

1 MINUTES OF THE REGULAR SCHEDULED MEETING
2 OF THE EMERALD ISLE BOARD OF COMMISSIONERS
3 TUESDAY, MARCH 11, 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 Pro-Tem Floyd Messer at 6:00 PM.
7

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

11 Mayor Schools was absent at the beginning of the meeting as he was attending a
12 town related meeting in Raleigh. Mayor Schools arrived at 6:45 pm.
13

14 Others present: Town Attorney Richard Stanley, Town Manager Frank Rush,
15 Asst. Town Manager/Finance Officer Mitsy Overman, Town Clerk Rhonda
16 Ferebee, Planning Director Kevin Reed, and Public Works Director Artie Dunn.
17

18 Also present: Carteret County Manager John Langdon, and Asst. County
19 Manager Jack Veit.
20

21 After roll call all who were present recited the Pledge of Allegiance.
22

23 **4. ADOPTION OF AGENDA**
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25 *Motion was made by Commissioner Wright to adopt the Agenda. The*
26 *Board voted unanimously 5-0 in favor. Motion carried.*
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28 **5. PROCLAMATIONS / PUBLIC ANNOUNCEMENTS**
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- 30 **a. Multiple Sclerosis Awareness Week 2008 (08-03-11/P1)**
31 **b. Broad Street Clinic Week 2008 (08-03-11/P2)**
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33 Mayor Pro-Tem Messer noted the following Proclamations and Public
34 Announcements:
35

- 36 • Proclamation – Multiple Sclerosis Awareness Week 2008 (March 10 – 17)
- 37 • Proclamation – Broad Street Clinic Week 2008 (April 28 – May 2)
- 38 • EI EMS Brick Fundraising Campaign
- 39 • UDO Committee Meeting – Wednesday, March 12 – 2 pm and 4 pm –
- 40 Community Center
- 41 • St. Patrick’s Festival Concert – Mica Roberts – Friday, March 14 – 8 pm –
- 42 Community Center
- 43 • 17th Annual St. Patrick’s Festival – Saturday, March 15 – 8 am – Eastern
- 44 Ocean Regional Access
- 45 • Planning Board Regular Meeting – Monday, March 17 – 6 pm –
- 46 Community Center (note – 1 week earlier than usual meeting date)

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- Joint EMS Committee Meeting – Wednesday, March 19 – 4:30 pm – Community Center
- Good Friday Holiday – Friday, March 21 – Town Hall Closed, Community Center Open
- Easter Egg Hunt – Saturday, March 22 – 2 pm – Community Center
- Blood Drive – Friday, April 4 – 2 pm til 7 pm – Community Center
- Board of Commissioners Regular Meeting – Tuesday, April 8 – 6 pm – Community Center

Town Manager Rush noted that the March Planning Board had been cancelled due to a lack of business to come before the Board. Town Manager Rush also noted that Mayor Schools had invited Bernie Whalley, Chairman of the Board of the Broad Street Clinic to make a few brief remarks in light of the Proclamation for Broad Street Clinic Week.

Mr. Whalley thanked the Board for honoring the Broad Street Clinic with the Proclamation. Mr. Whalley provided a brief overview of the services offered by the clinics and stated that the Broad Street Clinic was one of 69 free clinics in the State of North Carolina. They take in people who are uninsured and some who are under insured meeting certain criteria. Mr. Whalley noted that on April 1st they would open their satellite clinic at Sea Level. Mr. Whalley expressed their appreciation for being recognized during Broad Street Clinic week and they appreciated the support received from the Emerald Isle community as well as the rest of Western Carteret.

Mayor Pro-Tem Messer noted that longtime resident Earl Dixon’s wife had passed away the previous week and Earl Dixon had asked that his thanks be conveyed to the EMS, Fire, and Police Departments for all the help they provided during his wife’s last few days.

Note: A copy of Proclamations 08-03-11/P1 and 08-03-11/P2 are incorporated herein by reference and hereby made a part of these minutes.

6. CONSENT AGENDA

- a. Minutes – February 12, 2008 Regular Meeting**
- b. Minutes – February 22, 2008 Special Meeting**
- c. Tax Refunds / Releases**
- d. Resolution Rescinding Governors Highway Safety Program Grant Application (08-03-11/R1)**
- e. Budget Amendment – General Fund**
- f. Resolution Amending Personnel Policy – LEO Special Separation Allowance (08-03-11/R2)**

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2 **g. Resolution Authorizing Internet Auction of Surplus Vehicles (08-03-**
3 **11/R3)**

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

8
9 **Note: A copy of above noted Consent Agenda items including Resolutions 08-03-11/R1, 08-03-11/R2,**
10 **and 08-03-11/R3 are incorporated herein by reference and hereby made a part of these minutes.**

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12 **7. PUBLIC COMMENT**

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

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17 There were no comments from the Public.

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19 **8. PRESENTATION – PROPOSED CARTERET COUNTY CONSOLIDATED**
20 **E911 CENTER**

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22 Town Manager Frank Rush introduced John Langdon, Carteret County Manager
23 present to speak about the E911 Center. Mr. Rush noted that Jack Veit, Asst.
24 County Manager was also present.

25
26 The following excerpt from Town Manager Rush's memo to the Board is provided
27 as additional background:

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29 As we discussed on February 22, this issue is complicated and it will be important for the Board to fully understand the
30 pros and cons associated with Emerald Isle's participation or non-participation in a consolidated, County-managed
31 E911 center. In an effort to foster a thorough understanding of this issue, I am suggesting the following schedule for
32 arriving at a decision on this issue:

33

34 March 11 meeting	Receive presentation from Carteret County about proposed consolidated E911 center.
35	
36 April 8 meeting	Receive presentation from Emerald Isle Police Chief and staff about current E911 center operations and concerns. Also receive input from Emerald Isle Fire Chief and Emerald Isle EMS Chief.
37	
38	
39 May 13 meeting OR	Reach final decision on participation in consolidated E911 center, perhaps in conjunction with FY 08-09 budget adoption. (Note that this decision will have no or minimal impact on FY 08-09 budget, but will have impact on future years' budgets.)
40 June 10 meeting	
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46 As needed between	Complete additional research, etc. Request additional information from Carteret County officials as needed.
47 meetings.	
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2 The Board should note that I am intentionally suggesting that a decision on this issue not be made immediately after
3 one group's presentation in order to provide ample time to consider the issue objectively and complete additional
4 research.
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6 Summary – Proposed Carteret County Consolidated E911 Center

7 The County Manager and his staff will explain the County's plans at the March 11 meeting in more detail, however, I
8 have attached a summary sheet indicating the County's preliminary plans for the consolidated E911 center, along with
9 their comparisons with 3 other NC counties already operating consolidated E911 centers.

10
11 Some of the key points are as follows:
12

- 13 • The County is currently negotiating with the Town of Morehead City to locate a new E911 facility near the
14 new Morehead City Police Department. If this plan moves forward, the new facility will be located in
15 Morehead City on Bridges Street at the site of the old Charles Wallace school building. The County and
16 Morehead City hope to have the new facility constructed by July 2009.
17
- 18 • The consolidated E911 center would theoretically become operational as early as July 2009.
19
- 20 • The Town of Morehead City has already committed to join the consolidated E911 center. The Town of
21 Atlantic Beach is scheduled to consider a commitment later this month. All other Carteret County
22 municipalities (and the Sheriff's Department and non-profit fire and EMS squads) are already served by the
23 existing County E911 center housed in the Sheriff's Department. The other 8 municipalities have been
24 served by the County E911 center for many years.
25
- 26 • The County's proposal includes a total of 8 telecommunicator workstations (theoretically up to 8 people
27 working at a time to answer E911 calls in the County, depending on the time of day and season). The
28 County's proposal includes a total of 24 full time positions, including 4 shift supervisors and 18
29 telecommunicators. There are likely enough new positions planned to essentially guarantee all current
30 telecommunicators employed by the Sheriff's Department, Morehead City, Atlantic Beach, and Emerald Isle
31 a position at the consolidated E911 center.
32
- 33 • Telecommunicators at the consolidated E911 center will be trained to provide emergency medical dispatch
34 (EMD), a service whereby telecommunicators can provide medical guidance to callers over the phone until
35 trained emergency medical personnel arrive on scene.
36
- 37 • The estimated operating budget of the consolidated E911 center is \$1.25 million, which is an \$850,000
38 increase over the current E911 budget. This amount equates to approximately .4 - .5 cents on the County's
39 General Fund tax rate. It is not known at this time whether the County will increase the tax rate to cover this
40 additional expense or will seek to reduce other expenditures in the County budget. Emerald Isle taxpayers
41 would pay this additional property tax, along with all other County taxpayers regardless of whether or not
42 Emerald Isle participates in the consolidated E911 center.
43
- 44 • The County's preliminary cost estimate for the construction of the new facility in Morehead City is
45 approximately \$1.5 million. It is not clear at this time whether or not this expense will be funded with pay-as-
46 you-go revenues or financed. This capital cost could potentially impact the County's General Fund tax rate,
47 but would likely not be significant (perhaps .1 cent on the tax rate if financed over 10 years).
48
- 49 • Equipment for the consolidated E911 center is estimated at \$2 million. This expense appears to include
50 anticipated expenses associated with a conversion to 800 mhz communications in the future. It is likely that
51 some of this expense would not be immediate and would likely be phased in over time. Much of this
52 expense is believed to be an eligible expense for the E911 surcharge revenues. The County expects to
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- collect more than \$500,000 annually from the E911 surcharge that is charged on all telephone lines in the County, including Emerald Isle. (The surcharge is 70 cents per phone line per month.)
- The County has indicated that they will not be seeking any additional funding from any municipality for capital or operating costs associated with the consolidated E911 center.
- The County has indicated that the consolidated E911 center would be managed by a Communications Director who will ultimately report to the County Manager. The Sheriff would no longer be responsible for managing the E911 center, and would be a customer of the consolidated E911 center along with all municipalities and non-profit fire and EMS squads. The County is currently advertising to fill the new Communications Director position so that this person can play an integral role in the establishment of the consolidated E911 center.
- The County has indicated that it intends to establish an E911 advisory committee to provide guidance, resolve concerns, etc. There will likely be a slot for each municipality on the E911 advisory committee.

There are likely many other details associated with the County's proposal, however, the points above are the key known points at this time. The County Manager and his staff will likely expand on, clarify, and perhaps correct some of these points during their presentation on March 11, and will likely convey additional key points.

Summary - Current Emerald Isle E911 Center

Below is a brief overview of the current Emerald Isle E911 center operated by the Police Department. The E911 center provides emergency communications for the Emerald Isle Police Department, Emerald Isle Fire Department, and Emerald Isle EMS, and also assists with radio communications among the Public Works Department personnel.

- E911 communications in Emerald Isle are provided by 4 full-time telecommunicators and occasional part-time telecommunicators in the Emerald Isle Police Department. The telecommunicators are supervised and sometimes assisted by a Police Lieutenant and also receive assistance from the Police Records Administrator.
- The Town's total annual operating cost for E911 communications is approximately \$150,000, and these services are funded with general tax revenues. This cost is equal to approximately .34 cents on the Emerald Isle tax rate.
- The Town's E911 center has two telecommunicator consoles with radio communications and computer-aided-dispatch capabilities that are integrated with the Town's Police records management software and digital recording equipment. The Town has a total of 4 communications antennae, with 3 (for Police, Fire, and Public Works) located on the water tank adjacent to the Police Station and one (for Fire) located on the east end water tank (currently not functional). The Fire Department maintains a backup radio system at the Fire Station 1. The Town's radio communications are VHF.
- The telecommunicators in the Emerald Isle Police Department answer all emergency calls made from "land lines" in Emerald Isle. Emergency calls made from mobile phones ring at the Carteret County E911 center, and the calls are then forwarded to the Emerald Isle telecommunicators.
- The telecommunicators assist the Emerald Isle police officers, both in the station and providing information while they are out in the community. The telecommunicators in the Emerald Isle Police Department also provide general assistance to residents and visitors on non-emergency issues. The telecommunicators provide a human presence at the Police Department 24 hours per day, 365 days per year, and this human presence is very helpful for our residents and numerous visitors.

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- In addition to providing a human presence at the Police Department at all times, another key benefit of the current system is that it is very much a community-based service. Our telecommunicators are focused solely on Emerald Isle, and have a good understanding of the land area, the people, and the important issues. Additionally, these telecommunicators typically develop good working relationships with our local police officers, firefighters, and emergency medical services personnel.
- All telephone customers in Emerald Isle currently pay a \$0.70 monthly E-911 surcharge that is collected by the phone company and remitted to Carteret County. This same \$0.70 monthly surcharge is charged to all telephone customers in Carteret County, and generates approximately \$500,000 per year for the County. These revenues are statutorily restricted for limited expenses associated with the E911 system, and historically the County has made periodic appropriations to Morehead City, Atlantic Beach, and Emerald Isle for necessary E911 capital equipment, in addition to providing funding for eligible expenses associated with the County E911 center managed by the Sheriff's Department. Since 2000, Emerald Isle has received approximately \$33,000 from the County from the proceeds of the E911 surcharge. (Note: The E911 surcharge has not always been \$0.70 per month; the fee for many years was in the \$0.35 range.)

If Emerald Isle Participates in the Consolidated E911 Center -
Potential Service Impacts, Budget Impacts, and Other Concerns

Below I have attempted to identify several potential service impacts, budget impacts, and other concerns associated with this issue for the Board to consider. There are likely other impacts and concerns to consider before a decision is made on this issue, and these will likely emerge over the course of the next few months.

These impacts and concerns are listed in no particular order:

- Telecommunicators would be located at the County facility, which would be located in Morehead City. The Town would lose the human presence that now exists at the Emerald Isle Police Station 24/7, unless alternative staffing is provided. The Town has ample customer service staff in place during weekday business hours in the Police Department, Town Hall, and other Town departments. The Police telecommunicators perform an important general customer service function after normal working hours and on weekends.
- If the Town participates in the consolidated E911 center, it may be able to reduce expenditures by up to \$150,000, which equates to a .34 cent tax rate decrease. This reduction assumes that the Town would not provide any alternative staffing at the Police Station / Town Hall after 5 pm on weekdays and on weekends. Emerald Isle taxpayers could, however, experience a larger tax rate increase (perhaps .4 to .5 cents) in the County tax rate. It is important to note that this County tax rate increase would occur whether or not Emerald Isle participates in the consolidated E911 center.
- If the Town participates in the consolidated E911 center, but chooses to provide additional customer service staffing from 5 pm to 1 am daily, and 24 hours per day on the weekend, the Town would be able to reduce expenditures by approximately \$85,000 per year, which equates to a .2 cent tax rate decrease.
- The consolidated E911 center would save money from a county-wide perspective, and would eliminate redundancy of expensive communications equipment at four locations in the County. There is a likelihood that all emergency communications will be required to migrate to an 800 mhz communications system in the future, and the purchase of new equipment will likely be expensive for Emerald Isle. It is likely that 800 mhz radios used in each municipality (for personnel and vehicles) would remain the financial responsibility of the municipality, however, central communications equipment would be purchased by the County and the Town would not bear this expense, which could be significant.

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- The consolidated E911 center would allow for greater staff development and career progression for the telecommunicators, which theoretically should improve service. The County telecommunicators are also likely to receive better compensation in the long run.
- The consolidated E911 center would allow for widespread implementation of Emergency Medical Dispatch (EMD) services. EMD involves the training of telecommunicators to provide patient care information over the telephone until the emergency personnel arrive.
- The telecommunicators serving Emerald Isle may or may not have the same level of familiarity with the land area, people, and issues in Emerald Isle. This issue may be addressed with adequate training of the County telecommunicators.
- The Town will likely lose the "personal touch" provided by the Town's E911 center. The Town's E911 center routinely provides non-emergency assistance to our residents, property owners, and visitors on a wide range of Town issues. Many of the calls received by the Emerald Isle E911 center are not emergency calls, and these calls will likely not be handled by the consolidated E911 center. This is not a criticism of the County in any way, as the main focus of the consolidated E911 center will be emergency communications, and there will rightfully be no emphasis on general assistance with Emerald Isle issues. Examples include everything from directions to a rental home, dead animals in the road, wild animal concerns, lost dogs, solid waste questions, beach driving, beach access, etc., etc., etc. This concern would be eliminated if the Town maintains a presence in the Police Station for customer service issues after normal work hours and on weekends.
- The telecommunicators serving Emerald Isle would not have frequent personal contact with the Emerald Isle police officers, firefighters, and emergency medical services personnel, and working relationships would likely not be as close as exist currently.
- The lack of staffing at the Police Department (if alternative staffing is not provided) potentially impacts the safety and efficiency of the Emerald Isle police officers. Individuals that are arrested in Emerald Isle are brought to the station for processing, and the presence of the telecommunicators allows for other police officers to be summoned to the station if necessary. Alternative staffing at the Police Department at strategic times of the day and year may address this issue. There may also be other technological or logistical solutions for this concern.
- The County has indicated that existing Town personnel would receive priority for the new positions at the consolidated E911 center. However, timing issues could potentially result in vacant telecommunicator positions in Emerald Isle prior to the actual transition. These positions would likely be difficult to fill prior to the actual transition. It may be possible to provide an incentive for existing telecommunicators to remain with the Town in the interim, or it may also be possible for the County to actually hire new telecommunicators and assign them to the Town prior to the transition.
- The consolidated E911 center could potentially result in reduced accountability for the quality of the services provided, as far as Emerald Isle is concerned. Currently, if the Emerald Isle Police Department, Fire Department, or EMS have complaints or concerns about the quality of E911 services, these complaints and concerns can be addressed in-house very easily and service can be tailored to meet Emerald Isle's specific needs. If Emerald Isle participates in a consolidated E911 center, that consolidated center will have multiple customers, perhaps with competing needs and priorities. Additionally, it could potentially be more difficult to resolve complaints and concerns expressed by Emerald Isle personnel, as the manager of the consolidated E911 center will ultimately answer to the County Manager. The establishment of an advisory board (as planned by the County) consisting of Police, Fire, and EMS chiefs from different areas of the County could provide helpful guidance (in an advisory role) to the consolidated E911 center manager, and could help to address this issue.

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2 If Emerald Isle Does NOT Participate in the Consolidated E911 Center -
3 Potential Service Impacts, Budget Impacts, and Other Concerns

4 Below I have attempted to identify several potential service impacts, budget impacts, and other concerns associated
5 with this issue if Emerald Isle does NOT participate in the consolidated E911 center.

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7 These impacts and concerns are also listed in no particular order:

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- 10 • If the Town does not participate in the consolidated E911 center, the County may not remit E911 surcharge
11 funds to the Town for capital equipment in the future. State statutes allow only one local government to levy
12 the monthly surcharge, and Emerald Isle would not be authorized to levy its own surcharge. This would
13 mean the Town could be solely responsible for future capital expenses associated with replacement radios,
14 antennae, computer-aided dispatch equipment, etc., and a potentially required conversion to 800 mhz.
 - 15 • A rough estimate of the revenues generated from the E911 surcharge in Emerald Isle is approximately
16 \$50,000 annually. It may be possible to negotiate with the County to have them simply remit the E911
17 surcharge revenues collected from Emerald Isle phone lines to the Town. This arrangement would enable
18 the Town to fund necessary capital equipment and would likely not have a negative impact on the Town's
19 budget in the future.
 - 20 • Emerald Isle taxpayers may see their County tax rate increase by .4 to .5 cents (equal to approximately \$25 -
21 \$30 per year for the average Emerald Isle taxpayer), with no benefits provided. Additionally, the loss of E911
22 surcharge revenues may result in future Town budget challenges.
 - 23 • Emerald Isle taxpayers may question why there is a duplication of local government services, and question
24 the cost-effectiveness of this arrangement.
 - 25 • Emerald Isle, at least initially, would not provide emergency medical dispatch (EMD) services. Emerald Isle
26 telecommunicators would need to complete additional training, and because EMD calls typically last for a
27 longer duration, the Town may need to add additional telecommunicators (and expense) if it wants to provide
28 this service. Although emergency response times are generally shorter in Emerald Isle than some other
29 places, valuable information provided by a telecommunicator with EMD training could potentially save
30 someone's life.
 - 31 • The Town may not be viewed as a "team player" in the County if it does not participate in the consolidated
32 E911 center. Morehead City has already agreed to participate, and it appears likely that Atlantic Beach will
33 also participate, although no decision has been made yet.
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40 Outstanding Questions to Be Answered Before a Decision is Made

41 There are several outstanding questions that I believe should be answered before the Board reaches a decision on
42 whether or not to participate in the consolidated E911 center. Among these questions are:

- 43
- 44 • What is the Town's likely future capital expense for E911 communications equipment, assuming reasonable
45 life cycles for this equipment and the potential requirement to migrate to 800 mhz communications? Is this a
46 \$25,000 expense or a \$250,000 expense? Or more? How frequently will capital expenses occur?
 - 47 • Is the County willing to simply remit Emerald Isle's share of the E911 surcharge revenues to the Town
48 (approximately \$50,000 per year)?
 - 49 • How will the consolidated E911 center insure that their telecommunicators are familiar with the geography of
50 Emerald Isle? What kind of training regimen will be implemented?
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- Emerald Isle is geographically located on the far western end of Carteret County, and is sometimes underemphasized due to presence of the main population center in the Morehead City – Beaufort – Atlantic Beach – Newport area. Participation by Morehead City and Atlantic Beach in the consolidated E911 center is an easier decision for those municipalities because the E911 center will still be essentially “in their backyard”. Telecommunicators employed by the consolidated E911 center are more likely to reside in these communities and be inherently more familiar with their geography, people, etc. than Emerald Isle. Is there anything the County can do to address this concern?
- Are there other Police Officer safety concerns associated with the lack of a human presence in the Emerald Isle Police Department after normal hours and on weekends?
- Can technology (video links, direct phone lines from outside the Emerald Isle Police Station to the consolidated E911 center, etc.) be used to address some of the potential concerns?

There are likely many more questions that need to be answered in the next few months as well, and Town staff and I will do our best to assist the Board in learning more about this issue in the next few months.

Police Chief Hargett, Fire Chief Walker, and EMS Chief Fleming have all been invited to attend the County's presentation on March 11 to learn more about their proposal for a consolidated E911 center. As noted earlier, I also would like to invite them to address the Board at the April 8 meeting. My expectation for them at the March 11 meeting is simply to learn about the County's proposal, and perhaps ask questions if appropriate. Depending on the outcome of the County's presentation, I may attempt to schedule another staff-level meeting involving the appropriate personnel in the next few weeks.

As noted earlier, this is a complicated issue, and I believe it is important to take the time to understand the pros and cons associated with this issue and learn the perspective of County officials, Emerald Isle emergency responders, and our citizens before making a decision.

Carteret County Manager John Langdon presented the Board and public with information concerning the proposed consolidated E911 center framed in the context of whether Emerald Isle, in making their decisions, would like to be served as a primary service area by the County consolidation or retain its own dispatch operation. Mr. Langdon stated that they envisioned the consolidation operation start-up as best case July 2009. It was noted that the County had already made the decision to go forward with the initiative of a consolidated E911 dispatch center to serve the entire county and they were moving forward. Mr. Langdon stated that the county had also already made the decision to hire the Communications Director that would be in charge of this in June or July of this year. It was also noted that the county would like to form an Advisory Board to participate in the interviews and hiring of the director, as well as advising the county manager and county commissioners. Mr. Langdon encouraged Emerald Isle to provide a representative to the Advisory Board even if the decision is made that the Town would like to retain some residual dispatch capability or even retain the service. Mr. Langdon felt the consolidated E911 would provide a great service to the county and also have a great capability that none of the municipalities or sheriff's department has which is the Emergency Medical Dispatch; communicators trained to be able to give special emergency

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2 assistance on the line until emergency responders can arrive on the scene. Mr.
3 Langdon further indicated that in some respects this was a work in progress but
4 they had a good concept plan and welcomed the opportunity to address any
5 questions.

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7 County Manager Langdon answered questions posed by Commissioner Wootten
8 concerning training procedures as well as from Commissioner Hedreen
9 concerning whether technology would be available for tracking cell phone
10 numbers due to the number of tourists who may not know where they are when
11 an emergency happens. Mr. Langdon indicated further research would be
12 needed to answer these questions specifically.

13
14 Chuck Hinkle, Cape Emerald resident stated that the cell phone technology in
15 question is now resident within cellular telephones. He further stated that it was
16 mandated by the FCC starting actually in 1996. Mr. Hinkle said the long and the
17 short of it is that the cellular providers themselves have to provide the location as
18 an adjunct of the service that they provide, so whether the GPS be in the phone
19 or whether it be on the towers through Cingular and others, the technology exists
20 and is available, but there is a connection between the cellular providers for the
21 phone providing the location and the PSAP being able to display it. The
22 information is transferred from the cellular carrier to the PSAP but the PSAP has
23 to have mapping capabilities, geo-coding capability in order for that information to
24 pop up on a map at the time the call is made; so it is really a function of whether
25 the PSAP has the technology or the funding set aside for those kind of things.
26 Mr. Hinkle said while it is somewhat slow to take place around the United States
27 it is a national requirement and it should be happening with all of the cellular
28 telephones, particularly the Emerald Isle and Atlantic Beach area due to the
29 tourism we have here. That should be a major concern as to how we today and
30 in the future respond to 911 calls.

31
32 The Board thanked County Manager John Langdon for his presentation.
33 Town Manager Rush said he would like to schedule local Police, Fire, EMS
34 personnel to address the Board at the April meeting to get their perspective,
35 comments and thoughts on this issue. Mr. Rush said he would follow up on the
36 questions posed and include in future written material.

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2 **9. SPECIAL USE PERMIT REQUEST – CHOWDAHEADS RESTAURANT,**
3 **7801 EMERALD DRIVE – TO OPERATE AN OUTDOOR BAR / LOUNGE**
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5 **a. Public Hearing**

6 **b. Consideration of Special Use Permit**
7

8 Town Attorney Richard Stanley stated that this is a quasi-judicial hearing. Mr.
9 Stanley stated that anyone who testifies in this matter needs to address one or
10 more of the items as noted in Section 19-84 of the Town Code as follows:
11

12 In order to issue a special use permit the Board must find, and the applicants or
13 people opposed need to testify on the following:
14

- 15 1. That the proposed use will not materially endanger the public health or
16 safety if located where proposed and if developed according to the
17 plan as submitted and approved.
18
- 19 2. That the use meets all conditions and specifications required by this
20 chapter and other applicable town, county, state and federal laws and
21 regulations.
22
- 23 3. That the proposed use will not substantially injure the value of abutting
24 or adjoining property, or that the use is a public necessity.
25
- 26 4. That the location and character of the use, if developed according to
27 the plan as submitted and approved, will be in harmony with the area
28 in which it is to be located and in general conformity with the land use
29 plan as updated and amended for the town.
30
- 31 5. The Town if they choose fit to award or approve the special use permit
32 may impose or require such additional restrictions and standards as
33 may be necessary to protect the health, safety and welfare of workers
34 and residents of the community and to protect the value, use and
35 enjoyment of property in the general neighborhood.
36

37 If approved it will be in writing with conditions indicated in the permit and must be
38 signed by the applicant indicating that they agree to comply, and lastly it can be
39 issued for up to 24 months. It may be renewed, amended or revoked. Attorney
40 Stanley reiterated that everyone's testimony must concern these items outlined.
41 Attorney Stanley stated that anyone wishing to comment must be sworn, with any
42 proponents speaking first, followed by those opposed. In addition, Planning
43 Director Kevin Reed will also be sworn and give background information.
44
45

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1
2 Mayor Pro-Tem Messer called on anyone wishing to present testimony
3 concerning this item either pro or con to step forward and be sworn. All speakers
4 were then sworn by Town Clerk Rhonda Ferebee.

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

8
9 Planning Director Kevin Reed stated, to adhere with the factual circumstances of
10 this request before the Board, the applicants are Erika and Steve Harlacher. The
11 property is located at 7801 Emerald Drive and is currently operated as a
12 restaurant. The property is currently zone B-3 Business. The Health Department
13 has issued a septic permit which limits the restaurant and / or lounge operations
14 to a maximum of 16 seats whether those seats are located inside or outside.
15 The zoning ordinance requires restaurants, bars and lounges to have one
16 parking space for each four seats plus one space for each three employee.
17 Based on the number of employees and the number of seats that are permitted
18 by the Health Department zoning ordinance requires a total of five parking
19 spaces be provided on site; there are a total of seven parking spaces currently
20 there now. The B-3 zoning district does permit a restaurant as a by right use.
21 Bars and lounges, and outdoor entertainment are permitted but only after the
22 issuance of a Special Use Permit.

23
24 Mayor Pro-Tem Messer called on the applicants to come forward.

25
26 Steve Harlacher, owner of ChowdaHeads Restaurant, 7801 Emerald Drive,
27 accompanied by his wife Erika Harlacher, stated that they are applying for this
28 Special Use Permit in order to serve wine along with their food. Mr. Harlacher
29 stated that before they started their business they did a lot of surveying about
30 their menu, what people wanted, and this was one of the requests; that people
31 wanted good food, decent prices, good quality, quantity of food, and they asked
32 also if beer and wine could be available. Mr. Harlacher noted that they are also
33 asking to have music, entertainment, nothing like rock and roll, but mostly folk
34 music. Mr. Harlacher said they had talked to high school children who are very
35 talented to possibly have the jazz band come out on certain nights to play
36 saxophone, or Christian bands also having an interest in playing.

37
38 Mayor Pro-Tem Messer asked for questions from the Board.

39
40 Commissioner Hedreen referencing the draft plan, asked whether there was a
41 wall around the patio or if it was just open. Mr. Harlacher responded that right
42 now it is open, they were planning to raise a wall around it, to be a tiki, where the
43 employees would be on the inside and they would offer the service on the other
44 side of the wall. Mr. Harlacher said they do have a sliding glass window where
45

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1
2 they put in the orders so people could get food from the inside passed out to
3 people standing outside.

4
5 Mayor Pro-Tem Messer asked Mr. Harlacher if they had any plans for control of
6 walk-ups to get a beer and hang around and drink it. Mr. Harlacher said they
7 would be proofing of course but he didn't know what else to say about this
8 because he had not done this before. Mayor Pro-Tem also asked about the
9 hours of operation. Mr. Harlacher said they are open from 7:00 in the morning
10 until 8:00 at night, in the summer they would be open until 10 pm; entertainment
11 would be only on Fridays and Saturdays and end at 10 pm.

12
13 Commissioner Wootten asked if Mr. Harlacher could confirm if the outside music
14 would only be Fridays, Saturday, and holidays and would cease by 10 pm. Mr.
15 Harlacher confirmed that statement.

16
17 Commissioner Wootten also asked to confirm what the special permit is directly
18 related to the music or the serving of alcohol. Planning Director Reed stated that
19 the special permit is related to the outdoor bar and lounge aspect of what they
20 are proposing to do; the serving of alcohol outdoors as well as the entertainment
21 outdoors. Commissioner Wootten said so it is the outdoors that is the key.

22
23 Commissioner Hedreen asked if Mr. Harlacher would allow people to buy beer
24 and not food, wanting to know his concept. Could people walk up buy a beer and
25 just sit down and drink or does he plan to limit it to consumption of alcohol with
26 the purchase of food. Mr. Harlacher said their original plan was to serve it with
27 the food. Mr. Harlacher said sometimes someone might want to just have a beer
28 and then decide okay I'll have some fries, chicken wings or something else, but
29 his original concept was to offer that with a meal.

30
31 Mayor Pro-Tem Messer then called for anyone wishing to speak in favor of this
32 application to come forward.

33
34 No speakers came forward following this request.

35
36 Mayor Pro-Tem Messer then called for those wishing to speak against this
37 application to come forward.

38
39 Barbara Morgan, 211 Cedar Street, stated that she wished the people well with
40 their business until she heard about the outdoor tiki bar. Her concerns were first,
41 she lives three lots back which puts her 150 feet from their property line so she
42 was concerned about music, so she considered living in harmony with her
43 community is not one of the things this would be in compliance with, and danger,
44 she knows that they have seven parking places, one is for handicap so that
45 leaves six, on a normal day they have three vehicles parked there, what will

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1
2 happen as this business grows, which she wishes it will grow, but they have no
3 room to expand, and she considers it a danger, and there are no boundaries up
4 to stop the music, and if they have young people there who are not old enough to
5 buy and sell beer how can they be there to provide music; she is concerned
6 about that. So her issues are danger, and noise, meaning it's not in harmony
7 with her, and having the outdoor bar there and food is one thing, but she could
8 already hear the Emerald Club so she didn't need anything else.
9

10 Jane Allen, 121 Live Oak, stated that she is directly behind the lot next door to
11 EMS, so she has a feeling that a lot of cars would park there and she goes to
12 bed early and she has the feeling that she would hear a lot of noise on weekends
13 also; and she agreed with everything else that Barbara said.
14

15 Wes Shephard, 1703 Woodland Drive, Greenville, NC, stated that he didn't know
16 anything about this meeting until he drove and looked at his property that he is
17 repairing and he ran into Barbara Morgan and she asked if he knew what was
18 happening. Mr. Shepard said that he has had health issues and mail had not
19 been his priority so he was completely unaware of this and said these folks seem
20 like nice people and he too runs his own businesses and has for 15 years. Mr.
21 Shepard said his property is 215 Cedar; one of his bedrooms is from here (the
22 podium) to the exit sign from where they would be playing live music. He doesn't
23 live in the house but it will be for sale soon. His concern was the value of his
24 home. He felt that the applicants would probably have great music, and it would
25 sound wonderful on Friday and Saturday, but if they get 24 months and it
26 doesn't work out, someone else could come in and want to play rock or rap, or
27 something not everyone likes, or want to play on Monday through Sunday. Mr.
28 Shepard felt someone looking at his property, or renting it, potential purchasers
29 could be turned off by hearing something until 10 pm, or if they want to stay open
30 until 2 am. He hated to be opposed because he wanted to see them do well and
31 succeed but he is looking at a \$450,000 home that he has to sell.
32

33 Mayor Schools arrived at this point in the meeting at 6:45 pm.
34

35 Merle Kingsley, Cedar Street, stated that he was not so much concerned about
36 the food aspect as he was the expansion of the tiki bar. Mr. Kingsley stated that
37 he had noticed problems with parking already, thinking the help already parks on
38 Cedar Street, the tires are on the street and it is hard to get around now. If they
39 are confined to 6 or 7 spots and what if it rains and they have to go inside. Mr.
40 Kingsley said as you know the Emerald Club has music and they have buffers
41 around their bar of approximately 300 feet or more and also a buffer of woods,
42 and they have had numerous complaints. They have been told many times when
43 they played music inside that it is too loud. The tiki bar is about 8-10 feet from a
44 residence and that is a concern too.
45

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1
2 Hazel Foster, 201 Cedar Street, stated that she is a long time resident in this
3 residential area, and she also owns the lot next to the EMS. She agreed with
4 what Barbara Morgan said, she wished Steve and Erika the best in their success,
5 but she is opposed to this move. She added that the parking is already a real
6 issue from the very opening, people have been parking on Cedar Street and this
7 situation will only get worse as the tourists come. Mrs. Foster also pointed out
8 that traffic dramatically increases with warm weather because of the Ocean
9 Forest property owners parking lot down on the ocean and it is really hazardous
10 now to get out onto Emerald Drive during tourist season especially for making a
11 left turn.

12
13 Brendan Feeley, 212 Cedar Street, stated while it's nice to be a good neighbor,
14 and very nice to have the folks in the neighborhood that are supplying food, he
15 did not agree with the alcohol being served there. Mr. Feeley agreed with all of
16 the speakers' comments and he concurred with them. One additional concern is
17 that what happens 4th of July, Labor Day, are the applicants going to come back
18 and request a variance to extend the hours from 10 pm to 11 pm, midnight and
19 beyond. He stated that the parking is a very severe problem on Cedar Street
20 because remember that even those on the sound side of Cedar Street use that
21 road to go down to the ocean. He said you have to consider those people driving
22 down, children going out on the street. Mr. Feeley said then you have the
23 problem of someone going there and buying a beer or glass of wine and
24 consuming it, and then walking away with that bottle or can and dumping it on the
25 side of the street. What will happen at 10 pm, does everyone stop selling or is
26 consumption going to stop, and then if it doesn't stop and it goes to 10:15 pm,
27 10:30 pm, should they call the Police Department and make a nuisance of their
28 selves, which is not their intent and should not be as the Police Department has
29 enough to do without having to bother with this concern. He added that it is nice
30 to welcome a new business into the neighborhood hopefully the restaurant will do
31 exceptionally well but he thought having alcohol served is not in their interests,
32 certainly not wanting Emerald Isle to become another Myrtle Beach.

33
34 David Paletelli (sp) from Kinston stated that his family owned property at 114
35 Loblolly, and they received a letter as an adjoining landowner. He felt it was
36 extremely compacted there. He stated that where this alcohol would be served
37 at this outdoor bar would be no further from the back corner of their property line
38 than he was from the Town Attorney and Board from where he stood at the
39 podium. He stated that they have children and it was a health concern for them
40 to have a bar literally right off of their back corner. He also spoke about the issue
41 of the harmony of what is there now, is it in conformity with what is there now.
42 He stated that when his in-laws built that cottage everything up to the highway
43 was part of Ocean Forest subdivision, and it was zoned residential, there were
44 no businesses on that stretch of the highway at that time. Those lots were
45

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1
2 subject to restrictive covenants that said only single family dwellings would be
3 built. He said several years ago the Town of Emerald Isle came in and basically
4 said when they rezoned from residential to commercial that it was really
5 inconsistent with the use of the property on Highway 58, and it was rezoned and
6 they had businesses located there, but those businesses on that side of the
7 street; Cap'n Willis Seafood, Islamorada, each of those businesses basically
8 close at sundown and they have not been a problem whatsoever, this would be
9 the first business on that side of the street that would be not be in harmony with
10 businesses that are basically seasonal and that close at sundown. So this is
11 something they would like the Board to consider. The other thing noted, is when
12 those lots on Hwy 58 where those businesses are now were laid out, they were
13 initially residential lots and they were extremely compact, and they are no more
14 than 15-20 feet from where this bar would be serving alcohol. He added that the
15 conditions laid out as #5 by Town Attorney Stanley would be of very little benefit
16 to them. He said being from Kinston, they are down here on the weekends, and
17 just allowing music on weekends wouldn't really help them a whole lot, allowing it
18 until 10 pm would be problematic, as his mother-in-law who built the property,
19 almost 80 years old and likes to go to bed before 10 pm wouldn't be possible with
20 the music playing. He also felt that occasionally there would be beer bottles in
21 the backyard and that type of thing they would have to deal with.

22
23 Graham Heath, 100 Loblolly, stated he has lived here for 22 years and they built
24 their house on Loblolly for retirement purposes. He said most of the residents in
25 their neighborhood are widows, widowers or retired persons and he didn't think
26 that this type of business would be conducive to retirement living. He concurred
27 with what had been said here tonight and would urge the Board to take that into
28 consideration and reject this application.

29
30 David Parker, 112 Loblolly, said he is one lot away from this establishment. He
31 concurred with everything said so far and added that many of these people have
32 made this their permanent home in this general area and it is a real concern for
33 them because they won't get a break from it.

34
35 Teresa Murphy, 305 Cedar Street, stated that she concurred with previous
36 comments, feeling that it will not be in harmony because there is no sound barrier
37 or fence around the property.

38
39 Jean Griffith, 304 Cedar Street, stated that she is mainly worried about the noise
40 because they both work at the hospital in Morehead and her husband goes to
41 bed at 7:30 or 8 pm every night.

42
43 Jim Anderson, 214 Cedar Street, concurred with previous comments, adding that
44 the parking is a big problem for him.

45

1
2 There being no further comments ***motion was made by Commissioner***
3 ***Hedreen to close the Public Hearing. The Board voted unanimously 5-0 in***
4 ***favor. Motion carried.***

5
6 ***The Board of Commissioners made the following findings of fact:***

- 7
8 1. That the proposed use ***will*** materially endanger the public health or safety
9 if located where proposed and if developed according to the plan as
10 submitted and approved.
11
12 2. That the use ***meets*** all conditions and specifications required by the
13 Town's zoning ordinance and other applicable regulations.
14
15 3. That the proposed use ***will*** substantially injure the value of abutting or
16 adjoining property.
17
18 4. That the location and character of the use, if developed according to the
19 plan as submitted and approved, ***will not*** be in harmony with the area in
20 which it is to be located and in general conformity with the Town's Land
21 Use Plan.
22

23 ***Motion was made by Commissioner Hoover to deny the special use permit***
24 ***request for ChowdaHeads Restaurant. The Board voted unanimously 5-0 in***
25 ***favor of denying. Motion carried.***

26
27 **10 2008 STREET RESURFACING CONTRACT**

- 28
29 **a. Resolution Authorizing 2008 Street Resurfacing Contract with**
30 **Onslow Grading & Paving (08-03-11/R4)**
31 **b. Budget Amendment – Powell Bill Fund**
32

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

37 The Board of Commissioners is asked to approve the 2008 street resurfacing program at the March 11 meeting. The
38 attached resolution authorizes the Town Manager to execute a contract with Onslow Grading and Paving, Inc. at
39 specified unit costs for a total amount not-to-exceed \$180,000. This contract amount is slightly higher than the budget
40 established this contract, however, Powell Bill revenues used to fund this work came in slightly higher than anticipated
41 this year. As a result, the Board is also asked to approve the attached Powell Bill Fund budget amendment
42 appropriating an additional \$10,000 of Powell Bill revenues.
43

44 Artie Dunn, Public Works Director, prepared the bid packages and requested bids to resurface approximately 2.8 miles
45 of various public street segments. You may recall that our goal is to resurface at least 2.3 miles of public streets
46 annually in order to remain on a 20-year life-cycle for all Town streets. (The Town has a total of 46 miles of public
47 streets.) The 2.8 mile total was requested initially because we had considered attempting to identify additional funds

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1
2 for the 2008 street resurfacing program if bids were favorable. Onslow Grading and Paving was the low bidder for the
3 total 2008 street resurfacing package with a total bid of \$258,721 for the 2.8 mile package. The Town received one
4 other bid for this project from Barnhill Contracting Corporation (\$269,066). A copy of the bid tabulation is attached for
5 your information.
6

7 The Town's FY 07-08 Powell Bill Fund budget includes a total of approximately \$170,000 for this contract. The
8 additional funds included in the attached budget amendment increase the total amount available for the contract to
9 approximately \$180,000. As noted above, the low bid submitted by Onslow Grading and Paving was nearly \$79,000
10 more than the amount available. Artie Dunn has reviewed the 2.8 miles of street segments included in the 2008 bid
11 package, and has eliminated a length of 1.0 mile of street segments to reduce the total cost of the 2008 street
12 resurfacing contract to the \$180,000 included in the attached resolution. A list of the specific street segments to be
13 resurfaced in 2008 is attached, along with a list of the segments that were included in the bid package but that are not
14 recommended for inclusion in the contract at this time.
15

16 The Board should note that it is becoming increasingly more difficult to reach our 2.3 mile annual street resurfacing
17 goal. The actual miles of Town streets resurfaced in recent years is indicated below:
18

19	2008 (recommended)	1.80 miles
20	2007	2.15 miles
21	2006	2.00 miles
22	2005	2.30 miles
23	2004	2.37 miles
24	2003	2.40 miles.

25
26 We will continue to strive to meet the 2.3 mile goal in 2009 and beyond, however, the only way this goal can be met in
27 the future is to supplement annual Powell Bill revenues with a General Fund contribution. In order to meet the 2.3 mile
28 goal for the 2008 resurfacing contract, an additional \$50,000 would need to be added. Because of the Town's current
29 budget situation this year, I am not comfortable recommending the use of General Fund balance at this time. The FY
30 08-09 Recommended Budget will be crafted with a goal to provide a General Fund supplement to Powell Bill revenues,
31 however, this supplement may ultimately become a casualty of efforts to maintain a stable property tax rate in FY 08-
32 09. Although we are not in a crisis situation, we continue to be more and more concerned about the overall condition
33 of Town streets. I suspect that the Board may be experiencing the same concern and that we may begin to hear more
34 complaints about street surface quality in the future.
35

36 The Board should note that the 2008 street resurfacing contract does include funding for the realignment of the Old
37 Ferry Road / Sound Drive intersection that has been discussed in the past. The contract includes a total of \$2,566 for
38 the resurfacing component of this project, with other work completed by the Public Works Department. The 2008
39 street resurfacing contract also includes funding for the construction of a new right turn lane from Coast Guard Road
40 (north side) onto NC 58. The contract includes a total of \$7,296 for this work, which includes the overall resurfacing of
41 this segment of Coast Guard Road, thus the actual turn lane cost is very small. This segment of road was last
42 resurfaced more than 20 years ago, and is in need of resurfacing regardless of whether or not the additional right turn
43 lane is constructed. This resurfacing is also expected to resolve chronic drainage problems at this location.
44

45 The contract will require that all 2008 street resurfacing work be completed by April 30.
46

47 The Board discussed future street resurfacing concerns including Coast Guard
48 Road.
49

50 **Motion was made by Commissioner Wootten to approve the Resolution**
51 **Authorizing the 2008 Street Resurfacing Contract with Onslow Grading and**
52 **Paving, Inc. The Board voted unanimously 5-0 in favor. Motion carried.**
53

1
2 ***Motion was made by Commissioner Wright to approve the Powell Bill Fund***
3 ***Budget Amendment. The Board voted unanimously 5-0 in favor. Motion***
4 ***carried.***

5
6 **Note: A copy of above noted Budget Amendment – Powell Bill Fund and Resolution 08-03-11/R4 are**
7 **incorporated herein by reference and hereby made a part of these minutes.**

8
9 **11. COAST GUARD ROAD STORM WATER PROJECT – PHASE II,**
10 **SPINNAKERS REACH**

- 11
12 **a. Public Hearing on Proposed Installment Financing Agreement**
13 **b. Resolution Authorizing Filing of an Application for Approval of a**
14 **Financing Agreement (NC Local Government Commission) (08-03-11/R5)**
15 **c. Resolution Authorizing Installment Financing Agreement with RBC**
16 **Centura (08-03-11/R6)**
17 **d. Resolution Authorizing Construction Contract with Thomas Simpson**
18 **Construction (08-03-11/R7)**
19 **e. Capital Project Ordinance Amendment**

20
21 Town Manager Frank Rush addressed the Board concerning this agenda item.
22 The following excerpt from Town Manager Rush's memo to the Board is provided
23 as additional background:

24
25 The Board of Commissioners is scheduled to consider several action items pertaining to the construction of the next
26 phase of the Coast Guard Road Storm Water Project at the March 11 meeting. Among the actions scheduled for
27 consideration is a \$753,603 construction contract with Thomas Simpson Construction Company, Atlantic Beach, NC.
28 The other items include formal actions for the financing of the project and an amendment to the capital project (budget)
29 ordinance established for the project.

30
31 The project involves the construction of new storm water pumps at two strategic locations in Spinnakers Reach
32 subdivision, the installation of pipe to convey this water to natural areas at Emerald Isle Woods Park, and
33 improvements to the Emerald Isle Woods Park receiving site. The project represents Phase II of an overall project to
34 address chronic storm water flooding concerns along the Coast Guard Road corridor. Phase I was completed in 2005
35 and involved the installation of pumps and related features in Deer Horn Dunes and Sea Dunes, and major
36 improvements at the Emerald Isle Woods Park receiving site. Phase I has been effective in mitigating storm water
37 flooding concerns in these areas since 2005.

38
39 I have included excerpts from the project plans for your review. The two pump locations in Spinnakers Reach are at
40 the corner of Shipwreck Lane and Colonel Henson Court and on Shipwreck Lane just south of its intersection with
41 Governor Safford Lane. Both pump locations include direct intake from adjacent ponds, and also include devices to
42 pump groundwater from these areas. The pipe route from Spinnakers Reach to Emerald Isle Woods travels east
43 underneath existing wetlands in Spinnakers Reach and Dolphin Ridge, along Outrigger Court and Dolphin Ridge Drive
44 in Dolphin Ridge, and then along the south side of Coast Guard Road to Emerald Isle Woods Park. The pipe route
45 relies on storm water easements from 8 private property owners and the property owner associations in both
46 Spinnakers Reach and Dolphin Ridge (for the use of private street right of ways). The Town is in the process of
47 securing these easements, and we do not expect any difficulty in securing the easements in a timely manner. The
48 pump locations and associated intake pipes and groundwater infiltration devices will require open excavation activities,
49
50

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1
2 however, all other pipe will be bored underground at a depth of approximately 4-5 feet. As a result, we expect minimal
3 disturbance associated with construction.
4

5 The project also involves the installation of an additional equalization pipe connecting the "southern" wetlands in
6 Emerald Isle Woods Park to the "northern" wetlands. This additional equalization pipe will help to disperse water
7 among the entire site and should eliminate any significant impacts on the "southern" wetlands in Emerald Isle Woods.
8 The equalization pipe will be installed generally beneath the existing parking lot for Emerald Isle Woods. The Board
9 and the public should note that this pipe will be installed with open excavation activities, and several trees will likely be
10 removed along the equalization pipe route. The Board should also note that the northern discharge of this pipe has
11 intentionally been located as far to the east as possible to further protect against any impacts to Cape Emerald.
12 Moffatt & Nichol, the Town's engineers, do not predict any impacts on Cape Emerald, however, this alignment was
13 chosen to provide additional protection for Cape Emerald. The project also involves the installation of additional fill
14 material on the park entrance road near Coast Guard Road in order to raise the elevation of the road to prevent the
15 flow of pumped storm water into Cape Emerald. Moffatt & Nichol initially did not believe this action was necessary,
16 however, this feature has also been added to further protect against any potential impacts to Cape Emerald. The work
17 involved in this project will raise the elevation of the road by approximately 1 ½ feet.
18

19 The Phase II project is expected to provide storm water flooding relief for 3 subdivisions in this area. The project will
20 obviously benefit the Spinnakers Reach subdivision, and the project is also expected to benefit the Lands End and
21 Dolphin Ridge subdivisions by displacing storm water "upstream" and "downstream" of these subdivisions. The
22 combination of the Town's Phase I pumps (Deer Horn Dunes and Sea Dunes), the new Spinnakers Reach pumps, and
23 the existing private pumps in Land's End is expected to greatly reduce the degree and duration of storm water flooding
24 along the entire Coast Guard Road corridor.
25

26 A detailed description of each action item follows.
27

28 Public Hearing on Proposed Installment Financing Agreement

29 First, the Board is scheduled to conduct a public hearing on the proposed installment financing agreement that is
30 necessary to fund construction of Phase II of the Coast Guard Road Storm Water Project. This public hearing is
31 required before the Board may consider the two financing-related action items on the agenda.
32

33 The Town solicited financing proposals from several banks for both 5-year and 10-year terms, and received a total of 4
34 financing proposals. RBC Centura offered the most attractive proposal for both the 5-year and 10-year terms. Town
35 staff is recommending a 10-year term due to the fact that the proposed installment financing agreement does not
36 include a penalty for prepayment and because a 10-year term will provide maximum budget flexibility for the Town in
37 FY 08-09. RBC Centura's proposal consists of a principal amount of \$800,000 at an annual interest rate of 3.26% over
38 a 10-year term. (A summary of the 4 proposals is attached.) The annual debt service payment on the proposed
39 installment financing agreement is approximately \$95,000.
40

41 As noted above, the recommended construction contract with Thomas Simpson Construction is for \$753,603. The
42 proposed installment financing agreement includes a total principal amount of \$800,000 in order to provide a
43 contingency for the project. If the contingency is not ultimately needed, any remaining funds could be used to reduce
44 the outstanding principal balance.
45

46 The Town's preliminary FY 08-09 budget projection and draft 5-Year Capital Replacement / Improvement Program
47 presented to the Board on February 22 contemplated a financing amount of \$1,020,000 over a 10-year term, thus the
48 proposed installment financing agreement is significantly less than projected. The preliminary FY 08-09 budget
49 projection included an annual debt service payment of approximately \$129,000, thus the actual payment will be
50 approximately \$34,000 less annually than projected on February 22.
51
52
53
54

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1
2 Resolution Authorizing Filing of an Application for Approval of a Financing Agreement (NC Local Government
3 Commission)

4 The proposed installment financing agreement must be approved by the NC Local Government Commission prior to
5 closing on the financing. The attached resolution authorizes the Town Manager to submit the appropriate application,
6 and also outlines the need for Phase II of the Coast Guard Road Storm Water Project and the reasons for utilizing an
7 installment financing agreement.
8

9 The NC Local Government Commission (LGC) will consider the Town's application at its April 1 meeting in Raleigh.
10 We do not anticipate any difficulty in receiving the LGC's approval due to the fact that the Town maintains a solid
11 financial position, has relatively low outstanding debt other than the remaining beach nourishment bonds, and because
12 of the necessity of the project. Assuming LGC approval on April 1, the closing on the installment financing agreement
13 would occur sometime in April.
14

15 Resolution Authorizing Installment Financing Agreement With RBC Centura

16 This attached resolution formally authorizes the Town Manager and other Town officials to execute the installment
17 financing agreement described above with RBC Centura.
18

19 This attached resolution indicates that the installment financing agreement will be consistent with RBC Centura's
20 proposal dated February 28, 2008 (attached), indicates that the debt will be secured by the storm water facilities, and
21 also notes that the installment financing agreement is a qualified, tax-exempt obligation (i.e., the Town will not issue
22 more than \$10 million of debt in 2008, which would jeopardize the tax-exempt nature of this installment financing
23 agreement).
24

25 Resolution Authorizing Construction Contract With Thomas Simpson Construction

26 The attached resolution authorizes the Town Manager to execute a construction contract with Thomas Simpson
27 Construction Company, Atlantic Beach, NC in the amount of \$753,603.
28

29 The Town received a total of 8 construction bids for the project. Seven of the bids ranged from \$748,879 to
30 \$1,134,399, with one additional bid of \$1,557,850. (A copy of the bid tabulation and Moffatt & Nichol's
31 recommendation is attached.) The low bid of \$748,879 was actually submitted by SunLand Builders, Newport, NC,
32 however their bid has been judged to be non-responsive due to the fact that they failed to submit required
33 documentation of efforts to include minority-business enterprises (MBE) in their bid proposal, as required by NC
34 General Statutes. Thomas Simpson Construction submitted the second lowest bid, and did include all required
35 documentation, therefore making them the lowest responsive bidder. Thomas Simpson Construction's bid is \$4,724
36 higher than the low bid, and this amount is not judged to be significant given the overall scope of the project.
37

38 It is unfortunate that SunLand Builders was eliminated from consideration as a result of the MBE documentation,
39 however, the Town Attorney and attorneys at the UNC Institute of Government are confident that a bid that lacks this
40 documentation is non-responsive and the Town can not award the contract to such a bidder. (I have attached an
41 excerpt from a UNC publication on this issue for your review.) SunLand Builders expressed concern that the bid
42 packages distributed for the project did not include a blank version of the required form, and this concern is
43 understandable, however, there is no legal requirement to include such a form in the bid package. The "Instructions to
44 Bidders" in the very front of the bid packages includes two relatively clear references to these requirements. (A copy of
45 the "Instructions to Bidders" is attached for your information, with the appropriate sections highlighted.)
46 The Board should note, however, that none of the other 6 bidders included the required MBE documentation with their
47 bid, and they have also been judged to be non-responsive. Although not legally required, and despite the fact that
48 relatively clear indications are included in the "Instructions to Bidders", I wish that the required form had been included
49 in the bid packages. We will insure that this is the case for all future projects bid via the formal bid process.
50

51 If the attached resolution is approved, the contract with Thomas Simpson Construction will be executed later in March.
52 A pre-construction meeting will be scheduled, and a notice-to-proceed will likely be issued by late March or early April.
53 The contract stipulates a total of 120 days for construction, but does include "no-work" periods during the Memorial
54 Day and July 4th holidays. All construction is expected to be complete by late July. Work will be coordinated with

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1
2 representatives from Spinnakers Reach and Dolphin Ridge, and every effort will be made to avoid major disruption
3 during the summer season. I am hopeful that work in the subdivisions can be completed prior to Memorial Day,
4 however, the exact sequence will be negotiated with Thomas Simpson Construction.
5

6 The construction contract is similar to the contract used for the Phase I project in 2005. Assuming that the attached
7 resolution is approved, the contract will not be executed until it has been reviewed and approved by the Town Attorney.
8

9 The Board should note that Thomas Simpson Construction, Town staff, and Moffatt & Nichol are currently investigating
10 the potential use of alternate pipe material that could result in additional savings for the Town. Thomas Simpson
11 Construction has indicated that the overall contract price can be reduced by \$45,521 if this alternate pipe material is
12 used, which would reduce the total amount of the contract to \$708,082. More time is necessary to complete a
13 thorough evaluation of the pros and cons of using this alternate pipe material rather than the originally specified pipe
14 material. If this material is ultimately deemed acceptable, a change order would be executed to reduce the overall
15 contract amount. I will discuss this issue in more detail with the Board prior to executing such a change order. If a
16 change order reduction is ultimately approved, the principal amount of the installment financing agreement would be
17 reduced accordingly.
18

19 Capital Project Ordinance Amendment

20 The attached capital project ordinance amendment formally recognizes the anticipated installment financing proceeds
21 for this project and appropriates these proceeds for construction.
22

23 The attached capital project ordinance includes an additional \$800,000 for the project, and increases the total project
24 budget to \$1.1 million. The Board should note that the amount allocated for permitting may be reduced in the future if
25 the Town suspends overall permitting activities for future phases of the project, as discussed at the Board's February
26 22 meeting.
27

28
29 Ken Wilman, 124 Mangrove Drive, Estimator for Sunland Development, the low
30 bidder, explained issues they had with the contract documents and Thomas
31 Simpson getting the project. Mr. Wilman said he wished that someone had
32 asked Moffat & Nichol to include an Affidavit A and Affidavit C in the bid
33 packages. Mr. Wilman stated there were 8 bids collected on this job and seven
34 people did not include the minority participation because the proper affidavits
35 were not included in the packets. Mr. Wilman acknowledged that it does ask for
36 minority participation, there is a paragraph with a sentence about it. He noted
37 that there were 4 addendums issued on this project, #4 he said was because he
38 called the engineers and advised that there were people bidding this project with
39 the wrong pipe sizes, it was not clear in the contract documents, and he wanted
40 everything to be right and for everyone to be bidding the same project. Mr.
41 Wilman felt that Thomas Simpson knew that those documents weren't in this
42 contract, and the rest of them overlooked it and gave their best effort, and he
43 didn't call and let anyone know because he knew there was a good chance he
44 could contest the bid because of that technicality and get the project. Mr. Wilman
45 questioned if the difference had been between the \$918,000 bid would Emerald
46 Isle have rebid the project. Mr. Wilman requested that the Town rebid the project
47 because he felt it was not fair and asked the Board to take his comments into
48 consideration.
49
50

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1
2 Mayor Pro-Tem Messer felt that had Moffat & Nichol when they prepared this put
3 those documents in the packets we'd already be through with this; but they didn't.
4 Mr. Simpson had done the project before so he knew this was required, and he
5 felt it was a mistake that Moffat & Nichol didn't include this minority form in the
6 packets. He felt when seven out of the eight bidders don't understand it then
7 there was a problem in the packet preparation.
8

9 Town Attorney Stanley advised the Board that Statute required that on this size
10 project you must get three competitive bids, the Town received 8. The Board's
11 choice tonight was either to award the bid to the lowest responsive bidder, which
12 is not Sunland, and award the bid to Simpson as the lowest responsive bidder, or
13 the Board would have to throw out all bids and rebid, but they could only do that
14 if they find that all the bidders were deceived or misled. Mayor Stanley read
15 what was stated in the second page of the notice to bidders as follows:

16 Proposals shall be addressed as indicated in the Notice to Bidders and shall be
17 delivered, enclosed in an opaque sealed envelope, marked "Proposal" and
18 bearing the title of the work, name of the bidder and the contractor's license
19 number of the bidder. Bidder shall identify on the bid, the minority businesses
20 that will be utilized on the project with corresponding total dollar value of the bid
21 and affidavit listing good faith efforts or an affidavit indicating work under contract
22 will be self-performed, as required by G.S. 143-128.2(c) and G.S. 143-128.2(f).
23 Failure to comply with these requirements is grounds for rejection of the bid.

24 Town Attorney Stanley said that was sent to every bidder. If the Board felt that
25 they were deceived by not being able to read that or they were misled then the
26 Board could throw out the bids and rebid, if the Board couldn't find that then they
27 had no choice but to award to the lowest responsive bidder.
28

29 Mayor Pro-Tem Messer understood that what the Board may do is legal and they
30 don't have a lot of choice, but felt had the form been included by Moffat & Nichol
31 this would have been a lot different. Commissioner Wootten agreed that Moffat
32 & Nichol let the Town down, but looking at this as a fairness issue, as unfair as it
33 would be not to give it to Sunland because they along with 6 others didn't catch
34 the wording, would it be more unfair to not give it to Thomas Simpson because
35 he did everything right.
36

37 ***Motion was made by Commissioner Wootten to open the Public Hearing for***
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 Wootten to close the Public Hearing.***
44 ***The Board voted unanimously 5-0 in favor. Motion carried.***
45

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

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

10
11 **Motion was made by Commissioner Wootten to adopt the Resolution**
12 **Authorizing a Construction Contract with Thomas Simpson Construction.**
13 **The Board voted 4-1 in favor. Commissioners Hedreen, Hoover, Wootten**
14 **and Wright voting in favor, Messer opposed. Motion carried.**

15
16 **Motion was made by Commissioner Wright to adopt the Capital Project**
17 **Ordinance Amendment. The Board voted unanimously 5-0 in favor. Motion**
18 **carried.**

19
20 **Note: A copy of Resolutions 08-03-11/R5, 08-03-11/R6, 08-03-11/R7 and Capital Project Ordinance**
21 **Amendment are incorporated herein by reference and hereby made a part of these minutes.**

22
23 **12. COMMENTS FROM TOWN CLERK, TOWN ATTORNEY, AND TOWN**
24 **MANAGER**

25
26 Town Manager Rush updated the Board on various issues of importance. The
27 following is an excerpt from his Manager Comments memo to the Board for
28 additional background:

29
30 **Cape Carteret Resolution – School Resource Officer**

31 The Town of Cape Carteret currently provides 100% funding for a School Resource Officer, a sworn police officer, at
32 White Oak Elementary School. They are now seeking 70% funding from the Carteret County Board of Education for
33 this position, and have asked other western towns to approve a resolution supporting their request. A copy of the
34 Cape Carteret resolution is attached.

35
36 Mayor Schools and I discussed this request and resolution, and both of us have minor concerns about becoming
37 involved in the Carteret County Board of Education's budget decisions, and also about the potential for a future request
38 from the Town of Cape Carteret for Emerald Isle to contribute to the cost of the School Resource Officer (if the Board
39 of Education denies Cape Carteret's request). In light of these concerns, I have attached a copy of 1) a draft, modified
40 Emerald Isle resolution expressing support but attempting to avoid any implication that Emerald Isle might contribute
41 toward this position in the future, and 2) a draft letter from Mayor Schools to the Carteret County School
42 Superintendent seeking additional information about this issue.

43
44 The Board should review the Cape Carteret resolution, the draft Emerald Isle resolution, and the draft letter, and offer
45 feedback about Emerald Isle's position on this issue. Mayor Schools can also elaborate on his concerns at the March
46 11 meeting.

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1
2 **Draft Memorandum of Understanding – Aquarium Pier at Emerald Isle**

3 I have sent the draft MOU prepared by the Town Attorney to NC Aquarium officials for review. They are currently
4 reviewing the draft with NCDENR legal counsel, and should have comments by next week. I hope to discuss any
5 comments, suggestions, etc. with NC Aquariums officials next week, and will involve the Town Attorney as appropriate.
6 I remain hopeful that a formal version will be presented for Board consideration at the April 8 meeting.

7
8 **Request for County Funding**

9 I have informally discussed a potential Emerald Isle funding request to the County with County Manager John Langdon
10 and County Commissioner Pete Allen. The County Manager would like to receive the Town's formal, written request
11 by March 17. At this point, I am recommending that the Town request a total of \$100,000 to be used for the
12 construction of the Coast Guard Road bicycle path from Bell Cove Village to Emerald Isle Woods. Please let me know
13 if you are comfortable with this request. Another potential request could involve the replacement of aging beach
14 access walkways, however, most of the walkways in need of replacement do not have parking nearby, and may not be
15 viewed as favorably by the County.

16
17 **EMS Station Update**

18 The EMS Station project continues to go well, and thus far we have enjoyed a positive working relationship with
19 Bluewater Builders and EDA-Morehead. The project remains on schedule for a September 2008 completion date, and
20 there have been no unanticipated issues or problems thus far.

21
22 **Police Compensation**

23 I am working with Chief Hargett to devise the most cost-effective strategy to enhance Police Officer compensation. I
24 hope to reach a decision on this issue in the next few weeks, and hope to implement the selected strategy sometime in
25 April. I will update the Board on this issue in the coming weeks.

26
27 **New Town Administration Building Update**

28 Burnette Architecture has completed initial sketches of proposed building elevations and floor plans, and several
29 comments and suggestions have been passed along. I hope to have revised sketches back in the next couple of
30 weeks, and will share these sketches with the Board at this time. We are targeting a May / June bid process and June
31 / July contract award date.

32
33 **Universal Storm Water Management Program (USMP) Ordinance Update**

34 The Town's consulting engineers have completed draft amendments to the Town's storm water ordinance to make it
35 USMP-compliant. Kevin Reed and I will be reviewing the ordinance in the next two weeks and will coordinate with the
36 engineers and the NC Division of Water Quality. The suggested amendments to the Town's storm water ordinance will
37 likely be included in the draft Unified Development Ordinance when it is presented for consideration in April.

38
39 **Unified Development Ordinance (UDO) Update**

40 The UDO Committee will meet on March 12 to review the updated draft of the UDO that incorporates all suggested
41 changes identified by the UDO Committee. The UDO Committee will also review draft ordinance language for the
42 proposed Marina Village districts with the Howe Family on March 12 to solicit their input and suggestions.

43
44 The official draft of the UDO will likely be presented to the Planning Board, Board of Commissioners, and the public
45 sometime in April. We are considering a special joint meeting of the Planning Board and Board of Commissioners to
46 begin the review process. Formal review by the Planning Board and Board of Commissioners is likely to occur over a
47 2-3 month period.

48
49 **Doe Drive Storm Water Pump Connection to Deer Horn Pond**

50 Work on this project has begun and should be nearing completion. I will update the Board on the latest on this project
51 at the March 11 meeting.

52
53
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1
2 **New Parks Maintenance Building**

3 Site preparation work and coordination with the contractor has been ongoing. Building construction has not yet begun.
4 I will update the Board on the latest on this project at the March 11 meeting.
5

6 **The Point**

7 I have asked Tom Jarrett and Coastal Planning & Engineering (CPE) to do some initial work determining the degree of
8 additional environmental documentation that will be necessary to secure a permit to dredge a small portion of the
9 new channel and place 100,000 – 175,000 cy of sand at The Point. I have also asked Tom Jarrett to investigate the
10 feasibility of using sand from Cow Channel, the channel that Hammocks Beach State Park ferries use to travel to Bear
11 Island, to nourish the beach. There may be an opportunity to partner with Hammocks Beach State Park to secure up
12 to 47,000 cy of sand at minimal cost. I will update the Board on both of these strategies when I learn more.
13

14 The migrating oceanfront spit near The Point continues its movement to the west, and things continue to improve.
15

16 The Town's sandbag variance request will be considered by the CRC on March 28. I will attend the hearing with our
17 attorney from Poyner and Spruill.
18

19 **Town Manager Rush briefed the Board on the latest developments at the Point,**
20 **specifically the breach.**
21

22 Town Manager Rush discussed the direction to take on the Cape Carteret
23 resolution regarding the school resource officer at White Oak Elementary School.
24 Mayor Schools stated that his preference would be, rather than sending the
25 resolution that Cape Carteret sent that he would personally call the School
26 Superintendent and discuss the situation with him verbally. The Board agreed
27 with this plan of action.
28

29 Mayor Schools also announced that he had been in Raleigh today at the Water
30 Access Marine Industry (WAMI) meeting and that if everything goes right by April
31 1st that the Emerald Isle Pier is on the short list for \$2.2 million.
32

33 Bob Horner, President of the Dolphin Ridge homeowners association, missed his
34 opportunity to speak earlier in the meeting, and first thanked the Board for their
35 efforts on the stormwater abatement noting that through their efforts they were
36 seeing significant improvement. Mr. Horner asked Mr. Rush if it would be
37 possible to put in a tap or tie in for them it would help them and asked the Board
38 to give this consideration in the future. His last comment was for the Board to
39 please consider carefully the PVC versus the HDPE pipe they had discussed
40 earlier, there being considerable structural differences between the two.
41

42 **13. COMMENTS FROM BOARD OF COMMISSIONERS AND MAYOR**
43

44 There were no further comments from the Board of Commissioner or Mayor.
45
46
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48

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14. ADJOURN

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

The meeting was adjourned at 7:50 pm.

Respectfully submitted:

Rhonda C. Ferebee, CMC
Town Clerk