments to accomplish this dredging work this winter. Second, the Board is asked to approve a Beach
41 Nourishment Debt Service / Reserve Fund budget amendment appropriating \$83,000 for the Town’s contribution
42 toward this project.

43
44 The US Army Corps of Engineers (“the Corps”) has historically maintained the Bogue Inlet connecting channel (“the
45 connecting channel”) and the Atlantic Intracoastal Waterway in our area (“the Bogue Inlet AIWW crossing”), and these
46 navigable waterways are enjoyed by many Onslow-Carteret area businesses, residents, property owners, and visitors.
47 The dredging of both of these waterways has historically been funded 100% by the Federal government, however,
48 budget difficulties at the Federal level in recent years have reduced and / or eliminated funding for this work. As you

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE COMMISSIONERS
OCTOBER 7, 2008
Page 6 of 13

1
2 may recall, the NC Division of Water Resources and Onslow-Carteret area local governments partnered in 2006 to
3 provide approximately \$800,000 for dredging work in both waterways, and this new request is similar to the 2006
4 partnerships.
5

6 First, it is important to understand the differences between the two waterways. They are actually two separate projects
7 for the Corps, and that they are dredged with different types of dredges and have historically been funded with different
8 Federal appropriations.
9

10 The Bogue Inlet Connecting Channel

11 The Bogue Inlet connecting channel is the approximately 20,000 linear ft channel that leads from the AIWW south to
12 the Atlantic Ocean, including the ocean bar. The connecting channel has been historically maintained by the Corps
13 with government-owned sidecast dredges, which simply dredge the material from the bottom and cast it approximately
14 100 – 150 ft. to the side away from the channel. The sidecast dredge does not have the capability to place dredged
15 material on the beach, and is intended solely to provide short-term navigation benefits with an expectation that
16 repeated dredging will be necessary to keep the channel open when shoaling occurs. The authorized depth of the
17 connecting channel is 6 ft. at mean low water.
18

19 The Corps has historically dredged the connecting channel several times per year as needed, depending on shoaling
20 conditions and the availability of the government-owned sidecast dredges. It is important to note that the entire 20,000
21 linear ft. channel is not dredged during each dredging cycle or even each year. In fact, some areas of the connecting
22 channel are dredged relatively infrequently, as shoaling conditions in certain areas of the connecting channel are
23 minimal and may not require significant dredging.
24

25 There appears to be adequate funding available for dredging in the connecting channel in Federal FY 08-09. A total of
26 approximately \$625,000 is currently available in the Federal budget for this work over the next year and perhaps
27 beyond. We do not foresee the need for another State / local funding partnership for the Bogue Inlet connecting
28 channel for at least another year. The Board should note that we have thoroughly investigated the potential to transfer
29 some of the \$625,000 for the connecting channel to the AIWW crossing project, however, it is not possible to transfer
30 these funds without action by Congress, which would be challenging, time consuming, and potentially detrimental to
31 our interests in the long-term.
32

33 The Bogue Inlet AIWW Crossing

34 The Bogue Inlet AIWW crossing is an approximately 5,000 linear ft. segment of the AIWW located adjacent to Cedar
35 Point at its intersection with the Bogue Inlet connecting channel. (A map depicting the Bogue Inlet AIWW crossing and
36 the Bogue Inlet connecting channel is included in the attached summary sheet.) The Bogue Inlet AIWW crossing is
37 one of 8 AIWW crossings in North Carolina maintained every 2 - 3 years by the Corps, and is usually dredged with a
38 privately-owned pipeline dredge that is under contract to the Corps. The pipeline dredge uses suction to remove
39 dredge spoils and then pumps the spoils away to a designated disposal site, often the ocean beach. The Corps
40 usually groups the work at all 8 AIWW crossings into one competitively-bid contract to achieve an economy of scale
41 and minimize expensive dredge mobilization costs. As such, when the Bogue Inlet AIWW crossing is dredged it is
42 usually part of a much larger, state-wide contract. The authorized depth of the Bogue Inlet AIWW crossing is 12 ft. at
43 mean low water.
44

45 Appropriations for the Bogue Inlet AIWW crossing are usually included in a larger appropriation for the entire AIWW in
46 North Carolina, and are not typically budgeted separately (due to the interdependent grouping of the 8 AIWW crossings
47 into one contract). In Federal FY 08-09, the Corps intends to dredge Bogue Inlet, 3 other AIWW crossings, and a few
48 other areas under one contract. Unfortunately, there is not sufficient funding in the FY 08-09 Federal budget for this
49 work. Fortunately, however, the North Carolina Division of Water Resources (DWR) has agreed to provide 50% of
50 necessary funding for this work. DWR is seeking partnerships with affected local governments to provide the
51 remaining 50% necessary for this work. The State's strategy is similar to that employed over the past few years in
52 various locations along the AIWW in North Carolina, including the Bogue Inlet AIWW crossing in 2006. In 2006, the
53 State provided a total of \$207,000, or 50% of the non-Federal cost of this work. In 2006, Onslow-Carteret area local
54 governments provided the remaining 50%, with Onslow County contributing \$69,000, Carteret County contributing

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE COMMISSIONERS
OCTOBER 7, 2008
Page 7 of 13

1
2 \$69,000, and area towns contributing \$69,000. Emerald Isle contributed the largest share of funding among the area
3 towns - \$45,000.
4

5 The Bogue Inlet AIWW crossing was last dredged in July 2006, and the dredged material was deposited on the beach
6 at The Point in Emerald Isle. The Corps has historically placed dredge spoils from the Bogue Inlet AIWW crossing on
7 the beach in Emerald Isle, and the 08-09 dredging would result in the placement of approximately 50,000 cubic yards
8 of sand at The Point. The Point continues to experience significant accretion, and this additional sand would be used
9 to raise the elevation of the flat beach in this area.

10
11 According to the most recent survey completed by the Corps (September 16, 2008), the Bogue Inlet AIWW crossing is
12 as shallow as 1-2 feet in some places, and the majority of the width of the AIWW channel is shoaled to a great degree.
13 I have attached copies of the September 16 survey for your information.
14

15 Resolution Authorizing Funding Partnership with NC Division of Water Resources and Area Local Governments

16 The attached resolution authorizes the Town's participation in a State / local funding partnership for the dredging of the
17 Bogue Inlet AIWW crossing in 08-09. The resolution also authorizes the Town Manager to seek contributions from
18 both Onslow County and Carteret County for this project.
19

20 As noted, the US Army Corps of Engineers and the NC Division of Water Resources have again developed a strategy
21 to dredge several AIWW crossings in NC this winter, including the Bogue Inlet AIWW crossing. Requests for bids are
22 now circulating, and the Corps will open bids in early November. All work will be done within the specified
23 "environmental window" between November 15, 2008 and April 1, 2009. The total non-Federal cost for the Bogue Inlet
24 AIWW crossing work is approximately \$498,000, and DWR has again agreed to provide 50% of necessary funding for
25 this work. DWR is again seeking a 50% cost-share from Onslow-Carteret area local governments. Although we would
26 much rather have the Federal government continue funding this work at 100%, we are extremely fortunate that the NC
27 Division of Water Resources has stepped up to the plate to help yet again. Without DWR funding and the requested
28 local government contributions, this work will not be done.
29

30 The attached summary sheet includes the details of a new funding partnership for the 08-09 dredging of the Bogue
31 Inlet AIWW crossing. The total amount requested from Onslow-Carteret area local governments for the Bogue Inlet
32 AIWW crossing dredging is approximately \$249,000. The new funding partnership again calls for a 1/3, 1/3, 1/3 split
33 between Onslow County (\$83,000), Carteret County (\$83,000), and area towns (\$83,000), however, I am
34 recommending that Emerald Isle absorb the entire \$83,000 cost and not request additional funding from other area
35 towns. The rationale for this approach is that 1) the last effort in 2006 required a significant amount of time and effort
36 by Emerald Isle officials for limited return, 2) Emerald Isle will receive the added benefit of the sand at The Point, and
37 3) the likely difficulty for the other area towns to afford a significant contribution. I am hopeful that if the Board concurs
38 with this approach that the other area towns will appreciate Emerald Isle's gesture on this project, and also the financial
39 contributions from both Onslow County and Carteret County.
40

41 Because this work involves a beach nourishment component, Carteret County is authorized to use room occupancy tax
42 funds administered by the Carteret County Beach Commission. As such, the Carteret County Beach Commission will
43 consider the Town's request for an \$83,000 contribution later in October. I am hopeful that the Beach Commission will
44 approve this request, and we do not anticipate seeking General Fund monies from the Carteret County Board of
45 Commissioners. We have not yet determined the schedule for the Onslow County request, however, I expect that
46 Mayor Schools and I will receive assistance from Swansboro officials and concerned citizens to put forth this request
47 later this month. We need to secure approval from all area local governments by November 1.
48

49 Budget Amendment – Beach Nourishment Debt Service / Reserve Fund

50 The attached budget amendment appropriates \$83,000 from the Town's Beach Nourishment Debt Service / Reserve
51 Fund for this project. Because the project involves a beach nourishment component, these funds can be appropriated
52 for this purpose.
53
54

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE COMMISSIONERS
OCTOBER 7, 2008
Page 8 of 13

1
2 The Board should note that the Beach Nourishment Debt Service / Reserve Fund remains in good financial condition,
3 however, the projected ending balance is now only approximately \$308,000. The use of \$83,000 for this project will
4 reduce this projected amount to approximately \$225,000. This figure is below the Town's policy calling for a perpetual
5 projected balance of \$300,000, however, I am recommending that the Board appropriate the necessary funds for the
6 following reasons:

- 7
8 1. the essential need to maintain adequate navigation channels in and around Emerald Isle, and the significant
9 impact on our economy and quality of life,
10 2. the significant benefit provided by placing dredge spoils at The Point in Emerald Isle, and
11 3. the fact that we are nearing the end of the Town's beach nourishment bond obligations (FY 2010-11 is the
12 last year that the special district taxes will be in effect, and all necessary funds for debt service payments will
13 be in hand by that time).

14
15 Non-debt service expenditures from the Town's Beach Nourishment Debt Service / Reserve Fund must be approved
16 by the State Treasurer's Office. If the Board approves the attached budget amendment, I will submit a formal request
17 for approval to the State Treasurer's Office. I do not anticipate any problems securing this approval.

18
19 ***Motion was made by Commissioner Wootten to approve the Resolution***
20 ***Authorizing Funding Partnership with NC Division of Water Resources and***
21 ***Area Local Governments for Bogue Inlet AIWW Crossing Dredging. The***
22 ***Board voted unanimously 5-0 in favor. Motion carried.***

23
24 ***Motion was made by Commissioner Messer to approve the Budget***
25 ***Amendment for the Beach Nourishment Debt Service / Reserve Fund. The***
26 ***Board voted unanimously 5-0 in favor. Motion carried.***

27
28 **Note: A copy of Resolution 08-10-07/R2 and related Budget Amendment are incorporated herein by**
29 **reference and hereby made a part of these minutes.**

30
31 **11. RESOLUTION AMENDING SOLID WASTE CONTRACT WITH SIMMONS**
32 **& SIMMONS MANAGEMENT (08-10-07/R3)**

33
34 Town Manager Frank Rush addressed the Board concerning this agenda item.
35 The following excerpt from Mr. Rush's memo to the Board is provided as
36 additional background:

37
38 The Board of Commissioners is scheduled to consider the attached resolution amending the Town's contract with
39 Simmons & Simmons Management for solid waste services. If approved, the Town's monthly payment for solid waste
40 services would increase from \$60,358 to \$61,200. On an annual basis, this amounts to a \$10,104, or 1.4%, increase
41 in solid waste contract costs. The proposed increase is related to significantly higher diesel fuel costs than anticipated
42 when the contract was executed in 2006.

43
44 The Town's contract with Simmons & Simmons calls for a fixed monthly payment, adjusted annually on January 1 for
45 inflation, with no other adjustments for fuel costs. It is somewhat common in municipal solid waste contracts to include
46 a formula for a contract adjustment due to changing fuel costs, however, the Town's contract does not include such a
47 clause. In recognition of this fact, Simmons & Simmons' quality service over the past 21 months, and in the interest of
48 maintaining this service quality in the future, the Board is asked to consider the proposed increase.

49
50 Simmons & Simmons' contract was originally based on an estimated cost of \$3.10 per gallon for diesel fuel. As noted
51 on the attached summary provided by Simmons & Simmons, diesel fuel costs reached as high as \$4.71 per gallon in

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE COMMISSIONERS
OCTOBER 7, 2008
Page 9 of 13

1
2 July 2008. An internet search indicates that the average diesel fuel price is now approximately \$3.99 per gallon (as of
3 September 29, 2008). Simmons & Simmons uses approximately 20,000 gallons of diesel fuel per year, thus the diesel
4 fuel price increase from \$3.10 to \$3.99 equates to nearly \$18,000 per year. The proposed increase in the Town's
5 monthly payment (\$10,104 annually) is intended to essentially meet Simmons & Simmons "half-way" on this issue,
6 recognizing that the Town has no contractual obligation to adjust the payment amount, but also reflecting the Town's
7 interest in Simmons and Simmons remaining financially viable in the future.
8

9 The Board should recall that the Town's contract with Simmons & Simmons was amended in October 2007 to eliminate
10 the performance bond requirement, which resulted in additional unanticipated savings for Simmons & Simmons. That
11 adjustment, combined with this proposed increase, should result in Simmons & Simmons being nearly immune from
12 the impacts of the increasing fuel costs. Simmons & Simmons' contract amount will also be adjusted in January 2009
13 again based on the CPI for the previous 12 months.
14

15 The attached resolution also includes language that both parties will consider additional adjustments (either up or
16 down) in the future if diesel fuel prices deviate significantly from the \$4.00 per gallon range.
17

18 Commissioner Messer asked to be excused as Simmons & Simmons rents
19 property in which he has an interest.
20

21 ***Motion was made by Commissioner Hoover to excuse Commissioner***
22 ***Messer. The Board voted 4-0 in favor. Motion carried.***
23

24 ***Motion was made by Commissioner Wright to approve the Resolution***
25 ***Amending Solid Waste Contract with Simmons & Simmons Management.***
26 ***The Board voted 4-0 in favor. Motion carried.***
27

28 ***Motion was made by Commissioner Hedreen to have Commissioner***
29 ***Messer rejoin the meeting. The Board voted 4-0 in favor. Motion carried.***
30

31 **12. COMMENTS FROM TOWN CLERK, TOWN ATTORNEY, AND TOWN**
32 **MANAGER**
33

34 There were no comments from the Town Clerk.
35

36 Town Attorney Richard Stanley briefed the Board on the status of the Bogue Inlet
37 Pier / Bushwhackers sign case that was recently tried in court. The Bogue Inlet
38 Pier / Bushwhackers sign located at the corner of NC 58 and Bogue Inlet Drive
39 was completely destroyed in a storm in January 2006. At that time, the Town's
40 Planning and Inspections Director informed the sign owner that it could not be
41 replaced because it was a non-conforming, off-premises sign. The Town's sign
42 ordinance does not allow replacement of non-conforming, off-premises signs that
43 are more than 50% damaged. The sign owner ignored the Planning and
44 Inspections Director's guidance and replaced the sign with a new sign, and was
45 then successful in securing a temporary restraining order that prevented the
46 Town from removing the new sign. The case was delayed several times over the
47 past two years, but was finally considered on September 26. Judge Jack Jenkins
48 reviewed the testimony of both parties, and has ruled in the Town's favor. The

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE COMMISSIONERS
OCTOBER 7, 2008
Page 10 of 13

1
2 sign must be removed by November 30, 2008. Town Attorney Stanley noted the
3 judge's concern about the lack of directional signs for businesses located off of
4 NC 58, including Bogue Inlet Pier and Bushwhackers Restaurant. Town Attorney
5 Stanley noted that he had discussed this concern with Town Manager Rush, and
6 Town Manager Rush stated that work had already started on a directional sign
7 program to address this issue. Town Manager Rush indicated that the Town's
8 directional sign program will be modeled after NCDOT's Tourist Oriented
9 Directional Sign Program (TODS).

10
11 Town Manager Rush provided a brief update for the Board on the status of
12 various projects. The following is an excerpt from his Manager Comments memo
13 to the Board for additional information:

14
15 **November Board Meeting is Wednesday, November 12**

16 The November Board meeting would normally be held on Tuesday, November 11, which is the Veteran's Day Holiday
17 for Town staff. The 2008 Meeting Schedule adopted by the Board in December 2007 scheduled the November
18 meeting for Wednesday, November 12 at 6 pm.

19
20 If the Board would prefer, the November meeting can be changed to Monday, November 10 at 6 pm. Please let me
21 know your preference.

22
23 **North Carolina League of Municipalities Annual Meeting – October 12 – 14**

24 Mayor Schools and I will be attending the NC League of Municipalities annual meeting in Charlotte next week. I will
25 return to the office on Wednesday, October 15.

26
27 **Town Awarded Two Clean Water Management Trust Fund Grants**

28 The Town recently received some good news on two grant applications submitted in early 2008.

29
30 The Town has been awarded \$75,000 (to be matched with \$25,000 in the FY 08-09 budget) to study the potential
31 removal of storm water outfalls that drain to Archer's Creek and/or construction of storm water best management
32 practices at these outfall locations. This grant and the resulting study are a first step towards the Town's goal of
33 improving water quality in Archer's Creek. Work on the study should begin sometime in early 2009.

34
35 The Town was also awarded \$97,000 for the actual removal of storm water outfalls that drain to Bogue Sound from NC
36 58 and street ends in eastern Emerald Isle. This work will also include public access improvements at these locations.
37 Work will be done by Public Works staff over the next 3 years. The local match will be provided with in-kind services
38 provided by the Public Works Department.

39
40 **Coastal Resources Commission Approves New Rule Allowing "Static Line Exception"**

41 At its meeting on September 26, the CRC approved a new rule allowing municipalities to petition the CRC to remove
42 the static line used to measure oceanfront setbacks. A municipality can gain this "static line exception" if it has a CRC-
43 approved 30-year beach nourishment plan that identifies sand sources and funding sources. I believe that the Town
44 can put together an acceptable plan, and we will begin work on the plan in the coming weeks. My goal is to present it
45 to the Board of Commissioners for consideration in December, and hopefully submit it to the CRC for consideration in
46 early 2009.

47
48 If approved, the eastern 2 miles of oceanfront in Emerald Isle could potentially become conforming again. This would
49 mean that homes and lots that can meet the setback from the "actual" vegetation line could be redeveloped, either out
50 of necessity or voluntarily, provided they are not located closer to the ocean than adjacent structures and provided that
51

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE COMMISSIONERS
OCTOBER 7, 2008
Page 11 of 13

1
2 they are less than 2500 heated sq. ft in size. As you know, the Town has been pursuing this issue for nearly 3 years,
3 and the CRC has been studying it for nearly that long.

4
5 **Building Inspectors Assisting Town of Swansboro**

6 The Town of Swansboro is currently short-staffed for building inspections, and our building inspectors will provide
7 assistance to Swansboro on an as-needed basis. We don't expect the time commitment to be significant, and don't
8 envision any negative impacts on customer service in Emerald Isle. We also don't intend to charge Swansboro for
9 these services, and offer them in the spirit of municipal cooperation.

10
11 **Deer Population Concerns**

12 Concerns have been raised again about the deer population in Emerald Isle. You may recall that this issue was
13 discussed in 2005 and 2006. After completion of a deer population survey by the NC Wildlife Resources Commission
14 (WRC) (report attached – November 3, 2005), the Board did not take action to pursue a controlled deer hunt to thin out
15 the deer population at that time. The WRC had indicated that the deer population in Emerald Isle at that time was
16 comparable to rural areas, and was well below population densities observed in other developed coastal areas.

17
18 The Board should note that the last survey was done 3 years ago, and the deer population may have changed since
19 that time. Additional development has also occurred, resulting in the clearing of more land area that may have
20 displaced deer. If the Board is concerned about the deer population, I recommend that no actions be taken until an
21 updated deer population count can be conducted by the WRC, and that the Board first consider WRC's
22 recommendations.

23
24 Please let me know your thoughts on this issue, and I will proceed accordingly.

25
26 **Update – New Town Administration Building**

27 Unfortunately, construction has still not yet begun on the new Town Administration Building. Remaining permit issues
28 should be resolved any day, and site work is expected to begin any day. I remain hopeful that the new building will be
29 complete by early summer 2009, however, the delays experienced may push the completion to mid or late summer
30 2009.

31
32 A groundbreaking ceremony will be scheduled for later in October after initial land clearing has been completed. I will
33 provide additional information later.

34
35 **Update - McLean Park**

36 Alesia Sanderson, Parks and Recreation Director, continues work on permitting and design issues for the new
37 bathhouse and pier at McLean Park. Our goal is to solicit bids in November and have the Board consider a
38 construction contract at the December meeting so that construction can occur prior to the 2009 season.

39
40 The exact location of the planned bathhouse is currently being reviewed, and may need to be moved closer to NC 58
41 due to handicapped accessibility and flood damage prevention requirements. A meeting with the EI Parks and
42 Recreation Association, Inc. is planned for the next couple of weeks to discuss this issue. The location of the
43 bathhouse will also consider the potential future development of the site as boat launching facility (if that ever becomes
44 feasible).

45
46 **Update - Beach Walkway Replacements**

47 The reconstruction of the Channel Drive walkway is now complete. The new walkway includes a large seating area on
48 the oceanfront and a handicapped-accessible ramp to the beach.

49
50 Alesia Sanderson is currently working on permitting issues for the replacement of beach walkways at Gregg Street and
51 Ocean Oaks Drive. Our goal is to solicit bids in November and have the Board consider a construction contract in
52 December so that construction can occur prior to the 2009 season.

53
54

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE COMMISSIONERS
OCTOBER 7, 2008
Page 12 of 13

1
2 **Update - New Parks Maintenance Building**

3 The construction of a new office and restroom in the new Parks Maintenance Building by Public Works staff is
4 underway, with framing and firewall construction complete. Remaining work includes electrical, plumbing, and HVAC
5 work. Our goal had been to complete construction by October 1, however, Tropical Storm Hanna and other more
6 pressing activities disrupted our plans. I have asked Public Works to make the completion of this facility a high priority.

7
8 **Update - New Fire Engine**

9 Assembly of the Town's new Fire Engine is ongoing, and we expect to take delivery of the new Fire Engine in January
10 or February 2009. The new engine will replace an existing 23-year old engine that will then be auctioned through the
11 Town's online auction service.

12
13 **Town Supervisory Staff Complete Required National Incident Management System Training**

14 Several key staff members recently completed two and a half days of FEMA-mandated training at the Emerald Isle Fire
15 Station. The training focused on the implementation of the Incident Command System, a common command structure
16 used at all levels of government that is intended to foster effective emergency response and recovery operations by
17 multiple governmental agencies for major disasters. The training is required in order to maintain the Town's eligibility
18 for FEMA assistance in the future. The final required training, a day and a half session, has been scheduled for
19 December.

20
21 **No Wake Zones - Coast Guard Channel / Bogue Sound Drive Canal**

22 The NC Wildlife Resources Commission is providing the No Wake Zone signage for both of these newly established
23 official No Wake Zones. We expect to take delivery of the signs very soon, and they will be installed by Public Works
24 shortly thereafter.

25
26 **Future Island Circle Storm Water Pump**

27 As discussed previously, I am planning to ask the Board to approve a grant application to the NC Clean Water
28 Management Trust Fund for construction of this planned storm water pump in January 2009. I am hopeful that the
29 Town can secure a grant in the \$500,000 - \$600,000 range for this project.

30
31 As you know, the most advantageous discharge area is the large dune field on the oceanfront nearby. I will be working
32 with affected property owners to gain permission for this project. I have also been considering an alternative involving
33 an underground (and not visible) infiltration system in the dunes. More research is needed on this approach, but it may
34 be more palatable for oceanfront property owners in the area.

35
36 The Board discussed the deer population concerns and indicated they had no
37 interest in pursuing the issue at this time. Commissioner Hedreen suggested the
38 possibility of including a list of shrubs and plants that deer do not eat in an
39 upcoming Emerald Tidings or Island Review article for citizens.

40
41 **13. COMMENTS FROM BOARD OF COMMISSIONERS AND MAYOR**

42
43 There were no further comments from the Board of Commissioners or Mayor.

44
45 **14. CLOSED SESSION - PURSUANT TO NCGS 143-318.11(5), FOR THE**
46 **PURPOSE OF DISCUSSING POTENTIAL REAL ESTATE ACQUISITION**
47 **(FOUR POTENTIAL LAND ACQUISITIONS)**

48
49 ***Motion was made by Commissioner Hedreen to enter Closed Session. The***
50 ***Board voted unanimously 5-0 in favor. Motion carried.***
51

MINUTES OF THE REGULAR MEETING
OF THE EMERALD ISLE COMMISSIONERS
OCTOBER 7, 2008
Page 13 of 13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

Motion was made by Commissioner Wootten to return to Open Session. The Board voted unanimously 5-0 in favor. Motion carried.

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

15. ADJOURN

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

The meeting was adjourned at 8:00 pm.

Respectfully submitted:

Rhonda C. Ferebee, CMC
Town Clerk