

1 MINUTES OF THE REGULAR SCHEDULED MEETING
2 OF THE EMERALD ISLE BOARD OF COMMISSIONERS
3 TUESDAY, JULY 8, 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, Planning Director Kevin Reed, and Fire Chief Bill Walker.
14

15 Also in attendance: Greg “Rudi” Rudolph, Carteret County Shore Protection
16 Manager, and Will Reidel, Burnette Architecture.
17

18 After roll call all who were present recited the Pledge of Allegiance.
19

20 **4. ADOPTION OF AGENDA**
21

22 Town Manager Frank Rush requested that the Board add an additional item to
23 tonight’s agenda as item 15.5 – Closed Session – Pursuant to NCGS 143-
24 318.11(5), for the Purpose of Discussing Potential Real Estate Acquisition.
25

26 ***Motion was made by Commissioner Hedreen to approve the Agenda as***
27 ***amended. The Board voted unanimously 5-0 in favor. Motion carried.***
28

29 **5. PROCLAMATIONS / PUBLIC ANNOUNCEMENTS**
30

31 Mayor Schools noted the following announcements for the public:
32

- 33 • Friday Free Flick – Friday, July 11 – 7 pm – Community Center
- 34 • 4 v 4 Volleyball Tournament – Saturday, July 12 – 9 am until – Western
35 Ocean Regional Access
- 36 • Beach Jive After Five – “Deja Groove” – Thursday, July 17 – 5:30 pm –
37 Western Ocean Regional Access
- 38 • Planning Board Regular Meeting – Monday, July 28 – 6 pm – Community
39 Center
- 40 • Blood Drive – Friday, July 25 – 2 pm – 7 pm – Community Center
- 41 • Friday Free Flick – Friday, August 8 – 7 pm – Community Center
- 42 • 4 v 4 Volleyball Tournament – Saturday, August 9 - 9 am until – Western
43 Ocean Regional Access
- 44 • Board of Commissioners Regular Meeting – Tuesday, August 12 – 6 pm –
45 Community Center
46

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2 **6. CONSENT AGENDA**

- 3
4 a. Tax Refunds / Releases
5 b. Minutes – June 2, 2008 Special Meeting

6
7 *Motion was made by Commissioner Wootten to approve the items on the*
8 *Consent Agenda. The Board voted unanimously 5-0 in favor. Motion*
9 *carried.*

10
11 Note: A copy the above noted Consent Agenda items are incorporated herein by reference and
12 hereby made a part of these minutes.

13
14 **7. PUBLIC COMMENT**

15
16 **Brief Summary: The public will have the opportunity to address the Board**
17 **about any items of concern not on the agenda.**

18
19 There were no comments from the Public.

20
21 **8. PRESENTATION – PROTECTTHEBEACHMAPS.COM**

22
23 Greg “Rudi” Rudolph, Carteret County Shore Protection Manager presented the
24 new interactive coastal mapping website developed by the Shore Protection
25 Office to the Board and public. Mr. Rudolph noted the site location as
26 www.protectthebeachmaps.com. Mr. Rudolph stated that they determined a
27 while back that it would be good to develop a website with all of this data in one
28 place that could be easily accessed by the public. Mr. Rudolph provided a brief
29 tutorial demonstration to display the wide range of information, including
30 historical shoreline positions, beach access locations, historical sea turtle nesting
31 locations, previous beach nourishment projects, hurricane tracks, and much
32 more.

33
34 Mayor Schools thanked Mr. Rudolph for his presentation to the Board and public.

35
36 **9. BEACH VITEX ERADICATION PROGRAM**

- 37
38 a. Participation in North Carolina Beach Vitex Task Force
39 b. Ordinance Amending Chapter 5 – Beach and Shore Regulations – to
40 Prohibit Beach Vitex (08-07-08/O1)

41
42 Town Manager Frank Rush addressed the Board concerning this agenda item.
43 The following excerpt from Mr. Rush’s memo to the Board is provided as
44 additional background:
45
46

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1
2 The Board of Commissioners is asked to consider authorizing participation in efforts to eradicate the plant known as
3 beach vitex from the beaches of Emerald Isle. This request is made by the Carolinas Beach Vitex Task Force, a group
4 focused on eradicating this non-native, invasive plant from the beaches of North and South Carolina. Specifically, the
5 Board is asked to 1) agree to participate and make Town staff available to assist the Task Force with eradication
6 efforts in Emerald Isle, and 2) adopt an ordinance declaring beach vitex a public nuisance and formally prohibiting the
7 plant in Emerald Isle.
8

9 Beach vitex was introduced in the southeastern United States in the 1980s as a landscape plant, and was originally
10 intended to strengthen dunes. By the mid-1990s, biologists determined that the plant was doing more harm than good,
11 as it crowds out native dune species such as sea oats, American beachgrass, and bitter panicum that can stabilize
12 dunes. Biologists also learned that beach vitex can harm the habitat of sea turtles, shorebirds, and other rare, native
13 plants. The Carolinas Beach Vitex Task Force has identified at least 29 locations in Emerald Isle where beach vitex is
14 present, and there may be more. A list of the identified locations is attached, along with additional information about
15 beach vitex and the Task Force.
16

17 If the Board approves, the Carolinas Beach Vitex Task Force, with assistance from Town staff, will work with the
18 affected property owners to remove the beach vitex from their property. If the removal area is large, the Task Force
19 may plant new native species. If the removal area is small or isolated, restoration will rely on the natural recruitment of
20 native species. The Task Force is primarily funded by a grant from the National Fish and Wildlife Foundation, and the
21 effort has support from the US Fish and Wildlife Service in North Carolina. The Town's local match would be in the
22 form of Town staff assistance in identifying property owners, securing their cooperation, and perhaps assisting with the
23 removal and restoration efforts. We do not expect the amount of staff resources dedicated to this effort to be overly
24 burdensome, and this project should not impact our ability to complete other projects and tasks in a timely and quality
25 manner. At this time, it is unlikely that a local cash match will be required from the Town.
26

27 In order to participate in the beach vitex eradication program, the Town is required to adopt an ordinance formally
28 declaring that beach vitex is a public nuisance, and that it is prohibited in the Town limits. The attached Ordinance
29 Amending Chapter 5 – Beach and Shore Regulations – would satisfy this requirement.
30

31 Town Manager Rush stated that if the Town participates the eradication efforts
32 would probably happen sometime this fall and it would be done in cooperation
33 with the property owners. If someone for whatever reason were opposed to
34 participating it would not be forced upon them.
35

36 Mayor Schools asked for comments from the public.
37

38 Dave Thomas, 7025 Ocean Drive, stated that he probably had the healthiest
39 patch of beach vitex on our island. He said while he was not a fan of beach vitex
40 his primary concern was that he had never seen definitively anything saying that
41 it had either a negative or a positive impact on beach erosion. Mr. Thomas said
42 he was all for getting rid of it but if that was done on the beach his patch covers
43 both the secondary and the primary dune, and he certainly didn't want anyone
44 going in there in the middle of hurricane season and getting rid of all his beach
45 plants. Mr. Thomas said he had struggled with this for 15 – 20 years, adding that
46 it was the most tenacious plant, and he didn't think the Town should take lightly
47 removing it if it is an established plot. Mr. Thomas wondered about the
48 timeframe of eradication, and also if they planned to spray, would that kill
49 everything or would it just target the beach vitex.
50

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2 Town Manager Rush said their plan is to re-identify the locations and prioritize
3 based on the worst places some time this fall, keeping in mind they are working
4 all along the North Carolina coast. Mr. Rush said he wasn't sure about the
5 answer about the spray and whether or not it would isolate out just the beach
6 vitex, but added that their goal was to provide a good, natural vegetative base on
7 the dunes, and their contention is that sea oats, bitter panicum, some of the
8 native plants do a much better job of trapping the windblown sand and building
9 up the dunes; their intent is to be helpful and to help the property owners. Mr.
10 Rush stated that this would be done in cooperation with the property owners. Mr.
11 Rush said if the Board approves this the Town would be assisting in this effort.

12
13 Town Manager Rush in response to a question from Commissioner Messer
14 confirmed that if the property owners did not want to do this then they would not
15 be required to do so.

16
17 Commissioner Wootten expressed his concern with the wording in the proposed
18 ordinance about penalties.

19
20 ***Motion was made by Commissioner Wright to approve the Town's***
21 ***participation in the Carolinas Beach Vitex Task Force's Beach Vitex***
22 ***Eradication Program. The Board voted unanimously 5-0 in favor. Motion***
23 ***carried.***

24
25 ***Motion was made by Commissioner Wootten to adopt the Ordinance***
26 ***Amending Chapter 5 – Beach and Shore Regulation – To Prohibit Beach***
27 ***Vitex with the modification that Section 5-93 Penalty for Violation be***
28 ***eliminated or removed.***

29
30 Following Board discussion, Town Attorney Stanley suggested adding Section 5-
31 94 Exemptions – the Town upon application from the property owner is
32 authorized to exempt the property owner and the property from the application of
33 this ordinance.

34
35 ***Commissioner Wootten modified his motion - to leave Section 5-93 Penalty***
36 ***for Violation but add Section 5-94 as outlined by the Town Attorney. The***
37 ***Board voted unanimously 5-0 in favor. Motion carried.***

38
39 **Note: A copy of Ordinance 08-07-08/O1 is incorporated herein by reference and hereby made a part**
40 **of these minutes.**

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1
2 **10. DISCUSSION – UNIFIED DEVELOPMENT ORDINANCE / ZONING MAP**
3 **AMENDMENTS**
4

5 Planning Director Kevin Reed addressed the Board and provided a PowerPoint
6 presentation with details of this agenda item. The following excerpt from Frank
7 Rush, Town Manager’s memo to the Board for additional background:

8
9 The Board of Commissioners is scheduled to conduct the first of two planned reviews of the Unified Development
10 Ordinance (UDO) and associated zoning map amendments at the July 8 meeting.

11
12 Schedule for Review and Adoption of the UDO

13 The July 8 meeting will include additional explanation by Kevin Reed, Planning and Inspections Director, about the
14 UDO, including 1) a summary of changes made since the draft UDO was first presented to the Board at the May
15 meeting, 2) a detailed explanation of planned zoning map amendments, 3) a summary of the changes to Town’s
16 storm water ordinance to achieve compliance with the Universal Storm Water Management Program (USMP), and 4)
17 a summary of the significant policy changes included in the UDO.

18
19 The Board and the public should provide feedback to Town staff about the UDO and planned zoning map amendments
20 at the July 8 meeting. Any feedback received will be incorporated into the UDO and planned zoning map
21 amendments, and presented to the Board again at the August 12 meeting. The official public hearing on the UDO will
22 be scheduled for the August 12 meeting, and all property owners impacted by the planned zoning map amendments
23 will be notified via mail about the August 12 public hearing. Assuming that the Board is comfortable, the UDO and
24 zoning map amendments could be officially adopted at the August 12 meeting, which would be the end of the Town’s
25 2-year process to create the UDO.

26
27 The Planning Board reviewed the UDO at their May regular meeting, a June special meeting, and their June regular
28 meeting. The Planning Board has completed its review, and voted unanimously at their June 23 meeting to
29 recommend approval to the Board of Commissioners.

30
31 Summary of Changes to Draft UDO Since May / Planned Zoning Map Amendments

32 The attached memo from Kevin Reed includes a summary of changes made since the draft UDO was first presented to
33 the Board at the May meeting and a detailed explanation of planned zoning map amendments. Maps indicating the 19
34 planned zoning map amendments are also attached for your review.

35
36 Summary of USMP Ordinance Amendments

37 As discussed previously, the adoption of the UDO with amendments to the Town’s storm water ordinance will enable
38 the Town to participate in the State’s Universal Storm Water Management Program (USMP). As a result, the Town will
39 become the permitting entity for both the State and the Town for storm water permits. Development in Emerald Isle will
40 not be required to comply with the new coastal storm water rules currently being discussed (i.e., the Town’s ordinance
41 will take the place of the new coastal storm water rules). This change will also enable local developers to secure
42 required storm water permits in a more timely fashion, and will also eliminate redundancy in storm water review
43 processes.

44
45 The most significant changes to the Town’s storm water ordinance to achieve compliance with the USMP are outlined
46 below:

- 47
48 • The threshold for engineered storm water plans for single family homes (with more extensive requirements)
49 has been changed from 5,000 sq. ft. of impervious surface to 10,000 sq. ft. of disturbed area to be consistent
50 with the requirements of USMP. The practical implication of this change is that the vast majority of single
51 family homes in Emerald Isle will continue to use contractor-prepared (or “simple”) storm water management
52 plans. (I.e., very few new single family homes in Emerald Isle have more than 5,000 sq. ft. of impervious
53 surface and very few new single family homes disturb more than 10,000 sq. ft.). The Town’s current

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- ordinance requires ALL commercial and multi-family projects to have an engineered storm water plan, and that requirement is not changed in the UDO.
- Future permitted storm water management systems for ALL commercial and multi-family projects and single-family projects that disturb more than 10,000 sq. ft. of land will be required to utilize recorded deed restrictions or restrictive covenants to insure that future development and/or redevelopment maintains the site consistent with approved storm water management plans.
- Future permitted storm water management systems for ALL commercial and multi-family projects and single-family projects that disturb more than 10,000 sq. ft. of land will be required to prepare and record an operations and maintenance plan for the storm water management system to insure that future property owners properly maintain the system.
- The Town will inspect future permitted storm water management systems for ALL commercial and multi-family projects and single-family residential projects that disturb more than 10,000 sq. ft. of land on an annual basis to insure that the systems are functioning properly. If the systems are not functioning properly, the property owner will be required to perform maintenance. The ordinance includes provisions for the property owner to perform corrective action, and if that action is not performed then the Town may complete the work and ultimately place a lien on the property if the cost is not paid to the Town. We do not expect a significant workload associated with these inspections, as we are likely to issue only a handful of these storm water permits annually.
- A 30 ft. setback is required from all surface waters, except for roads, paths, and water-dependent structures. This setback is already in place under CAMA rules for Bogue Sound and Archers Creek, and would now also apply to other surface waters such as ponds. The Board should note that the proposed new coastal storm water rules may include a 50 ft. setback. USMP requires only a 30 ft. setback.
- ALL commercial and multi-family projects and single-family projects that disturb more than 10,000 sq. ft. of land are required to meet standards for total suspended solids and fecal coliform that are typically easily achieved by the use of infiltration systems, which are the most commonly used storm water management practice in Emerald Isle.
- The Town's 2 inch storm water volume requirement has not been changed in the UDO. The Town's engineers have completed extensive reviews of the Town's ordinance and have determined that the Town's volume requirement meets all applicable volume requirements in USMP.

Staff at the NC Division of Water Quality has verbally indicated that they will approve the Town's storm water regulations included in the UDO for participation in the USMP. We expect to receive official correspondence indicating approval in the near future, and certainly prior to August 12. If the Board decides not to amend the Town's storm water ordinance, local developers will continue to adhere to the Town's existing ordinance, and will also be subject to the new coastal storm water rules currently being considered by the State.

Significant Policy Changes in the UDO / Creation of Marina Village District

As discussed previously, the main goals for the UDO are to conduct a comprehensive review of the Town's development regulations, create a more user-friendly set of development regulations, and insure consistency with the Town's Land Use Plan. The UDO does include a few significant policy changes, however, that the Board should consider during its review. These policy changes are outlined below:

- The Residential Motel Hotel (RMH) zoning district would be eliminated, and any remaining RMH properties would be rezoned to another appropriate zoning district. This change is consistent with the Land Use Plan and previous actions by the Board, and is intended to eliminate the possibility of a motel or hotel ever being located in a residential area.

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- The Institutional (I) zoning district would be eliminated, and any Institutional properties would be rezoned to the Business district. This change affects only a handful of properties, and is not expected to have a negative effect on surrounding properties.
- A new Government (G) zoning district would be created, and Town properties, utility properties, and the Coast Guard Station would be included in the Government district.
- The Business-1 (B-1) and Business-2 (B-2) zones would be eliminated, and the Business-3 zone is being renamed Business (B). There is only one property not currently zoned B-3, and the final property would be rezoned from B-2 to B.
- The Marina Village (MV) zoning district and Marina Village Conditional Overlay (MV-C) zoning district would be created. The intent behind the MV and MV-C districts is to provide incentives to insure that the community continues to be served by a privately-owned marina that remains open to the general public. These new zoning districts would apply to the area including and adjacent to Island Harbor Marina, and are very similar to Village East and Village West and their respective conditional overlay districts. The MV and MV-C zoning districts are also mixed use districts that allow both residential and commercial uses on the same property, however, the permitted commercial uses are those typically associated with a marina.

The Board should note that the Marina Village Conditional Overlay district allows for more flexible design standards, higher residential densities (up to 10 units per acre compared to 4 units per acre allowed in the MV district), and could potentially allow higher buildings (up to 60 feet high compared to 50 feet high in the MV district and other commercial districts) IF there is a significant public recreational benefit provided by the new development. Examples of a significant public recreational benefit in the Marina Village Conditional Overlay district might include a boat launching facility open to the public, or other mechanisms to insure the perpetual existence of a marina open to the public. The allowance for a building that could be as high as 60 feet is intended to allow for a cost-effective dry-stack facility in the future if one is desired, and is the only circumstance in which a building higher than 50 feet is envisioned. The Board should note that the only way that the 60 ft. building could be authorized is through the rezoning of the property to the Marina Village Conditional Overlay district – which requires the provision of a significant public recreational benefit.

Town Manager Rush stated that the purpose of tonight's presentation was educational and to receive input from the Board. He said if the Board was comfortable with the UDO tonight then a public hearing would be scheduled for the August 12 meeting at which time they could potentially adopt the ordinance. Mr. Rush felt this was a very important project for the Town and they wanted to specifically schedule it for two Board meetings so there would be ample time for the Board and the public to comment.

Commissioner Hedreen had questions about the marina village and the marina village overlay; asking about the 60' possible height, remembering the property they were looking at in the Village East and Village West about a year ago where they wanted to increase the density and to have taller buildings and the Board knocked it down to the 40 foot residential height. Mr. Reed responded that the UDO Committee discussed this and met with the property owners of Island Harbor Marina, specifically with their potential plans to develop a drystack facility, requested that 60 feet be included in that, and that while all of the UDO Committee did not agree with that, a majority did. Mr. Reed added that this

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1
2 Board could modify that to another height limitation if they though it more in
3 keeping with the goals of Emerald Isle.

4
5 Mayor Schools asked about the commercial height limits in Village East and
6 West. Mr. Reed stated that commercial height in both is 50 feet, residential is 40
7 feet, and mixed use is 40 feet. Mr. Reed said that as Commissioner Hedreen
8 pointed out the original proposal for Village East was 50 feet and that was
9 dropped back to 40 feet. Mr. Reed added that the only opportunity to go to 60
10 feet would be under a conditional zoning overlay, by right they could only go to
11 50 feet.

12
13 Commissioner Hedreen felt it was worth discussing if we were going to have
14 conditional overlay districts what would constitute a compelling or overwhelming
15 public good, which she certainly thought the marina did that, but what were
16 reasonable expectations on both sides, so that people can do good projects but
17 be satisfactory to the public.

18
19 **11. NEW TOWN ADMINISTRATION BUILDING**

- 20
21 **a. Public Hearing on Proposed Installment Financing Agreement**
22 **b. Resolution Authorizing Filing of an Application for Approval of a**
23 **Financing Agreement (NC Local Government Commission) (08-07-08/R1)**
24 **c. Resolution Authorizing Installment Financing Agreement with RBC**
25 **Bank(08-07-08/R2)**
26 **d. Resolution Authorizing Construction Contract with Bluewater**
27 **Builders (08-07-08/R3)**
28 **e. Capital Project Ordinance Amendment**
29

30 Town Manager Frank Rush addressed the Board concerning this agenda item.
31 The following excerpt from Mr. Rush's memo to the Board is provided as
32 additional background:

33
34 The Board of Commissioners is scheduled to consider several action items pertaining to the construction of the new
35 Town Administration Building at the July 8 meeting.

36
37 Among the actions scheduled for consideration is a \$743,355 construction contract with Bluewater Builders, Emerald
38 Isle, NC, which is slightly below the \$800,000 budget established for the project during the FY 08-09 budget process.
39 The other items include formal actions for the financing of the project and an amendment to the capital project
40 ordinance (budget) for the project. The capital project ordinance amendment also includes funding for future
41 improvements to the Town Hall meeting room when the new building is complete.

42
43 I am pleased to recommend approval of all action items to the Board of Commissioners. If all items are approved,
44 construction is likely to begin sometime in August on the new building. The construction contract provides a total of
45 270 days to complete the project, which would result in the completion of the building by May 2009.

46
47 The new Town Administration Building will be constructed on Town-owned land directly across from the existing Town
48 Hall complex. The new building will include office space for 8 people, which is sufficient for current staffing levels and

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1
2 allows for 2 additional employees in future years. The building also includes a new conference room and employee
3 lounge, and ample storage space.
4

5 The exterior of the building has an attractive coastal design, with a wrap-around covered porch, cupola feature, and
6 variable roof lines. The new building will have the same color scheme as the new EMS Station – a light green color
7 with white trim. A new, 13-car parking lot will be constructed on the west side of the new building. The new building
8 will be a wonderful addition to the Town's facilities, and should serve our community very well for many years to come.
9

10 A detailed description of each action item follows.

11
12 Public Hearing on Proposed Installment Financing Agreement

13 First, the Board is scheduled to conduct a public hearing on the proposed installment financing agreement that is
14 necessary to fund construction of the new Town Administration Building. This public hearing is required before the
15 Board may consider the two financing-related action items on the agenda. The proposed installment financing
16 agreement is with RBC Bank, and involves the issuance of \$875,000 of new debt with a 10-year term at an annual
17 interest rate of 3.58%.
18

19 The Town's FY 08-09 budget and 5-Year Capital Replacement / Improvement Program contemplated a total budget of
20 \$800,000 for the construction of the new Town Administration Building and an additional \$100,000 for future
21 improvements to the Town Hall meeting room. The identified revenue source for these expenditures was a \$900,000
22 installment financing agreement, thus the \$875,000 installment financing agreement is slightly less than anticipated.
23

24 As noted above, the total construction contract with Bluewater Builders is \$743,355. The proposed installment
25 financing contract includes funding for the following items that collectively add up to the \$875,000 included in the
26 proposed installment financing contract:
27

- 28 • \$ 745,000 for the construction contract,
- 29 • \$ 40,000 project contingency for unanticipated or additional building features, including telephone and
30 data lines, and perhaps a generator (the base bid includes the appropriate wiring for the future addition of
31 a generator),
- 32 • \$ 30,000 for furnishings for the new building, and
- 33 • \$ 60,000 for future improvements to the Town Hall meeting room.
34

35 The Town has solicited financing proposals from several banks, and received a total of 4 financing proposals. RBC
36 Bank offered the most attractive proposal, with an annual interest rate of 3.58% over the 10-year term. The other 3
37 proposals included interest rates of 3.704% (Bank of America), 3.78% (First Citizens Bank), and 4.72% (Wachovia).
38

39 The annual debt service payment on the proposed installment financing agreement will be approximately \$105,636,
40 with the first payment due on September 1, 2009 (in FY 09-10). The Town's FY 08-09 budget and 5-Year Capital
41 Replacement / Improvement Program anticipated an annual payment of approximately \$114,000, thus the actual
42 annual payment is slightly less than projected.
43

44 Resolution Authorizing Filing of an Application for Approval of a Financing Agreement (NC Local Government
45 Commission)

46 The proposed installment financing agreement must be approved by the NC Local Government Commission prior to
47 closing on the financing. The attached resolution authorizes the Town Manager to submit the appropriate application,
48 and also outlines the need for the new Town Administration Building and the reasons for utilizing an installment
49 financing agreement.
50

51 The NC Local Government Commission (LGC) will consider the Town's application at its August 5 meeting in Raleigh.
52 We do not anticipate any difficulty in receiving the LGC's approval due to the fact that the Town maintains a solid
53 financial position, has a relatively small amount of outstanding debt other than the remaining beach nourishment
54

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1
2 bonds, and because of the necessity of the project. Assuming LGC approval on August 5, the closing on the
3 installment financing agreement would occur sometime prior to August 31. RBC's rate proposal is valid until that date.
4

5 Resolution Authorizing Installment Financing Agreement With RBC Bank

6 This attached resolution formally authorizes the Town Manager and other Town officials to execute the installment
7 financing agreement described above with RBC Bank.
8

9 This attached resolution indicates that the installment financing agreement will be consistent with RBC's proposal
10 dated July 1, 2008 (attached), indicates that the debt will be secured by the new Town Administration Building, and
11 also notes that the installment financing agreement is a qualified, tax-exempt obligation (i.e., the Town will not issue
12 more than \$10 million of debt in 2008, which would jeopardize the tax-exempt nature of this installment financing
13 agreement).
14

15 Resolution Authorizing Construction Contract With Bluewater Builders

16 The attached resolution authorizes a construction contract with Bluewater Builders in the amount of \$743,355. The
17 total contract price equates to a cost of approximately \$177 per sq. ft. (this figure includes the construction of the
18 associated 13-car parking lot).
19

20 As you know, Bluewater Builders is an Emerald Isle construction company, and we are very pleased that a local
21 company was the successful bidder during our recent bid process completed on July 1. Bluewater is currently
22 constructing the new EMS Station for the Town, and we have enjoyed a very good working relationship thus far. The
23 Town received a total of 5 bids for the construction of the new Town Administration Building. The project was bid with
24 a base bid and 3 alternates, and the low bid calculation is based on the base bid plus Alternate 1 on the attached bid
25 tabulation. The 5 bids received, calculated based on the base bid and Alternate 1, are as follows:
26

- | | | |
|----|---|-------------|
| 27 | • Bluewater Builders, Emerald Isle, NC | \$ 743,355 |
| 28 | • Smithson, Inc., Rocky Mount, NC | \$ 772,805 |
| 29 | • Thomas Simpson Construction, Atlantic Beach, NC | \$ 798,531 |
| 30 | • Norstate Contracting, Greenville, NC | \$ 914,800 |
| 31 | • Centurion Construction, Morehead City, NC | \$ 936,100. |

32
33 The results of the bid process are the same regardless of how the low bid is calculated with the 3 alternates.
34 Bluewater Builders is the clear lowest bidder for the project.
35

36 As noted above, the project was bid with a base bid and 3 alternates. The base bid included construction of the
37 building without a cupola, skylights, and exterior clock. The cupola is included as Alternate 1, the skylights (along the
38 back center spine of the building) is included as Alternate 2, and the exterior clock (located on the front face of the
39 clock) is included as Alternate 3. Bluewater's bid includes the following amounts:
40

- | | | |
|----|---------------------------|------------|
| 41 | • Base Bid | \$ 718,155 |
| 42 | • Alternate 1 (Cupola) | \$ 25,200 |
| 43 | • Alternate 2 (Skylights) | \$ 35,200 |
| 44 | • Alternate 3 (Clock) | \$ 12,325. |

45
46 The grand total amount for Bluewater's base bid and all alternates is \$790,880.
47

48 In order to reduce the overall cost of the building and also maintain the attractive exterior look of the building, I am
49 recommending that the Board award the contract to Bluewater Builders with the inclusion of the base bid and the
50 cupola feature (Alternate 1). The skylights contemplated in Alternate 2 would be a very nice feature, but are not
51 absolutely necessary and I do not believe they are worth the additional expense. The clock contemplated in Alternate
52 3 would also be a very nice feature, however it is also not absolutely necessary and can be eliminated.
53
54

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1
2 I chose to include the cupola in my recommendation to the Board in order to maintain the attractive exterior look of the
3 building. I have attached sketches of the building with and without the cupola feature so the Board will understand the
4 difference in the building appearance with and without the cupola. The Board should note that my recommendation
5 would replace the clock with a sign showing the Town seal or some other signage to avoid the appearance of a blank
6 wall at that location.

7
8 The Board may certainly choose, however, to also include the skylights and clock if desired, or may choose to not
9 include the cupola. If the Board makes these adjustments, the contract amounts can be adjusted accordingly.
10 Regardless of the inclusion or elimination of the 3 alternates, the building will be an attractive and functional building
11 and will serve our community well. In short, no decision on the alternates is a bad decision – it is simply a matter of
12 how much cost can be avoided.

13
14 The Board should note that there may be additional opportunities to reduce the cost of the project, and these
15 opportunities will be explored prior to construction and during construction. In particular, the allowances in the
16 construction project are generous, and we will be working hard to achieve savings by selecting cost-effective allowance
17 items. Any additional savings achieved will be folded into the project contingency. I recommend that the Town revisit
18 the contingency amount as we get close to completion of construction, and perhaps reconsider the installation of a
19 clock on the cupola at that time. I remain hopeful that very little of the recommended \$40,000 contingency amount will
20 actually be necessary.

21
22 The contract stipulates a total of 270 days (9 months) for construction, and we expect to issue a notice-to-proceed in
23 August (to allow for LGC approval of the financing, the execution of all contract documents, the issuance of building
24 permits, to allow Bluewater to mobilize, etc.) This schedule would result in completion by May 2009, prior to the 2009
25 hurricane season. The contract documents stipulate liquidated damages of \$250 per day beyond the established
26 completion date.

27
28 The construction contract is a standard construction contract drafted by the American Institute of Architects (AIA), but
29 the contract has not yet been reviewed by Town Attorney Richard Stanley. Assuming that the attached resolution is
30 approved, the contract will not be executed until it has been reviewed and approved by the Town Attorney.

31
32 Capital Project Ordinance Amendment

33 The FY 08-09 budget and 5-Year Capital Replacement / Improvement Program adopted by the Board in June
34 contemplated an \$800,000 budget for the new Town Administration Building and a \$100,000 budget for future
35 improvements to the Town Hall meeting room. As noted above, the total amount actually necessary for these items is
36 \$875,000, and the attached capital project ordinance amendment increases the project budget by \$875,000, to be
37 funded with the proceeds from the proposed installment financing agreement.

38
39 The attached capital project ordinance amendment establishes the following budget amounts:

- 40
41
- 42 • \$ 745,000 for the construction contract,
 - 43 • \$ 40,000 project contingency for unanticipated or additional building features, including telephone and data
44 lines, and perhaps a generator (the base bid includes the appropriate wiring for the future addition of a
45 generator),
 - 46 • \$ 30,000 for furnishings for the new building, and
 - 47 • \$ 60,000 for future improvements to the Town Hall meeting room.

48 Based on these budget amounts, a total of \$815,000 is allocated for the new building and \$60,000 is allocated for
49 future meeting room improvements. The \$60,000 budget for future meeting room improvements includes the following:

- 50
- 51 • \$ 20,000 for new flooring in the meeting room (and the elevation of the Board meeting table by 1 – 2 feet),
52 entry foyer, kitchen, and bathrooms,
 - 53 • \$ 10,000 for new cabinets, countertops, and appliances in the kitchen,
 - 54 • \$ 5,000 for improvements to the bathrooms,

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- \$ 5,000 for a new glass doorway entrance from the foyer into the meeting room,
- \$ 5,000 for new cabinets, countertops, and flooring in the Planning and Inspections kitchen,
- \$ 10,000 for audio-visual improvements in the meeting room, and a
- \$ 5,000 contingency.

These improvements would occur in June 2009 after the Town administrative staff has been relocated to the new Town Administration Building.

The Board may decide that the Town Hall meeting room improvements are not essential or can be delayed. If the Board makes this decision, the installment financing agreement and project budget can be reduced by \$60,000. I would very much like to make the proposed improvements, however, to insure that the Town's facilities remain attractive and functional.

Commissioner Hedreen stated that she really like the cupola, feeling it added a coastal look. Commissioner Hedreen said we weren't trying to build a magnificent showplace but neither were we trying to build a box that would not stand out as a Town Hall. She felt it was value added to have the cupola and the clock. Commissioner Hedreen also felt a nice sign was needed.

Town Manager Rush indicated that the site plan shows an island outside of the front door in the sidewalk with plans for a nice sign and landscaped area. Mr. Rush added that if we could not do a clock, his thought was perhaps the Town Seal.

Commissioner Wootten mentioned the possibility of a tide clock to be distinctive to Emerald Isle.

There was a consensus among the Board that the new building should have a clock.

Town Manager Rush said he felt confident that we could find a way to make this work within the existing contract within the allowances and contingency amount.

Motion was made by Commissioner Wootten to open the Public Hearing on the proposed installment financing agreement. The Board voted unanimously 5-0 in favor. Motion carried.

Diane Schools, 106 Indigo, presented ideas for raising funds for a clock by selling bricks like they are currently doing for the EMS Building, the possibility of someone donating it, or having some other fundraisers in order to do a first class job.

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

1
2 ***Motion was made by Commissioner Wright to approve the Resolution***
3 ***Authorizing the Filing of an Application for Approval of a Financing***
4 ***Agreement. The Board voted unanimously 5-0 in favor. Motion carried.***

5
6 ***Motion was made by Commissioner Hoover to approve the Resolution***
7 ***Authorizing an Installment Financing Agreement with RBC Bank. The***
8 ***Board voted unanimously 5-0 in favor. Motion carried.***

9
10 ***Motion was made by Commissioner Messer to approve the Resolution***
11 ***Authorizing a Construction Contract with Bluewater Builders. The Board***
12 ***voted unanimously 5-0 in favor. Motion carried.***

13
14 ***Motion was made by Commissioner Wootten to approve the Capital Project***
15 ***Ordinance Amendment for the new Town Administration Building. The***
16 ***Board voted unanimously 5-0 in favor. Motion carried.***

17
18 **Note: A copy of Resolutions 08-07-08/R1, 08-07-08/R2, 08-07-08/R3 and Capital Project Ordinance**
19 **Amendment as noted above are all incorporated herein by reference and hereby made a part of**
20 **these minutes.**

21
22 **12. NEW FIRE ENGINE**

- 23
24 **a. Public Hearing – Waiver of Bidding Requirements and Reliance Upon**
25 **a Competitive Bid Process by the City of Montgomery, AL**
26 **b. Public Hearing on Proposed Installment Financing Agreement**
27 **c. Resolution Authorizing Installment Financing Agreement with First**
28 **Citizens Bank (08-07-08/R4**
29 **d. Resolution Authorizing Purchase of New Fire Engine from E-One,**
30 **Inc. (08-07-08/R5)**

31
32 Fire Chief Bill Walker addressed the Board concerning this agenda item. The
33 following excerpt from Mr. Rush's memo to the Board is provided as additional
34 background:

35
36 The Board of Commissioners is scheduled to consider several action items pertaining to the purchase of a new Fire
37 Engine at the July 8 meeting.

38
39 The central item for consideration is the purchase of a new Fire Engine from E-One, Inc., Ocala, FL, for a total
40 purchase price of \$418,390. The other actions scheduled for consideration are a public hearing on the use of the
41 "piggyback" purchasing method for the new Fire Engine, a public hearing on the issuance of \$440,000 of new debt to
42 finance the purchase of the Fire Engine and other associated equipment, and a resolution authorizing an installment
43 financing agreement with First Citizens Bank, Raleigh, NC.

44
45 As you know, the purchase of the new Fire Engine has been discussed several times in recent months. The FY 08-09
46 budget anticipated that the Town would finance a total of \$450,000 for the new Fire Engine and associated equipment,
47 thus the Town will realize a small savings (\$10,000) on this purchase.
48

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A more detailed description of each action item follows.

Public Hearing on Waiver of Bidding Requirements and Reliance Upon a Competitive Bid Process by the City of Montgomery, AL

As discussed during the FY 08-09 budget process, new requirements for Fire apparatus will go into effect in 2009 that will likely increase the cost of the planned new Fire Engine by \$40,000 - \$50,000. In an effort to avoid this price increase and to expedite the delivery of the new Fire Engine for Fire Department use, the Board is asked to consider authorizing the purchase of the new Fire Engine via the "piggyback" purchasing method authorized by the NC General Statutes. In order to utilize the "piggyback" method, the Town is required to advertise such and conduct a public hearing before authorizing the purchase. The Town placed the appropriate notice (copy attached) in the June 27 edition of the Carteret County News-Times and on the Town's website, and has scheduled a public hearing for the July 8 meeting.

NC General Statutes allow the waiver of the requirements of the formal bid process under the "piggyback" method if same or better terms are offered to the Town as a previous competitive bid process completed by another unit of government. The previous competitive bid process must have occurred within the past year, and can be from any Federal agency, State government, or local government in the United States, provided the process is similar to that used in North Carolina. The vendor, E-One, Inc., identified a nearly identical Fire Engine as the one specified by the Town that was sold to the City of Montgomery, AL in November 2007, and has offered nearly identical terms to the Town. The City of Montgomery completed a competitive bid process, and purchased a Fire Engine from E-One, Inc. for \$424,979. The negotiated purchase price for Emerald Isle is \$418,390, which is slightly lower than the City of Montgomery, due to minor adjustments to the features included on the new Fire Engine and also as a result of additional discounts for Emerald Isle. Documentation of the City of Montgomery's competitive bid process is attached.

The purpose of the required notice and the public hearing is to 1) enable the public to comment on the proposed purchase, and 2) to enable other Fire Engine vendors to become aware of the proposed purchase and theoretically offer a better price to the Town. As of July 2, the Town has not received any inquiries from other vendors in response to the June 27 notice.

Public Hearing on Proposed Installment Financing Agreement

The Board is also scheduled to conduct a public hearing on the proposed installment financing agreement that is necessary to finance the purchase of the new Fire Engine and associated equipment. NC General Statutes do not require this public hearing, nor is the approval of the NC Local Government Commission required, however, in the interest of public participation, we have scheduled a public hearing for the July 8 meeting.

The Town solicited financing proposals in June, and received four proposals. First Citizens Bank, submitted the most attractive financing proposal, and the attached resolution would authorize an installment financing agreement with First Citizens Bank. First Citizens Bank offered an annual interest rate of 3.04% for the specified 5-year term. The other financing proposals included annual interest rates of 3.23% (RBC Bank), 3.844% (Bank of America), and 4.53% (Wachovia).

As noted above, the Town would finance a total of \$440,000. This amount includes the proposed purchase price of \$418,390 plus an additional \$21,610 for associated equipment (air-packs, etc. - from a different vendor). Annual principal and interest payments of approximately \$97,200 would begin on January 1, 2010 and continue until January 1, 2014. The first debt service payment would be due in FY 09-10, as anticipated in the FY 08-09 budget and the Town's 5-year Capital Replacement / Improvement Plan. The FY 08-09 budget anticipated that the total annual payment beginning in FY 09-10 would be approximately \$101,000, thus the actual installment financing agreement is slightly more favorable than projected.

As discussed during the FY 08-09 budget process, the Town intends to retire this debt earlier than the 5-year term with the proceeds from the future sale of the old EMS Station. The proposed installment financing agreement includes only a minimal \$250 pre-payment penalty.

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1 As you know, the Town owns four large pieces of fire apparatus, and expects a 20-year life from each piece of
2 apparatus. The Town's policy is to replace one large piece every 5 years and to utilize a 5-year installment financing
3 agreement so that the Town's annual expense for large Fire apparatus remains relatively constant.

4
5 Resolution Authorizing Installment Financing Agreement With First Citizens Bank

6 This attached resolution formally authorizes the Town Manager and other Town officials to execute the installment
7 financing agreement described above with First Citizens Bank.

8
9 This attached resolution indicates that the installment financing agreement will be consistent with First Citizens Bank's
10 proposal dated June 30, 2008 (attached), and also notes that the installment financing agreement is a qualified, tax-
11 exempt obligation (i.e., the Town will not issue more than \$10 million of debt in 2008, which would jeopardize the tax-
12 exempt nature of this installment financing agreement). The debt will be secured by the new Fire Engine.

13
14 Closing on the installment financing agreement would occur prior to October 15, 2008, and financing proceeds will be
15 held in escrow until payment is due to E-One, Inc. in early 2009.

16
17 Resolution Authorizing Purchase of New Fire Engine from E-One, Inc.

18 The attached resolution formally authorizes a purchase contract with E-One, Inc. for \$418,390, as described above.

19
20 The new Fire Engine will replace a 1986 Fire Engine that is beyond its useful life to the Emerald Isle Fire Department.
21 (The 1986 Fire Engine will be auctioned in 2009, most likely to a small volunteer Fire Department.) The attached
22 memo from Fire Chief Bill Walker includes a detailed explanation of the need for, and the benefits of the new Fire
23 Engine. The purchase contract calls for delivery of the new Fire Engine within 240 days, and we expect the new Fire
24 Engine to be in use in Emerald Isle by early 2009. Chief Walker will attend the July 8 meeting and provide additional
25 details on the new Fire Engine.

26
27 ***Motion was made by Commissioner Messer to open the public hearing on***
28 ***the waiver of bidding requirements and the reliance upon a competitive bid***
29 ***process by the City of Montgomery, Alabama. The Board voted***
30 ***unanimously 5-0 in favor. Motion carried.***

31
32 There were no comments from the Public.

33
34 ***Motion was made by Commissioner Wootten to close the public hearing.***
35 ***The Board voted unanimously 5-0 in favor. Motion carried.***

36
37 ***Motion was made by Commissioner Hedreen to open the public hearing on***
38 ***the proposed installment financing agreement. The Board voted***
39 ***unanimously 5-0 in favor. Motion carried.***

40
41 There were no comments from the Public.

42
43 ***Motion was made by Commissioner Hoover to close the public hearing.***
44 ***The Board voted unanimously 5-0 in favor. Motion carried.***

45
46 ***Motion was made by Commissioner Wright to approve the Resolution***
47 ***Authorizing an Installment Financing Agreement with First Citizens Bank.***
48 ***The Board voted unanimously 5-0 in favor. Motion carried.***
49

1
2 ***Motion was made by Commissioner Hedreen to approve the Resolution***
3 ***Authorizing the Purchase of a New Fire Engine from E-One, Inc. The Board***
4 ***voted unanimously 5-0 in favor. Motion carried.***

5
6 **Note:** A copy of Resolutions 08-07-08/R4 and 08-07-08/R5 are incorporated herein by reference and
7 hereby made a part of these minutes.

8
9 **13. APPOINTMENTS**

10
11 **Brief Summary:** The Board will consider appointments to two Town advisory
12 Boards. There is one vacancy on the Planning Board for a term that expires
13 in March 2009. There will also be one vacancy on the Emerald Isle Parks
14 and Recreation Association, Inc. for a term that expires in August 2011.

- 15
16 **a. Planning Board – 1 Vacancy**
17 **b. Parks and Recreation Association, Inc. – 1 Vacancy**

18
19 Commissioner Hoover introduced Tom Kelly, stating that he had served two
20 years on the Emerald Isle Board of Adjustment, currently President of Friends of
21 Fort Macon, and serves on the Board of Directors at Carteret Community College
22 Foundation.

23
24 ***Motion was made by Commissioner Hoover to appoint Tom Kelly to the***
25 ***Planning Board to serve the remainder of a term that expires in March 2009.***
26 ***The Board voted unanimously 5-0 in favor. Motion carried.***

27
28 Mayor Schools noted that as Mr. Kelly was serving on the Board of Adjustment
29 his move would leave a vacancy on that Board.

30
31 ***Motion was made by Commissioner Wootten to appoint Frank Powell from***
32 ***Alternate Member on the Board of Adjustment up to Regular Member on***
33 ***the Board of Adjustment with a term expiring May 2011. The Board voted***
34 ***unanimously 5-0 in favor. Motion carried.***

35
36 Mayor Schools noted that move would now result in a vacancy in an Alternate
37 Member positions on the Board of Adjustment.

38
39 ***Motion was made by Commissioner Messer to appoint James Normile to fill***
40 ***the Alternate Member position vacated by Mr. Powell expiring May 2010.***
41 ***The Board voted unanimously 5-0 in favor. Motion carried.***

42
43 ***Motion was made by Commissioner Wright to reappoint Bernie Whalley to***
44 ***the Emerald Isle Parks and Recreation Association, Inc. for a term that will***
45 ***expire in August 2011.***
46

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

5 There were no further comments from the Town Clerk or Town Attorney.
6

7 Town Manager Rush mentioned briefly the status of the Police Department's
8 update of their Standard Operating Procedures. Mr. Rush also discussed with
9 the Board possible amendments to the Town's Itinerant Merchant Ordinance.
10 The following is an excerpt from his Manager Comments memo to the Board for
11 additional information:
12

13 **Update - Coast Guard Road Storm Water Project**

14 Construction on the project will resume on July 7 after a one-week break for July 4th week. Remaining work includes
15 electrical connections at the two pump locations in Spinnakers Reach, restoration of disturbed areas in Spinnakers
16 Reach, fusion of pipe segments already installed in Dolphin Ridge, and installation of pipe along Coast Guard Road.
17 We expect the project to be complete within the next month.
18

19 **Update - New EMS Station**

20 The EMS Station remains on schedule for a September completion date. Exterior siding is in progress, and interior
21 finish work continues.
22

23 **Coast Guard Road Bicycle Path**

24 I had intended to ask the Board to authorize a grant application to the NC Golden Leaf Foundation for the construction
25 of a segment of the planned Coast Guard Road bicycle path at the July 8 meeting. After additional research, I don't
26 believe the Town's chances of success are very good, and do not intend to pursue this grant opportunity. We will
27 continue to seek out other grant opportunities for this project in the future.
28

29 **Potential Amendments to Itinerant Merchants Ordinance**

30 The Town occasionally receives inquiries from various individuals about temporary sales / rental operations for things
31 like beach products, ice cream trucks, hot dog carts, etc. The Town's current ordinance on itinerant merchants has
32 been in place for many years, and is somewhat complicated. I am considering presenting suggested ordinance
33 amendments to the Board in the future that would clarify and simplify the Town's regulations, and perhaps allow limited
34 itinerant merchant activities if it is operated by a business with a physical presence in Emerald Isle. A copy of the
35 Town's existing ordinance is attached.
36

37 **Time Warner Cable Spin-Off**

38 I received the attached letter and package from Time Warner Cable explaining the spin-off of the cable company from
39 Time Warner, Inc. The letter indicates that the cable service provided to the Town should not be affected in any way,
40 and that they believe that the Town's approval is not ultimately necessary, but can be provided if desired.
41

42 The Town's existing franchise agreement with Time Warner Cable expires on August 12, 2008. A recent change in
43 State law now allows cable television providers to secure State franchises, and there is no longer a need for a local
44 franchise agreement in Emerald Isle. Because of the benign nature of this spin-off and the fact that the Town's
45 franchise agreement will expire in August, I do not intend to respond.
46

47 **Police Department Standard Operating Procedures**

48 I had initially intended to include these on the Board's agenda for formal review and approval. After additional
49 contemplation, I believe that the Police Department's (and any other department's) SOPs should be approved
50 administratively by the Police Chief and Town Manager. I am still in the process of reviewing the SOPs. I will place a
51 copy of the complete SOPs at the Mayor / Commissioners' desk at Town Hall for your review if you are interested.
52

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1
2 Vacation

3 I will be on vacation in the NC mountains from July 26 – August 2. I can be reached via mobile phone if necessary,
4 and will be available to return on short notice if the Town is threatened by a hurricane.
5

6 **15. COMMENTS FROM BOARD OF COMMISSIONERS AND MAYOR**

7
8 There were no further comments from the Board of Commissioners or Mayor.
9

10 **15.5 – ADDED ITEM – CLOSED SESSION – PURSUANT TO NCGS 143-**
11 **318.11(5), FOR THE PURPOSE OF DISCUSSING POTENTIAL REAL ESTATE**
12 **ACQUISITION**

13
14 *Motion was made by Commissioner Messer to enter Closed Session. The*
15 *Board voted unanimously 5-0 in favor. Motion carried.*
16

17 *Motion was made by Commissioner Messer to return to Open Session. The*
18 *Board voted unanimously 5-0 in favor. Motion carried.*
19

20 There was no action taken as a result of Closed Session.
21

22 **16. ADJOURN**

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

27 *The meeting was adjourned at 8:15 pm.*
28

29 Respectfully submitted:
30
31

32
33 Rhonda C. Ferebee, CMC
34 Town Clerk
35
36
37