

1 **MINUTES OF THE REGULAR SCHEDULED MEETING**
2 **OF THE EMERALD ISLE BOARD OF COMMISSIONERS**
3 **TUESDAY, FEBRUARY 10, 2015 – 6:00 P.M.**
4 **TOWN BOARD MEETING ROOM**
5
6
7

8 **1. Call To Order**
9

10 The regular monthly meeting of the Emerald Isle Board of Commissioners was called to
11 order by Mayor Eddie Barber at 6:00 PM in the Town Board Meeting Room.
12

13 **2. Roll Call**
14

15 Present for the meeting: Mayor Eddie Barber, Commissioners Tom Hoover, Floyd
16 Messer, Jim Normile, John Wootten, and Maripat Wright.
17

18 Also present during the regular meeting: Town Manager Frank Rush, Town Attorney
19 Richard Stanley, Finance Director Laura Rotchford, Town Clerk Rhonda Ferebee,
20

21 **3. Opening Prayer**

22 Mayor Barber offered the opening prayer.

23 **4. Pledge of Allegiance**
24

25 Benjamin Meyer and Lane Nickson, both Star rank scouts led the Pledge of Allegiance.
26 Benjamin and Lane both are working toward their Citizenship in the Community Merit
27 badge which is required to become an Eagle Scout.
28

29 **5. Adoption of Agenda**
30

31 ***Motion was made by Commissioner Wright to adopt the Agenda. The Board***
32 ***voted unanimously 5-0 in favor. Motion carried.***
33

34 **6. Proclamations / Public Announcements**
35

36 Mayor Barber noted the following announcements for the public:
37

- 38 • **Friday Free Flick – Friday, February 13 – 7 pm – Community Center**
- 39 • **Police Educating The Public (PEP) – Tuesday, February 17 – 10 am & 6 pm**
40 **Town Board Meeting Room**
- 41 • **Bicycle and Pedestrian Advisory Committee – Wednesday, February 18 –**
42 **9 am – Community Center**
- 43 • **American Red Cross Blood Drive – Friday, February 20 – 2 pm – 7 pm –**
44 **Community Center**

- 1 • **Planning Board Regular Meeting – Monday, February 23 – 6 pm – Town**
- 2 **Board Meeting Room**
- 3 • **Coffee With A Cop – Thursday, February 26 – 9 am – Mike’s Place**
- 4 • **Board of Commissioners Regular Meeting – Tuesday, March 10 – 6 pm –**
- 5 **Town Board Meeting Room**
- 6 • **24th Annual St. Patrick’s Festival – Saturday, March 14 – 9 am – 6 pm –**
- 7 **Emerald Plantation Shopping Center**
- 8 • **EI Marathon, Half-Marathon & 5K Race – Saturday, March 28 – 6:30 am –**
- 9 **Western Ocean Reg Access**
- 10 • **Summer Employment Job Fair – Saturday, April 18 – 10 am – 2 pm –**
- 11 **Community Center**
- 12 • **Bike the Banks – Crystal Coast Lighthouse Challenge – Saturday, May 2 –**
- 13 **8 am – Town Govt Complex**

14 **7. Public Comment**

15 **Brief Summary:** The public has the opportunity at this time to address the Board about
16 any items of concern not on the agenda.

17
18 Al Kulhawik, Sound Drive, commented that at the previous monthly meeting they had
19 discussed the budget and he had made a statement about tightening their belts as far
20 as spending, and then at the end of the meeting he complimented the Town for
21 purchasing a Christmas tree, which was very nice. Mr. Kulhawik said he then learned
22 that the tree cost \$13,000 and asked how they justified spending that amount for a fake
23 Christmas tree. He felt the Board could have planted a real Spruce a lot cheaper.

24
25
26 Mayor Barber expressed his appreciation for Mr. Kulhawik’s opinion, adding that the
27 Town had received many letters and emails expressing thanks for the Christmas tree
28 and how it beautified Emerald Isle.

29
30 Jay Thomas, stated that Swansboro had been having a Mayors Ball every year for
31 several years and this year they were including all of the Mayors. It was called “Monte
32 Carlo Night”, and would be held on February 21 at the Rotary Center in Swansboro, \$75
33 per person but it was to benefit Crystal Coast Habitat for Humanity and all of the area
34 schools. Mr. Thomas felt it was a worthy cause and invited everyone to attend and
35 support our Mayors.

36
37 James Hackett, 6410 Ocean Drive, said that after 10 years of owning he was finally
38 here from Baltimore, MD, full time. Mr. Hackett complimented the Town for how well it
39 was maintained, but one thing he felt was missing from the ordinance regarding
40 commercial signage. He said that the intent of the signage ordinance was to maintain
41 the natural environment to keep it from excessive and obtrusive signs. Mr. Hackett then
42 said in the section regarding exceptions it is stated that construction site identification
43 signs were exempted as you were building a home, only one per contractor, and it
44

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1 should be taken down 10 days after occupancy of the home. Mr. Hackett then noted
2 the section regarding prohibited signs specifically #11 – signs that advertised the activity
3 of a business product or service no longer produced or conducted on the premises upon
4 which the sign was located, and then in the general section 6.6.5 it stated signs
5 prohibited in R2, RMF, and MH district, which were the residential areas he was talking
6 about, where the only signs allowed were the development identification signs, home
7 inspection signs, and churches. Mr. Hackett said as far as he could tell any kind of
8 construction sign was not allowed under the Town ordinances. Mr. Hackett said walking
9 down Ocean Drive you see signs all the time for contractors, window washing, mosquito
10 removal, painting, etc. Mr. Hackett said that the contractors felt they had the right to do
11 that in Emerald Isle in residential areas, and did not know they were not allowed to do
12 this. Mr. Hackett said he could put up with the real estate signs but felt according to the
13 ordinance he didn't have to put up with the contractor signs. Mr. Hackett said if he was
14 right about the ordinance language and contractor signs were banned in residential
15 areas he felt they needed to get the word out and have the signs taken down. Mr.
16 Hackett felt they needed to change the ordinances or enforce the ordinances.

17
18 Town Manager Frank Rush said they would occasionally have these type of concerns
19 expressed and they would crack down on them, and they were probably due for better
20 enforcement now. Mayor Barber said they appreciated his bringing this to their
21 attention. Town Manager added that generally they were more interested in effecting a
22 positive change in a persons behavior than punishing someone, and typically in those
23 situations we removed the signs and brought them to the Planning and Inspections
24 office, and they were welcome to come and pick them up; the main goal being to correct
25 the problem rather than punish the person and he was sure they could do a better job in
26 that area.

27
28 **8. Consent Agenda**

- 29
30 a. Tax Releases
31 b. Minutes – January 13, 2015 Regular meeting
32 c. Resolution Authorizing NC Governors Crime Commission Grant
33 Application (15-02-10/R1)
34 d. Resolution Authorizing NC Governor's Highway Safety Program Grant
35 Application (15-02-10/R2)
36 e. Capital Project Ordinance Amendments – NC 58 Bicycle Path (EORA to
37 Indian Beach) AND Coast Guard Road Bicycle Path
38

39 ***Motion was made by Commissioner Hoover to approve the items on the Consent***
40 ***Agenda. The Board voted unanimously 5-0 in favor. Motion carried.***

41
42 Clerks Note: A copy of Resolutions 15-02-10/R1, 15-02-10/R2 along with all other Consent Agenda items as
43 noted above are incorporated herein by reference and hereby made a part of these minutes.

44
45 **9. Update – Senator Jean Preston Memorial Playground**

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1
2 Bernie Whalley, Fundraising Volunteer Committee member spoke to the Board to
3 update them on the committee's efforts in raising funds for the Senator Jean Preston
4 Memorial Playground. Mr. Whalley presented a drawing prepared by Yardworks of the
5 proposed playground layout. Mr. Whalley reported that the Jean Preston Memorial
6 Playground began with a flourish followed by a period of revamping of plans when they
7 decided to construct the playground on a less traffic sensitive area of the boat ramp
8 facility which was where this would be located. Mr. Whalley said they ran in to a dry
9 spell during elections followed by holidays. As the first of the year approached the
10 committee got back together and rejuvenated their efforts for new plans and a fresh
11 start in 2015. Mr. Whalley highlighted their fundraising efforts since January 1.
12 Mr. Whalley introduced Linda McCoy who had been welcomed to their committee
13 consisting of himself, Judy Wilgus, and now Linda, as well as their technical advisor
14 Parks and Recreation Director Alesia Sanderson. Ms. McCoy it was noted was a
15 cousin of Jean Preston, and she had provided them with contact information for Senator
16 Preston's brother, Tommy Rouse who was most pleased to hear of the efforts to
17 memorialize his sister, and he expressed a real desire to be of help to the fundraising
18 efforts. Mr. Whalley noted that Representative Pat McElraft was working with the
19 Political and Educational groups in order to get some financial backing from those with
20 whom Senator Preston worked so closely. Everyone knew that Senator Preston was a
21 great leader of the educational efforts in the State of North Carolina as well as what she
22 had done to help our coastal areas. Mr. Whalley noted the donation of three
23 contemporary paintings by local artist Barry Knauff which would be auctioned to the
24 highest bidder. Mr. Whalley directed everyone to the Emerald Isle website where they
25 would find several links for the Jean Preston Memorial Playground concerning the
26 memorial, auction site, and for direct online contributions, and there were special mailer
27 envelopes that would be available at Town Hall and the Recreation Center.

28
29 I have scheduled time on the Board's February 10 meeting agenda to receive an update from the volunteer committee raising
30 funds to develop the Senator Jean Preston Memorial Playground in Emerald Isle. Committee member Bernie Whalley will attend
31 the meeting and provide an update for the Board and the community.

32
33 As you know, the Town completed the acquisition of Lot 1 Shell Cove North in September 2014, and has agreed to combine Lot
34 1 with Lot 2 for the development of the Preston Playground. An aerial photo of the site is attached. I have also attached a
35 conceptual plan for the layout of the new playground for the Board's review and comment. As noted, the conceptual plan
36 includes the following:

- 37
38
- 39 • the elimination of the driveway / roadway connection on the west side of Lot 1 where it meets Canal Drive so that
40 vehicles would not access the new Preston Playground from the adjacent neighborhood,
 - 41 • the retention of a 6 – 8 ft., wide asphalt pathway to Canal Drive to provide for easy bicycle and pedestrian access,
 - 42 • the extension of a new asphalt vehicle lane from the existing boat ramp parking area to the existing asphalt driveway
43 on Lot 1 and Lot 2, with visitors accessing the new playground from the public boat ramp facility to the east,
 - 44
 - 45

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- 1 • the creation of 8 or 9 parking spaces (for use by playground visitors or boat ramp visitors in single vehicles)
2 perpendicular to the existing asphalt driveway on Lot 1 and Lot 2; it may also be possible to create an additional 8 or 9
3 parking spaces on the opposite side of the existing asphalt driveway,
4
- 5 • the installation of new playground equipment in an approximately 50 ft by 50 ft. area closer to NC 58,
6
- 7 • the retention of an open, grassy field area between the playground equipment and parking area,
8
- 9 • the construction of a small picnic shelter between the parking area and the Bogue Sound marsh, and
10
- 11 • the creation of a mulch walking trail leading from the Preston Playground along the edge of the marsh (below the
12 parking area) to the Town's new pier at the public boat ramp facility.
13

14 The volunteer committee has established a fundraising goal of \$75,000 for the overall effort, and will soon begin a new, vigorous
15 round of fundraising activities. With the assistance of Rep. McElraft, the committee will also be reaching out to current and
16 former State legislators, and other friends and family of the late Senator Preston. Thanks to the generosity of local artist Barry
17 Knauff (former El Police Officer), three attractive paintings are also being auctioned on the Town's website, and these proceeds
18 will go toward the project. To date, the volunteer committee has raised approximately \$7,000, and these funds are reserved in a
19 restricted Town account.
20

21 I look forward to hearing Bernie Whalley's comments on February 10, and assisting the volunteer committee in achieving its
22 goals.
23

24 Mayor Barber thanked Mr. Whalley for his hard work and that of the committee.
25

26 **10. Resolution Adopting Static Line Exception Report (15-02-10/R3)**
27

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

31 The Board of Commissioners is asked to approve the attached resolution adopting the attached Static Line Exception 5-Year
32 Review / Reauthorization Report. The attached report, if approved by the Board, will be submitted to the NC Coastal Resources
33 Commission (CRC) for consideration at its April meeting. Approval of the report by the CRC would extend the Town's previously
34 granted static line exception for an additional 5 years, and would continue to allow the Town to utilize the actual first line of stable
35 vegetation for oceanfront setback measurements in eastern Emerald Isle (as opposed to the static vegetation line that was in
36 place from 2003 – 2010).
37

38 The eastern 5.9 miles of Emerald Isle's beach were nourished in 2003 with nearly 1.87 million cubic yards of sand. CRC rules
39 require that the actual first line of stable vegetation that exists just prior to a large beach nourishment project be surveyed prior to
40 nourishment and then used in perpetuity for oceanfront setback measurements (thus, the "static" vegetation line). The
41 application of this rule resulted in the perpetual non-conformity of up to 171 single-family and duplex properties between the
42 Indian Beach town line and Ocean Reef, and also the oceanfront buildings in Ocean Reef and Pier Pointe. The Board should
43 note that oceanfront properties located west of Pier Pointe to approximately Scotch Bonnet Drive are also subject to a static
44 vegetation line, however, due to the fact that the homes are set further back from the ocean and because of the relatively better
45 condition of the beach in that area prior to the 2003 beach nourishment project, the static vegetation line has no practical
46 negative impact on these properties.
47

48 Since the completion of the 2003 beach nourishment project, which included the construction of a large vegetated dune line in
49 many locations, the actual first line of stable vegetation has moved significantly seaward and has remained relatively stable over
50 the past 12 years. In most cases the actual first line of stable vegetation has migrated more than 60 feet seaward, and this area
51 has been used to meet oceanfront setback requirements since March 2010 when the Town was granted its initial static line
52 exception by the CRC. The Town's static line exception restored conforming status to most (but likely not all) oceanfront homes

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1 in this area, thereby enabling destroyed homes to be reconstructed, allowing voluntary redevelopment and new development on
2 vacant lots, encouraging large-scale property improvements, and making it easier to secure mortgages in this area.
3

4 In order to qualify for and maintain a static line exception, a community must petition the CRC and present a static line exception
5 report that describes past nourishment activities and demonstrates the community's commitment to a long-term beach
6 nourishment program. The static line exception report must include information about past nourishment projects, project
7 performance and monitoring efforts, identify suitable sand source(s) sufficient for at least 25 years' worth of future beach
8 nourishment, and demonstrate adequate funding for at least 25 years' worth of future beach nourishment. The Town met these
9 requirements in its 2010 Static Line Exception Report, and has adhered to its commitments in the 2010 report. The initial static
10 line exception was authorized for 5 years, and will expire in March 2015, thus the Town must now submit a new report to extend
11 the static line exception for an additional 5 years.
12

13 The attached Static Line Exception 5-Year Review / Reauthorization Report was commissioned by the Carteret County Beach
14 Commission for the Town, and was completed by Moffatt & Nichol Engineers, Raleigh, NC. As you know, Moffatt & Nichol is
15 also currently working on an Environmental Impact Statement and 50-year permit authorization for the Town's and the County's
16 long-term master beach nourishment plan (and we are hopeful this process will be complete within the next year or so). The
17 attached report includes all of the information and plans required by the CRC to renew the Town's previously granted static line
18 exception for an additional 5-year period through 2020. The key provisions of the report include the following:
19

- 20 • The report includes maps of the static vegetation line currently in effect between Scotch Bonnet Drive and the Indian
21 Beach town line (~5.9 miles). As noted above, the only practical impact of the static vegetation line is in the area
22 between Pier Pointe and the Indian Beach town line.
23
- 24 • The report includes a review of the Town's 2003 beach nourishment project, and the 2004 Hurricane Isabel, 2007
25 Hurricane Ophelia, and 2013 Hurricane Irene touch-up projects. The 2003 project involved the placement of 1.87
26 million cy of sand on the beach in eastern Emerald Isle. The 2004 project involved the replacement of 156,000 cy of
27 sand in this area that was lost during Isabel. The 2007 project involved the replacement of 344,000 cy of sand in this
28 area that was lost during Ophelia (additional sand was placed in areas of western EI that lost sand during Ophelia),
29 and the 2013 project involved the replacement of 451,600 cy of sand in this area that was lost during Irene (additional
30 sand was placed in areas of western EI that lost sand during Irene).
31
- 32 • The report includes a review of the performance of past nourishment activities. Based on extensive monitoring data
33 collected each year, and due to the projects completed after Isabel, Ophelia, and Irene, there is actually more sand in
34 place in the overall 5.9 mile area now than there was upon completion of the initial project in 2003. Additionally, the
35 entire area is currently well above (i.e., more sand) both the old and new "triggers" for the next beach nourishment
36 project in this area.
37
- 38 • The report considers future nourishment needs for all of Bogue Banks to insure that adequate sand sources are
39 available for each community, including Emerald Isle. The report estimates a total future nourishment need of
40 approximately 47 – 53 million cy of sand for all communities on Bogue Banks over the next 50 years, and estimates a
41 total volume of approximately 50 million cy of sand available from several borrow areas during that time frame. These
42 estimates include sand necessary to address historical erosion losses and estimated future storm losses. It is likely
43 that the ODMDS (offshore spoil disposal area for Morehead City port shipping channel) will be utilized as the primary
44 sand source for future beach nourishment in this 5.9 mile area of Emerald Isle.
45
- 46 • Based on historical erosion losses, the report projects that the area generally between 24th St and the Indian Beach
47 town line would need to be nourished every 3 years, with approximately 192,000 cy of sand necessary for each event.
48 The report projects that the area generally between Scotch Bonnet Drive and 24th St would need to be nourished every
49 9 years, with nearly 225,000 cy of sand necessary for each event. These projections are based on historical erosion
50 losses only, and additional sand would be placed in response to hurricane events that result in significant erosion. The
51 beach in this area is currently in generally good condition, and we are hopeful that the next beach nourishment event is
52 still several years away.
53

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- The average annual cost for future beach nourishment for the entire oceanfront in Emerald Isle is estimated at \$2.1 million. The report indicates that the Carteret County Beach Commission would provide 2/3 of the funding necessary to meet this average annual cost, or approximately \$1.4 million annually. The Town would be responsible for 1/3 of the average annual cost, or approximately \$700,000 annually. As you know, the Town is currently reserving approximately \$680,000 annually in the Future Beach Nourishment Fund to meet these projected costs in the future. These costs are based on historical erosion losses only, and it is anticipated that FEMA assistance will be available for hurricane events that result in significant erosion (as was provided for erosion associated with Isabel, Ophelia, and Irene).
- The report demonstrates that the County's room occupancy tax revenues will be sufficient to enable the County to provide funding for 2/3 of construction costs for future beach nourishment projects in Emerald Isle (and other communities on Bogue Banks) over the 50-year planning period.

As discussed in the past, the Board should note that the projected nourishment volumes and schedules are merely projections based on historical data and past project performance. In reality, the timing and scope of future nourishment activities will certainly vary from the attached report. In short, we want to be prepared to nourish the beach in Emerald Isle in the future as needed, where needed, and when needed. For general planning purposes, however, the attached report represents the most reasonable and likely projection of future activities.

The CRC's current setback rules in areas with a static line exception limit the size of any new construction to 2,500 sq. ft. As such, the oceanfront units in Ocean Reef and Pier Pointe will remain nonconforming if / when the Town's static line exception is reauthorized in April. As you know, however, the Town and others are currently working with the CRC to remove this 2,500 sq. ft. limitation, and I am optimistic that this change will occur sometime later in 2015 or early in 2016. This change, if / when approved, should restore conforming status to the oceanfront units in Ocean Reef and Pier Pointe.

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

Town Manager Frank Rush thanked the Beach Commission and the Carteret County Shore Protection Office for taking the lead on this report.

Clerks Note: A copy of Resolution 15-02-10/R3 as noted above are incorporated herein by reference and hereby made a part of these minutes.

11. Ordinance Amending chapter 9 – Nuisance Abatement (Health and Sanitation) of the Code of Ordinances (Comprehensive Review) (15-02-10/O1)

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

As part of the Town's ongoing comprehensive review of all Town ordinances, the Board of Commissioners is scheduled to consider proposed amendments to Chapter 9 of the Code of Ordinances at the February 10 meeting. Chapter 9 is currently titled "Health and Sanitation", and would be retitled as "Nuisance Abatement" if the attached ordinance amendment is adopted.

As you know, the Town has been undertaking a comprehensive process that is intended to review, clarify, and ideally condense and simplify the entire Code of Ordinances of the Town of Emerald Isle. The Town is now more than 57 years old, and numerous ordinance amendments have been made over the years with input by many different groups and individuals, all likely with good intentions, and sometimes there are unintended impacts on or conflicts with other ordinance provisions. State law and common practice also change over time, and this sometimes leads to out of date provisions or confusion. In other cases, it may be helpful for the Town to critically ask itself if it really needs certain ordinance provisions, and also if new policies are warranted.

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1
2 As discussed previously, my goal is for Town staff and me to complete a comprehensive review of all Town ordinances with a
3 critical eye. During this review, conflicting or confusing provisions are being targeted for clarification, unnecessary provisions are
4 being targeted for elimination, and in some cases out of date or un-enforced provisions are being targeted for elimination. The
5 Board previously reviewed and approved comprehensive amendments to the Town Charter, Chapters 1 – 8, and Chapter 14,
6 and comprehensive amendments to Chapter 9 are on the Board's February 10 meeting agenda. In the case of Chapter 9, there
7 are also a few significant policy changes that the Board should be aware of, and weigh in appropriately on these changes.
8

9 The attached ordinance amendment was drafted by me, with significant input from Town Attorney Richard Stanley, Police Chief
10 Jeff Waters, and Interim Planning and Inspections Director Jim Jennings. The attached ordinance amendment includes a clean
11 version of the proposed new Chapter 9, and I have also attached a separate version using the underline and ~~striketrough~~
12 features to show the specific differences in the proposed ordinance amendment.
13
14

15 Chapter 9 includes provisions regarding nuisance situations in Emerald Isle, and prescribes remedies to abate these nuisances.
16 The proposed ordinance amendment retains most of the current policies and procedures regarding severely damaged structures,
17 overgrown grass and weeds, accumulation of rubbish, and abandoned and junked vehicles, but attempts to condense and
18 simplify the ordinance language. (In summary, the Town's ordinance enables the Town to direct a property owner to correct the
19 nuisance situation, and if the property owner fails to do so (after due process), then the Town has the authority to correct the
20 nuisance, collect the costs from the owner, and place a lien on the property if necessary.) The proposed ordinance amendment
21 does, however, incorporate changes in State law that now provide for an appeals process for the removal of abandoned and
22 junked vehicles, makes two key policy changes in the article pertaining to noise, and also adds a new article addressing required
23 property maintenance that is intended to address neglected buildings and structures.
24

25 The most significant changes in the proposed new Chapter 9 are highlighted below:
26

- 27 • Chapter 9 is retitled as "Nuisance Abatement" to better reflect the substance of this chapter,
- 28
- 29 • the provision regarding uncontrolled growth of weeds or grass has been clarified so that the ordinance can be enforced
30 when the height of the grass reaches 24 inches, regardless of whether or not it is causing a hazard,
31
- 32 • many references to the "building inspector" have been replaced with a reference to the "town manager or designee", in
33 light of the fact that the Town's current interim structure does not include a building inspector and may not in the future,
34
- 35 • the provisions regarding abandoned or junked motor vehicles have been clarified to make it clear that they also apply
36 to right of way areas (adjacent to the street surface),
37
- 38 • the procedures for addressing junked motor vehicles have been amended to be the same as those for abandoned
39 motor vehicles (there is not a big difference in the current ordinance),
40
- 41 • the authority to remove abandoned or junked vehicles from private property has been deleted (it should be noted that
42 the current ordinance granted this authority only with the permission of the property owner, and it is advantageous to
43 remove the Town's involvement from these situations altogether),
44
- 45 • the new ordinance provides for an appeals process for the removal of abandoned and junked vehicles, as required by
46 State law (it is important to note the appeals process pertains to the cost associated with removal and storage, and not
47 the actual removal),
48
- 49 • unlikely noise complaint examples have been deleted from the ordinance language,
50
- 51 • the noise ordinance provision regarding the playing of loud music has been amended to clarify that it applies only
52 between 11 pm and 7 am, which is consistent with typical enforcement practices, rather than implying that this
53 provision applies at any time during the day,

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- the prohibition on construction work occurring between 7 pm and 7 am, and the prohibition on construction work on Sundays has been deleted (the Board may wish to retain some overnight hours, although the general language in the noise ordinance should enable the Police Department to enforce excessive construction noise during the overnight hours),
- noise ordinance violations would be subject to a \$100 civil penalty (the current ordinance does not specify the penalty), and
- a new article regarding exterior property maintenance is included, and requires the owner to correct significant roof, siding, window, door, and railing problems within 90 days of being notified by the Town (this provision is intended to prevent further deterioration of the structure and also protect the character of the surrounding neighborhood).

I look forward to discussing the attached ordinance amendment with the Board at the February 10 meeting. If the Board is comfortable with the proposed amendments, the Board may consider adoption at the February 10 meeting. If the Board would like more time to review the proposed amendments, formal Board action can certainly be delayed until the March meeting or later.

Although we have strayed from the original goal to consider one chapter each month, my goal going forward is still to present at least one of the 4 remaining chapters for comprehensive review and amendments each month in the future. If we stay on schedule, one chapter will be presented each month, and at the end of the 4 month period the entire Code of Ordinances will have been thoroughly reviewed and updated – ideally in a simpler, leaner, more user-friendly, easier-to-understand format.

Town Manager Rush outlined the most significant changes as noted above in his memo to the Board. Mr. Rush said that this ordinance essentially contained provisions that dealt with public nuisance conditions; overgrown weeds, rundown homes, abandoned vehicles, junk vehicles, excessive noise. Mr. Rush noted that all of the provisions included in the new draft were similar to what was included in the current ordinance, though they had added a new section that dealt with property maintenance. Mr. Rush said that was intended to enable the Town to get an earlier start on residential structures that had some deterioration and were headed in the wrong direction giving requirements for the property owner to replace siding or shingles lost, broken windows, doors, railings, in order to attack those issues a little quicker than we had historically. Mr. Rush said there were still provisions in the ordinance for more significant public safety, and building safety concerns in the public nuisance section.

Town Manager Rush said in many cases we were simply clarifying the language, but there were a few changes to point out such as the language was changed in the ordinance provision for the uncontrolled growth of weeds or grass – the language used to say the ordinance would be enforced when the grass reached 24 inches, and was causing a hazard; this was basically rewritten to say when it reached 24 inches.

Mr. Rush noted that in order to comply with changes in State Law they had added an appeal process for the removal of an abandoned or junked vehicle; the appeal process pertained only to who was responsible for the cost associated with removing the vehicle from a public street right-of-way, public property, park, etc.

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1 Mr. Rush also noted another change that was made in order to be consistent with actual
2 practice, and that was that our current ordinance did not allow excessive or loud music
3 all throughout the day, particularly between the hours of 11pm and 7am. They
4 suggested changing this language so that applied only between 11pm and 7am to be
5 consistent with past enforcement practices, also to recognize that there were events
6 that took place during the day with music playing. He felt if something were really
7 excessive and out of line the general language gave the Police Department the
8 authority to deal with but it was not the intent to deal with typical everyday music playing
9 that might occur in neighborhoods.

10
11 It was also noted that in our current ordinance there was a provision that prohibited all
12 construction activities on Sundays, and also prohibited construction activities between
13 7pm and 7am which could sometimes be difficult to enforce particularly on Sundays, the
14 proposed ordinance recommended removing that provision and not having any
15 prohibition on construction work on Sundays or in the evenings, however Mr. Rush felt
16 the general noise provision would enable them to deal with situations when something
17 was really out of hand.

18
19 Mr. Rush said that on just about every town ordinance unless it was a very serious
20 issue, they tried to take a friendly enforcement approach and work with the property
21 owner. Mr. Rush said they want to secure compliance and modification of behavior
22 rather than punishing people.

23
24 Mayor Barber asked for any comments from the public. There were no comments from
25 the public.

26
27 Commissioner Jim Normile commented that this was great timing for reviewing this
28 chapter. Commissioner Normile knew that staff and Commissioners had recently
29 received some concerned comments from citizens in regards to both a couple of
30 residential properties and in particular one commercial piece of property. Commissioner
31 Normile asked Town Attorney Stanley whether, in the proposed revisions to the
32 ordinance, if everything that could be put in the revision, the "teeth" to make a difference
33 in regards to whether a property was considered blighted or whether the property was
34 considered waste or abandoned, had been put at our disposal in this section so that a
35 property if deemed abandoned, whether it be the Commissioners or Town Manager,
36 they would be able to take appropriate action. Commissioner Normile said there were
37 properties in our Town that needed adjustment.

38
39 Town Attorney Richard Stanley stated that North Carolina law basically said that you
40 could only provide for the removal or the correction of the conditions that were going to
41 lead to unsafe or unhealthy hazards such as a fire. Attorney Stanley had advised the
42 Town Manager on the language allowed, adding that we were on the edge of what was
43 permitted and not permitted and advised they needed to be careful they were not trying

1 to regulate or prohibit something based on appearance only. Attorney Stanley said
2 what they were trying to do was provide for safe housing.

3
4 Commissioner Normile asked whether the same laws were applicable to all real
5 property, to commercial as well as residential. Attorney Stanley said you could go one
6 step further and adopt minimum housing standards, those were applicable only to
7 residential dwellings; defects in structures, such as what we had here were applicable to
8 both commercial and residential.

9
10 Commissioner Wootten mentioned homes that were becoming almost junk yards.
11 Attorney Stanley said that rats and vermin would be one of the things in this ordinance
12 that stated they could condemn the building and order it to be repaired or the owner be
13 given notice of a hearing, so that issue was already covered if there was an unhealthy
14 condition.

15
16 ***Motion was made by Commissioner Messer to approve the Ordinance Amending***
17 ***Chapter 9 – Nuisance Abatement – of the Code of Ordinances. The Board voted***
18 ***unanimously 5-0 in favor. Motion carried.***

19
20 Clerks Note: A copy of Ordinance Amendment 15-02-10/O1 as noted above are incorporated herein by
21 reference and hereby made a part of these minutes.

22 23 **12. Appointments – Planning Board – 4 Vacancies**

24
25 **Brief Summary: The Board will consider appointing four individuals to fill vacant**
26 **seats on the Planning Board with terms that expire in March 2017.**

27
28 ***Motion was made by Commissioner Messer to appoint Steve LeRoy to a term on***
29 ***the Planning Board expiring March 2017, and reappoint Ryan Ayre, Paul***
30 ***Schwartz, and Ken Sullivan to terms also expiring in March 2017. The Board***
31 ***voted unanimously 5-0 in favor. Motion carried.***

32
33 Commissioner Wootten noted that Mr. LeRoy had many years of experience serving on
34 Planning Boards. Mayor Barber thanked everyone for their willingness to serve on the
35 Planning Board.

36 37 **13. Comments from Town Clerk, Town Attorney, and Town Manager**

38
39 There were no comments from the Town Clerk or Town Attorney.

40
41 Town Manager Frank Rush updated the Board on several issues of importance
42 including the completion of the controlled deer hunt in late January. Mr. Rush also
43 announced that it appeared that the County was not moving forward this year with the
44 sales tax distribution issue they discussed at some of their earlier meetings, if they did
45 change the sales tax distribution formula within Carteret County, Emerald Isle would

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1 lose a significant amount of its annual revenue. Mr. Rush provided the latest status of
2 the Coast Guard Road resurfacing, and noted that the Welcome Center and Eastern
3 Ocean Regional Access construction was going well.
4

5 The following is an excerpt from the Town Manager Comments memo to the Board
6 providing additional background information for all items of importance:
7

8 **2015 Controlled Deer Hunt**

9 The Police Department has completed the 2015 controlled hunt, and removed a total of 50 deer over a 3 week period. A total of
10 35 fetuses were also being carried by the 50 deer. There were no major problems encountered, and the Police Department was
11 very discrete with their nighttime hunting efforts. The majority of deer taken were from public street right of ways (none taken on
12 private property). Nearly 800 lbs. of deer meat was donated to the Hope Mission in Morehead City.
13

14 **Sales Tax Distribution Issue**

15 Based on discussion by the County Commissioners at its budget planning meeting last week, it appears that no change will be
16 made to the sales tax distribution formula (within the County) this year. If such a change was / is made, Emerald Isle could lose
17 up to \$600,000 annually in sales tax revenues, and the Town must remain engaged in this issue in future years. There appeared
18 to be interest from some County Commissioners in a possible hybrid distribution formula, however, a hybrid is not currently
19 authorized by the NC General Assembly, and would still have a significant impact on the Town's budget.
20

21 There have been no new reports from the NC General Assembly about a similar harmful change in the distribution formula at the
22 State level. We continue to monitor this issue very closely. If the State makes this change, it will likely be harmful to Carteret
23 County and all 11 municipalities within Carteret County.
24

25 **Town Planner Recruitment**

26 I have posted the attached advertisement in several locations, including the Town's website, the NC League of Municipalities
27 website, various professional listervs, and other locations. The deadline for applications is February 20, and I hope to conduct
28 interviews soon thereafter.
29

30 **New Welcome Center Construction**

31 Site work for the new Welcome Center is nearing completion, and we expect the building construction to begin soon. A few
32 minor changes have been made to the site plan, including the shifting of the building 10 feet to the west to avoid a water line,
33 which resulted in the elimination of 2 parking spaces (now 26 spaces instead of 28). The handicapped ramp has also been
34 moved to the rear of the building instead of the west side, and the storm water basin has been slightly elongated.

35 **Strollers Allowed at St. Patrick's Festival**

36 Baby strollers WILL be allowed at the St. Patrick's Festival on March 14. Pets are NOT allowed at the festival, nor are concealed
37 handguns.
38

39 We look forward to a big crowd at the 24th annual festival!
40

41 **Coast Guard Road Resurfacing**

42 Depending on air temperatures and weather, I hope to have this resurfacing completed in early March, prior to the St. Patrick's
43 Festival, and prior to the EI Marathon, Half-Marathon, and 5K. A portion of the full marathon route travels along Coast Guard
44 Road, so I'm hopeful everything will be complete and looking good by then.
45

46 **Eastern EI Bike Path Corrections**

47 Public Works staff has begun work on storm water improvements in the 1400 block, and we hope to complete this work in the
48 next few weeks.
49

50 We have awarded a contract to Morton Trucking to pave the areas where hog-slats have been removed, and they will complete
51 this work either right before or right after the paving of the Eastern Ocean Regional Access in March.
52

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1 This bike path segment is a portion of the full marathon route also, and should be complete prior to the March 28 race date.

2
3 **Eastern Ocean Regional Access Parking Lot Improvements**

4 SunLand Builders continues to make good progress on this project, and we expect to meet our self-imposed April 1 deadline.
5 The new subsurface storm water features are in place, and approximately ¼ of the new brick paver parking area is complete.
6 The old beach access walkway from the bathroom building has been removed, and will be replaced in the coming weeks.

7
8 We have been working through a calculation error by the engineers, Moffatt & Nichol, regarding the amount of rock installed for
9 the subsurface storm water features, and I expect to resolve this at minimal or no cost to the Town.

10
11 We have executed a change order with Morton Trucking to pave Park Drive on the soundside, and also create a new asphalt cul-
12 de-sac near the Town's public pier at that location. This work is included in the scope of work for the WAMI grant, and will be
13 funded by that grant. Public Works will handle minor rock base work in this area.

14
15 **Forthcoming CRC Amendment to Static Line Rules**

16 The NC Coastal Resources Commission is poised to move forward on this issue at its February meeting. It appears that the
17 CRC will consider a proposal that provides a local community with the option to determine an oceanfront "development line" that
18 would be used to site oceanfront development in the future. The intent would be to draw a line that is in-line with the existing row
19 of oceanfront development and not allow any new or replacement construction seaward of that line. At a minimum, it does
20 appear that the 2,500 sq. ft. limit will be eliminated, and that change in and of itself should resolve the concerns in Pier Pointe
21 and Ocean Reef. A final amendment is still several months away, but this issue is headed in a positive direction for Emerald Isle.

22
23 **New Transportation Impact Mixed Use Building**

24 Town staff have been working closely with the owners and designers of this new building, which will be located adjacent to the
25 (new) Bert's Surf Shop near NC 58 and Islander Drive. The building will include offices, a few residential units, and a restaurant.
26 A rooftop seating area is also being planned to take advantage of views of Bogue Sound and the bridge. We expect formal plans
27 to be submitted for Planning Board and Town Board review in the next several weeks.

28
29 **Potential Commercial Sign Ordinance Amendments**

30 The Planning Board is expected to again discuss potential commercial sign ordinance amendments at its February 23 meeting.
31 Based on comments at the January Planning Board meeting, I have asked Jim Jennings, Interim Planning Director, to focus on
32 wall-mounted signs only. An ordinance amendment may appear on the Board's March meeting agenda.

33
34 **Clarification of Elevator Shaft Ordinance**

35 The Planning Board will also again discuss a clarification of the Town's elevator shaft ordinance provisions. Based on Town staff
36 and Town Attorney interpretation, the ordinance should be clarified to allow an elevator shaft to extend 15 ft. above the roof line
37 of a building. An ordinance amendment may appear on the Board's March meeting agenda.

38
39 **Beach Access Walkway Replacements**

40 The replacement of the 1st Street beach access walkway is nearing completion, and should be done this week. The contractor
41 will then begin work on the Shell Drive walkway, followed by the Tracy Street walkway. Our goal is to complete all walkway
42 replacements by April 1.

43
44 **Lt. Bailey Achieves Advanced Law Enforcement Certificate**

45 Police Lt. Bill Bailey recently received his advanced law enforcement certificate, which represents the highest level of training,
46 experience, and competency for a NC law enforcement officer. Others in the EIPD with the advanced certificate include Chief
47 Waters, Major Reese, and Officer Long.

48
49 **Public Works New Employee**

50 Public Works employee Montana Hines recently resigned to pursue a new job opportunity in the Mt. Olive area. Montana will be
51 missed in EI, and we wish him well in his new opportunity. Public Works has hired Kurt Schray to fill this vacant position, and he
52 will begin work with the Town this week.

53

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1 **Recent Surplus Auction Results**

2 The recent surplus auction yielded a total of \$532 for a used flagpole and two non-functional large printers formerly used in
3 Planning and Inspections.
4

5 **Additional Golf Cart Only Parking Spaces**

6 Public Works is currently adding new golf cart parking spaces at the Fawn Drive, Cedar Tree Lane, and Ethel Street beach
7 accesses, and also plans to soon add spaces at the Channel Drive, 10th St., 11th St., 13th St., and 14th St. accesses.
8

9 **Summer Position Recruitment Underway**

10 The Fire Department has initiated recruitment efforts for lifeguards and beach patrol personnel for this summer, and we hope to
11 have a full team assembled by late April or early May. Services will likely begin the week before Memorial Day. The Police
12 Department is also recruiting additional Police reserve officers to insure adequate coverage on the beach strand, at the regional
13 beach access facilities, and at Bogue Inlet Pier.
14

15 **Traffic Signal Pole Funding Request**

16 I am still awaiting feedback from Representative McElraft and Senator Sanderson on this funding request. I remain hopeful that
17 the requested State funds can be identified.
18

19 **ISO Rating Inspection**

20 The Fire Department met with State inspectors for the new ISO rating during the first week in January, and Chief Walker reports
21 the inspection went well. EIFD has passed the basic "9S" rating, and we expect to learn the Town's new ISO rating in the next 1
22 – 3 months.
23

24 **Chief Walker Cleared for Fire Duties**

25 Chief Walker has completed additional testing for a possible heart condition, and the test results did not reveal any significant
26 issues. He has passed his required physical, and is back at work performing all required duties.
27

28 **Emerald Isle Marathon, Half-Marathon, & 5K**

29 As of February 3, there are a total of 930 runners registered for these 3 races, and we expect many more registrations over the
30 next 7 weeks. The cap for this year's races is 2,500 runners, and we may very well reach that number. Last year's races
31 included approximately 1,200 runners.
32

33 The proceeds from the race will be split 50%/50% between the Town and the American Heart Association. The total fundraising
34 goal is \$60,000 profit, thus I am hopeful that at least \$30,000 will be remitted for future bicycle path improvements in EI.
35
36
37

38 **Crystal Coast Lighthouse Challenge (Bike Rides)**

39 The Bicycle and Pedestrian Advisory Committee has been working hard on this new event, which includes 3 long bike rides
40 originating in Emerald Isle. The premier ride of the day is an 85 mile roundtrip ride down Bogue Banks, through Morehead City,
41 Beaufort and Down East Carteret County to Harkers Island. There are also out and back rides to the Civil War site at Fort
42 Macon State Park in Atlantic Beach (41 miles) and to the North Carolina Aquarium in Pine Knoll Shores (25 miles). All three
43 rides will begin at 8 AM at the Emerald Isle Community Center.
44

45 **Bogue Inlet Navigation Dredging Permit**

46 The State's contractor is preparing to submit the formal permit applications to essentially transfer (duplicate) the permit authority
47 for navigation dredging in Bogue Inlet to the Town. The State's permit application also includes 4 other shallow-draft inlets in
48 North Carolina. We are hopeful that these permits will be issued later this year, and that they will provide more flexibility for
49 dredging in these inlets in the future, ideally with spoils placement at The Point and/or on the western beach of Emerald Isle.
50

51 **Meet with Vacation Rental Agencies, EI Businesses**

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1 I still have not had a chance to arrange these meetings, but still hope to do so at some point in the next few weeks. I hope to
2 schedule two separate meetings – one with the vacation rental agencies to review the past season and discuss any helpful
3 improvements for next season – and the other with Emerald Isle businesses to have a similar conversation.
4

5 **Update to Residents & Visitors Guide**

6 I again hope to update the Town's Residents & Visitors Guide publication before this upcoming summer season. The last update
7 was completed in May 2010. Much of the information included is still accurate and valid, however, some information is in need of
8 updating.
9

10 **14. Comments from Board of Commissioners and Mayor**

11
12 Commissioner Wootten wished Town Manager Rush good luck with his upcoming
13 surgery telling him jokingly to “break a leg”. Town Manager Rush it was noted is
14 scheduled for surgery to do just that – have his leg broken on purpose and would be on
15 crutches for awhile.
16

17 Mayor Barber thanked everyone for their cards, flowers, and food during his recent
18 surgery, and how much he appreciated it.
19

20 There were no further comments from the Board of Commissioners.
21

22 **15. Adjourn**

23
24 ***Motion was made by Commissioner Messer to adjourn the meeting. The Board***
25 ***voted unanimously 5-0 in favor. Motion carried.***
26

27 **The meeting was adjourned at 6:45 pm.**
28

29 Respectfully submitted:
30

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