

1 MINUTES OF THE REGULAR SCHEDULED MEETING  
2 OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
3 TUESDAY, MARCH 13, 2007 – 6:00 P.M. – TOWN HALL  
4

5 The regular monthly meeting of the Emerald Isle Board of Commissioners was  
6 called to order by Mayor Art Schools at 6:05 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, Police Chief Bill Hargett, Parks and Recreation Director Alesia  
14 Sanderson, Asst. Fire Chief Don Askew, and Police Lieutenant Tony Reese.  
15

16 After roll call all who were present recited the Pledge of Allegiance.  
17

18 **4. ADOPTION OF AGENDA**  
19

20 *Motion was made by Commissioner Hedreen to adopt the Agenda. The*  
21 *Board voted unanimously 5-0 in favor. Motion carried.*  
22

23 **5. PROCLAMATIONS / PUBLIC ANNOUNCEMENTS**  
24

25 Mayor Schools announced the following Proclamations and public  
26 announcements:  
27

- 28 • **Proclamation – Multiple Sclerosis Awareness Week – (07-03-13/P1)**
- 29 • **Proclamation – Autism Awareness Month – (07-03-13/P2)**
- 30 • **16<sup>th</sup> Annual Emerald Isle St. Patrick's Festival – Sat. March 17 – All**
- 31 **Day – Emerald Plantation Shopping Center**
- 32 • **Cyber Safety Workshop, Part II – Tues. March 20 – 6 pm – Town Hall**
- 33 **Meeting Room**
- 34 • **Planning Board Meeting – Mon. March 26 – 6 pm – Town Hall Meeting**
- 35 **Room**
- 36 • **Wooden Racquet Tennis Tournament – Sat. March 31 – 9 am – Blue**
- 37 **Heron Park**
- 38 • **Easter Egg Hunt – Sun. April 1 – 2 pm – Blue Heron Park**
- 39 • **Blood Drive – Fri. April 6 – 2 pm – 7 pm – Community Center**
- 40 • **Good Friday, April 6 – Town Hall Closed All Day**
- 41 • **Good Friday, April 6 – Community Center Open**
- 42 • **Board of Commissioners Meeting – Tues. April 10 – 6 pm – Town Hall**
- 43 **Meeting Room**  
44

45 Mayor Schools added the upcoming Surfer's Night on April 14, part of the  
46 continuing Emerald Isle 50<sup>th</sup> Birthday events, encouraging everyone to come out

1  
2 and enjoy these events. In addition, Mayor Schools noted art work in Town Hall  
3 for March and April and the reception for the artist Jeanne McNeil to take place  
4 Friday, March 16.

5  
6 **Note: A copy of Proclamation 07-03-13/P1 and 07-03-13/P2 are incorporated herein by reference and**  
7 **hereby made a part of these minutes.**

8  
9 **6. INTRODUCTIONS – NEW EMPLOYEES**

- 10  
11 **a. Tony Henderson, Police Officer**  
12 **b. Daniel Eldreth, Fire Engineer**

13  
14 Police Chief Bill Hargett introduced the newest full-time Police Officer, Tony  
15 Henderson. Chief Hargett noted that Officer Henderson received his Basic Law  
16 Enforcement Training at Carteret Community College, and that he had worked  
17 previously part-time in Pine Knoll Shores as Police Officer. Asst. Fire Chief Don  
18 Askew introduced the newest full-time Fire Engineer, Daniel Eldreth. Asst. Chief  
19 Askew stated that Mr. Eldreth came to the Town 3 years ago in a part-time  
20 position, and was just promoted due to a recent vacancy to a Driver-Engineer  
21 full-time. The Board and public welcomed the new employees.

22  
23 **7. CONSENT AGENDA**

- 24  
25 **a. Tax Refunds / Releases**  
26 **b. Minutes – January 9, 2007 Regular Meeting**  
27 **c. Minutes – January 25, 2007 Special Meeting**  
28 **d. Resolution Supporting Cow Channel Dredging Project – (07-03-13/R1)**  
29 **e. Resolution Accepting Governors Highway Safety Program Grant**  
30 **f. Budget Amendment – Police Department – (07-03-13/R2)**  
31 **g. Capital Project Ordinance Amendment – Beach Nourishment**  
32 **Monitoring**  
33 **h. Resolution Authorizing Change Order for Coast Guard Road Traffic**  
34 **Project-(07-03-13/R3)**

35  
36 ***Motion was made by Commissioner Messer to approve Consent Agenda.***  
37 ***The Board voted unanimously 5-0 in favor. Motion carried.***

38  
39 **Note: A copy of Resolution 07-03-13/R1, 07-03-13/R2, 07-03-13/R3 and all other Consent Agenda**  
40 **items are incorporated herein by reference and hereby made a part of these minutes.**

41  
42 The Board thanked Police Chief Hargett for receiving the \$10,000 grant from the  
43 Governors Highway Safety Program. Chief Hargett stated that two of the Police  
44 Department employees attended a recent workshop and were lucky enough to  
45 have their name drawn as a winner.  
46

1  
2 **8. PUBLIC COMMENT**  
3

4 **Brief Summary: The public has the opportunity to address the Board at**  
5 **this time about any items of concern not on the agenda.**  
6

7 Wayne Cunningham, 2001 Emerald Drive, expressed concerns following the  
8 recent beach re-nourishment about the amount of traffic on the beach. He said  
9 they are not fishermen but joy riders, and he felt the beach would be wrecked  
10 before it is completed.  
11

12 Mayor Schools said that over the years this issue has been discussed with  
13 experts, and coastal engineers and their opinions indicated that driving on the  
14 beach does not have a material effect. Commissioner Messer added that Mr.  
15 Cunningham should report to the Police Department any deliberate damage  
16 being done to the beach.  
17

18 Mayor Schools announced that this Friday at 10 am there will be a Save Our  
19 Summers meeting here in Town Hall. Ronnie Watson and Julia Wax are  
20 spearheading this meeting, and encouraged people to attend. Mayor Schools  
21 stated that two of the lobbyist from Raleigh will be here to give an update. Mayor  
22 Schools noted that in 2005 occupancy collections were up 25% in the month of  
23 August from the year before, and that increase was maintained in 2006, and he  
24 felt this was due to the later school start.  
25

26 Mayor Schools also announced an upcoming meeting regarding a possible boat  
27 ramp on the other side of the bridge to take place March 29 at the Swansboro  
28 Rotary Civic Center, comments are being sought pros or cons either way, and  
29 encouraged the public to attend.  
30

31 **9. ORDINANCE AMENDING CHAPTER 19 – ZONING – TO CREATE THE**  
32 **VILLAGE WEST ZONING DISTRICT AND THE VILLAGE WEST**  
33 **CONDITIONAL OVERLAY ZONING DISTRICT – (07-03-13/O1)**  
34

- 35 **a. Public Hearing**  
36 **b. Consideration of Ordinance**  
37

38 Town Manager Frank Rush addressed the Board concerning this agenda item.  
39 The following excerpt from Planning Director Kevin Reed's memo to the Town  
40 Manager is provided as background:  
41

42 The Planning Board, at its meeting held on February 26, 2007, considered possible amendments to Chapter 19,  
43 Zoning, of the Town Code in order to create the Village-West (VW) Zoning District and the Village-West conditional  
44 (VW-C) Zoning Overlay District. The amendments presented to the Planning Board were prepared as part of the  
45 implementation process for the 2004 CAMA Land Use Plan. As you know, the concept and vision for the Village-West  
46 district is outlined and supported by specific polices in the Land Use Plan. The vision for the Village-West area was

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1  
2 further refined as part of the design workshops held on June 3, 2006 for the Village-East and Village-West focus areas.  
3 The results of these workshops are contained in the Design Concepts Report prepared by Clarion Associates. The  
4 Board of Commissioners adopted amendments to the Town Code in October of 2006 in order to create the Village-  
5 East Zoning District and the Village-East Conditional Zoning Overlay District. These previous amendments, the Land  
6 Use Plan and the Design Concepts Report provided the basis for proposed amendment discussed by the Planning  
7 Board at its February meeting.  
8

9 As was the case with the Village-East area, Staff believes that the best approach in addressing this issue from a  
10 planning and land development regulation standpoint would be to: (1) create a new zoning district; and (2) create a  
11 conditional zoning overlay district. The new zoning district, called Village-West, would create the baseline standards  
12 (permitted uses, special uses, building setbacks, density, etc) that would apply to all proposed development activities  
13 for properties zoned Village-West. The overlay district, called the Village-West Conditional Zoning Overlay District,  
14 would create a somewhat flexible land development regulation tool that allows particular uses to be established in  
15 accordance with specific standards and conditions pertaining to each individual development approved by the Town  
16 under the overlay district procedure. No specific properties will be rezoned to the Village-West Zoning District or the  
17 Village-West Conditional Zoning Overlay District at this time.  
18

19 You will find attached proposed amendments to the Chapter 19, Zoning, of the Town Code in ordinance format.  
20 Please note that on the attachment, any existing text in the Town Code to be deleted is shown in a strikethrough format  
21 and any text to be added is shown in an underlined format. In summary these amendments accomplish the following:  
22

- 23 1. Amend Section 19-21 to create the Village-West (VW) Zoning District and create the Village-West
- 24 Conditional (VW-C) Zoning Overlay District.
- 25 2. Amend Section 19-62 to revise the definitions for the terms *commercial use*, *institutional use* and *residential*
- 26 *use*.
- 27 3. Amend Section 19-82 in order to establish the permitted and special uses for the Village-West Zoning
- 28 District.
- 29 4. Create Section 19-89 in order to establish specific criteria for the Village-West Conditional Zoning Overlay
- 30 District.
- 31 5. Create Section 19-109 in order to establish the dimensional requirements for the Village-West Zoning
- 32 District.  
33

34 Both the Village-West Zoning District and the Village-West Conditional Zoning District could only be applied to those  
35 properties identified as being part of the Village-West area in the Town's 2004 CAMA Land Use Plan. The Planning  
36 Board, followings its discussion of the proposed amendments, voted unanimously (6 to 0) to recommend to the Board  
37 of Commissioners that the amendments be approved. Attached you will find a map depicting the current boundaries of  
38 Village-West as shown in on the Town's Future Land Use Map. Again, no properties would be rezoned to Village-West  
39 at this time.  
40

41 ***Motion was made by Commissioner Messer to open the Public Hearing.***  
42 ***The Board voted unanimously 5-0 in favor. Motion carried.***  
43

44 Mr. Rush at a request from the audience indicated the boundaries of the  
45 proposed Village West Zoning District, noting the area consists of the area  
46 bounded by Islander Drive and Reed Drive and Highway 58, from Janell Lane  
47 over to and including Holiday Trav-L-Park, and specifically exempts Queens  
48 Court Condominium project.  
49

50 ***Motion was made by Commissioner Messer to close the Public Hearing.***  
51 ***The Board voted unanimously 5-0 in favor. Motion carried.***  
52

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1  
2  
3 Mr. Rush pointed out a replacement page provided for the Board to correct a  
4 typo to page 8 of the ordinance to add the words shall be considered. The Board  
5 had further discussion concerning the table of permitted uses. Mr. Rush noted  
6 that the goal at staff level was to not have this ordinance make anyone currently  
7 operating in this area a non-conforming use, feeling that the opportunities  
8 presented by Village West will dictate how changes occur, and they don't want to  
9 provide any hardship for existing uses.

10  
11 ***Motion was made by Commissioner Wootten to adopt the Ordinance***  
12 ***Amending Chapter 19 – Zoning – To Create the Village West Zoning District***  
13 ***and the Village West Conditional Overlay Zoning District. The Board voted***  
14 ***unanimously 5-0 in favor. Motion carried.***

15  
16 **Note: A copy of Ordinance 07-03-13/O1 is incorporated herein by reference and hereby made a part**  
17 **of these minutes.**

18  
19 **10. DISCUSSION – PHASE II STORM WATER PROGRAM**

20  
21 Town Manager Frank Rush introduced Johnny Martin, engineer with Moffatt &  
22 Nichol, as well as Greg Meshaw, the Town's consulting engineer who reviews  
23 the Town's stormwater plans and the Town's stormwater ordinance. Mr. Rush  
24 stated that the Board is being asked tonight to determine its position on the  
25 Phase II Program. This is a federally mandated program through the  
26 Environmental Protection Agency that is being administered by the Division of  
27 Water Quality. Mr. Rush stated that the Town has received a letter that the State  
28 through the Environment Management Commission is considering adding  
29 Emerald Isle to the list of communities that must meet Phase II stormwater  
30 requirements. The Town's comments must be submitted to the NC  
31 Environmental Management Commission by March 31, 2007 for consideration.  
32 The following excerpt from Town Manager Rush's memo to the Board is provided  
33 as background:

34  
35 The Board of Commissioners is scheduled to discuss the potential designation of Emerald Isle into the Phase II Storm  
36 Water Program at the March 13 meeting.

37  
38 As you know, many of the issues associated with Phase II were presented to the Board at the February 13 Board  
39 meeting. Shortly after that meeting, the Town received formal notice that the NC Environmental Management  
40 Commission (EMC) will consider designating the Town as a Phase II community later this spring or summer. Official  
41 comments on the potential designation of Emerald Isle as a Phase II community are due back to the NC Division of  
42 Water Quality no later than March 31, 2007. The Board should discuss the issues associated with the Phase II  
43 program and provide direction to the Town Manager to draft the Town's official written comments to the NC Division of  
44 Water Quality (DWQ).

45  
46 Background and Process

47 The requirements of the Phase II Storm Water Program result from a Federal mandate that until recently applied only  
48 to the largest cities in North Carolina (Phase I). Phase II of the program, codified in Session Law 2006-246 by the NC

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1  
2 General Assembly, affects an additional 26 counties and more than 200 cities automatically, with provisions in the  
3 legislation to add other cities and counties. The Phase II legislation does indicate that municipalities with more than  
4 10,000 population, or more than 4,000 housing units, or more than 400 housing units per square mile can be added to  
5 the Phase II program. Emerald Isle has more than 6,000 housing units, and more than 1,000 housing units per square  
6 mile. Additionally, Emerald Isle's coastal location increases the potential for Phase II designation.

7  
8 As noted above, the EMC will formally consider adding Emerald Isle to the Phase II program later this spring or  
9 summer. EMC will also consider 8 other municipalities that were not automatically designated into the Phase II  
10 program by legislative action. In our area, both Morehead City and Atlantic Beach are being considered for the same  
11 reasons that Emerald Isle is being considered. If the EMC does in fact designate Emerald Isle for inclusion in Phase II,  
12 Emerald Isle will be required to submit a Phase II permit application within 18 months, or by sometime around the end  
13 of 2008. DWQ would then process the permit application and solicit public comment on the permit application over a  
14 period of 3 – 6 months, and theoretically a permit would be issued in early or mid-2009. The Town would then have a  
15 period of two years to begin implementation of its storm water plan outlined in the Phase II permit, or by sometime in  
16 early or mid-2011.

17  
18 Requirements and Perceived Ability of Emerald Isle to Meet Requirements

19 The Phase II program essentially mandates that certain local governments implement comprehensive storm water  
20 programs throughout their communities. Phase II imposes six programmatic requirements on local governments, and  
21 these requirements are summarized below and in the attached handouts provided by the US Environmental Protection  
22 Agency (the Federal agency responsible for the Phase II program):

- 23  
24 1. *Public Education and Outreach* – The Town would be required to have a program to educate the public about  
25 the impacts of storm water runoff on water quality and encourage actions to properly manage storm water  
26 emanating from their properties and neighborhoods.

27  
28 This could be achieved through educational flyers, newsletters, signage, seminars, and other activities  
29 designed to better educate our residents and property owners about the need to properly manage storm  
30 water runoff and protect the water quality in and adjacent to Emerald Isle.

- 31  
32 2. *Public Participation and Involvement* – The Town would be required to solicit public input from the community  
33 on storm water issues through public hearings, participation in the development of a storm water plan, and  
34 other means.

35  
36 This could be achieved by the Town through the use of a citizens committee to assist in the development of  
37 the Town's Phase II permit application, the establishment of a standing storm water advisory board, multiple  
38 public hearings and comment sessions, among other means.

- 39  
40 3. *Illicit Discharge Detection and Elimination* – The Town would be required to map its storm water system, and  
41 also identify any illicit discharges (for example, direct wastewater connections to the storm water system,  
42 industrial polluters, etc.) and devise a plan to eliminate these.

43  
44 The Public Works Department has developed a crude map of the Town's existing storm water system, and  
45 this map could be enhanced. Although there are likely some illicit discharges in Emerald Isle, we do not  
46 have the sense that this is a significant issue in Emerald Isle.

47  
48 It is our understanding that existing storm water outfalls to the sound and ocean are NOT considered illicit  
49 discharges, and there will not be any mandated requirement to eliminate these at this time. DWQ and EPA  
50 would certainly encourage the Town to make efforts to remove these outfalls over time (as we have done in  
51 the case of ocean outfalls near Bogue Inlet Pier and soundside street ends in eastern Emerald Isle),  
52 however, there will likely be no requirement to retrofit.

53  
54

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1  
2  
3 4. *Construction Site Runoff Control* – This requirement has to do with controlling sediment during construction  
4 and the Town is already meeting this requirement through the State’s Erosion and Sedimentation Control  
5 program and our local Dunes and Vegetation Ordinance. This requirement does not appear to result in any  
6 additional requirements for the Town.

7  
8 5. *Post-Construction Runoff Control* – This requirement is the most significant requirement associated with the  
9 Phase II program. The existing State Coastal Storm Water Rules and the Town’s current storm water  
10 ordinance do not comply with the requirements of the proposed Phase II storm water rules that are currently  
11 being considered by the EMC. As a result, under Phase II, any larger scale commercial and/or subdivision  
12 development in Emerald Isle would be subject to more stringent storm water regulations.  
13

14 As discussed at the February 13 Board meeting, there are also proposed new State Coastal Storm Water  
15 Rules that will be considered by the EMC over the coming months. The proposed new State Coastal Storm  
16 Water Rules are intended to satisfy the Phase II requirements, and if implemented these rules would likely be  
17 in place prior to the effective date of Emerald Isle’s inclusion in the Phase II storm water program. In order to  
18 avoid confusion (difficult to accomplish), this memo will refer to and compare the proposed new State  
19 Coastal Storm Water Rules to the Town’s existing storm water ordinance (because the new State Coastal  
20 Storm Water Rules will satisfy Phase II requirements for Emerald Isle).  
21

22 The differences between the existing State Coastal Storm Water Rules (all development in Emerald Isle that  
23 disturbs more than 1 acre is subject to these requirements), the proposed new State Coastal Storm Water  
24 Rules, and the Town’s existing ordinance are summarized below:  
25

26 Existing State Coastal Storm Water Rules (as applied in Emerald Isle)  
27

28 WITHIN 575 FEET OF BOGUE SOUND

- 29 • Land disturbance greater than 1 acre requires State storm water permit
- 30 • New development within 575’ of estuarine waters must limit impervious surface to 25% or  
31 less
- 32 • 30 ft. setback from estuarine waters
- 33 • NOT required to contain 1.5 inches of rainfall (low density option), but must utilize  
34 vegetated swales  
35

36 MORE THAN 575 FEET FROM BOGUE SOUND

- 37 • Land disturbance greater than 1 acre requires State storm water permit
- 38 • Can utilize low density option with 30% or less impervious surface; no controls required  
39 but must utilize vegetated swales
- 40 • More than 30% impervious surface must contain 1 inch of rainfall; no limit on impervious  
41 surface coverage.  
42

43 Proposed New State Coastal Storm Water Rules (under consideration by EMC)  
44

45 WITHIN HALF MILE OF BOGUE SOUND

- 46 • Land disturbance greater than 10,000 square feet requires State storm water permit
- 47 • New development within half mile of estuarine waters can either limit impervious surface  
48 to 12% or less and utilize vegetated swales OR
- 49 • New development within half mile of estuarine waters can utilize storm water volume  
50 controls for the 1-year, 24-hour storm event if impervious surface is greater than 12%;  
51 development within 575 feet can not exceed a maximum of 25% impervious surface  
52 coverage
- 53 • Must diffuse flow of any storm water for 1-year, 24-hour storm event
- 54 • 30 ft. setback from estuarine waters

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MORE THAN HALF MILE FROM BOGUE SOUND

- Land disturbance greater than 10,000 sq. ft. requires State storm water permit
- New development more than half mile from estuarine waters can either limit impervious surface to 24% or less and utilize vegetated swales OR
- New development more than half mile from estuarine waters can utilize storm water controls for 1.5 inches of rainfall if impervious surface exceeds 24%; no limit on maximum impervious surface
- 30 ft. setback from estuarine waters.

Existing Town Storm Water Ordinance

ALL DEVELOPMENT IN EMERALD ISLE

- Storm water plan and controls required for all development, including single-family homes
- Single family homes do not require engineer's seal
- Amount of land disturbance is irrelevant
- Must provide a suitable area to store the volume of storm water resulting from first 2 inches of rainfall; no allowance for gradual percolation
- No maximum limit on impervious surface, however, development in Emerald Isle is subject to appropriate State limits (25% within 575 feet of Bogue Sound)
- 30 ft. setback from estuarine waters.

The Town's existing storm water ordinance is, overall, more stringent than the current State Coastal Storm Water Rules. The Town's existing storm water ordinance is not, however, more stringent than the proposed new State Coastal Storm Water Rules. Although it is a site specific calculation based on the 1-year 24-hour storm event, degree of impervious coverage, and soil conditions, I am advised by our consulting engineers that the volume requirement of the proposed new State Coastal Storm Water Rules is generally 50% greater than the Town's current 2 inch requirement.

As discussed at the Board's January 25 and February 13 meetings, there is also a program called the Universal Storm Water Management Program (USMP). The USMP is a voluntary program whereby a local government can have their local storm water ordinance certified by the DWQ and then administer the State's storm water requirements locally. The provisions of the USMP are outlined below:

Universal Storm Water Management Program (USMP)

ALL DEVELOPMENT IN THE LOCAL GOVERNMENT'S JURISDICTION WITH USMP

- Land disturbance greater than 10,000 sq. ft. requires State / local storm water permit
- All new development, regardless of distance from Bogue Sound, with greater than 10,000 sq. ft. disturbance must utilize storm water controls for first 1.5 inches of rain
- New development within 575 feet of Bogue Sound can not exceed 36% impervious surface; no maximum for development more than 575 feet from Bogue Sound
- Post-development discharge rate for 1-year, 24-hour storm event can not exceed pre-development rate
- 30 ft. setback from estuarine waters.

Based on numerous discussions with DWQ staff and the Town's consulting engineers (after analyses of the 1-year, 24-hour storm requirement), it is apparent that the Town's existing storm water ordinance is, overall, comparable and in some respects more stringent than USMP. I have invited both Greg Meshaw, PE, Municipal Engineering and Johnny Martin, PE, Moffat & Nichol to attend the March 13 meeting to discuss these issues from an engineer's perspective.

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1  
2 Given all of the above, it appears to be advantageous to the Town to participate in the USMP, regardless of  
3 whether or not Emerald Isle is ultimately subject to Phase II. The Town's existing ordinance appears to be  
4 comparable to USMP, and it is likely that the Town's existing storm water ordinance can be amended to  
5 comply with USMP with minimal policy implications and impact on development in Emerald Isle. In addition,  
6 participation in the USMP would remove a layer of bureaucracy by enabling "one-stop" permitting for storm  
7 water issues at the local government level. The USMP also includes greater flexibility in the amount of  
8 impervious coverage, with an option to go as high as 36% within 575 ft. of Bogue Sound (as opposed to the  
9 current 25% limitation).

- 10  
11 6. *Pollution Prevention / Good Housekeeping* – The Town would be required to implement a program to prevent  
12 or reduce pollutants from municipal operations from impacting water quality. I believe that the Town is  
13 already doing a very good job with its own operations, and I don't believe that it would require a great deal of  
14 effort to meet this requirement.  
15

16 Other Considerations

17 As noted above, Emerald Isle is being considered for Phase II designation due to the fact that the Town has more than  
18 4,000 housing units and more than 400 housing units per square mile. Emerald Isle is one of only a few local  
19 governments included in this category, and based on a review of SL 2006-246, there is some question as to whether or  
20 not the EMC has the legal authority to designate Emerald Isle. Based on my review, the legislation only allows a  
21 community such as Emerald Isle to be designated if it meets certain population growth criteria and storm water runoff  
22 adversely impacts water quality.  
23

24 A review of the population growth criteria for Emerald Isle reveals that Emerald Isle has not met this criteria. In terms  
25 of adverse impacts on water quality, a good argument can likely be made that Emerald Isle's storm water has not and  
26 will not adversely impact water quality. This argument is supported by the following:  
27

- 28
- Emerald Isle maintains an Outstanding Resource Waters classification.
  - The vast majority (except for Island Harbor Marina and Archers Creek) of the Bogue Sound shoreline in  
29 Emerald Isle is open for shellfishing.
  - Emerald Isle is approximately 95% platted, with few large tracts available for further subdivision or significant  
30 commercial development.
  - Emerald Isle has structures on approximately 85% of all platted lots and tracts.
  - The Town has one of the most stringent local storm water ordinances in coastal North Carolina, and may  
31 pursue participation in the Universal Storm Water Management Program.
  - The Town has been a leader in addressing storm water issues in the past, with the completion of Phase I of  
32 the Coast Guard Road Storm Water Project, efforts to remove ocean storm water outfalls at Bogue Inlet Pier,  
33 and the gradual elimination of direct storm water discharges to Bogue Sound at the east end street ends.
  - The Town has concrete plans for future phases of the Coast Guard Road Storm Water Project, additional  
34 soundside street end improvements in eastern EI, and the ultimate removal of the outfalls at Bogue Inlet Pier.  
35  
36  
37  
38  
39  
40  
41

42 The Board should also note that the actual permitting process for Phase II communities (which would occur for  
43 Emerald Isle in late 2008 or early 2009) includes a process whereby outside parties can challenge the issuance of a  
44 Phase II permit. This process could lead to undesirable permit conditions imposed on the local government. One  
45 example that has been cited involves three local governments in Union County outside of Charlotte. In this example,  
46 the NC Division of Water Quality issued a permit that was challenged by an outside environmental group. The  
47 challenge was upheld by the NC Office of Administrative Hearings, and as a result DWQ will likely incorporate more  
48 stringent requirements into the permit. In this case, this may result in 100 – 200 ft. buffers along perennial and  
49 intermittent streams.  
50

51 Options for the Town's Official Comments

52 As you know, the Town has clearly demonstrated its commitment to the proper management of storm water runoff.  
53 Based on numerous and recent Board discussions, I don't envision the Town's commitment declining in the future, and  
54 it is in fact likely to increase. Based on this observation, the central question appears more related to the imposition of

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1  
2  
3 a Federal / State mandate than water quality or storm water runoff. In short, should the Town simply embrace the  
4 potential Phase II designation and the associated requirements, or should the Town express its desire to continue to  
5 address storm water issues on its own terms and at its own pace?  
6

7 In my view, the Board has two options in developing its official position on the Town's potential Phase II designation:  
8

9 *Option 1 – Respectfully Request that Emerald Isle Not Be Designated in Phase II at This Time*

10 As noted above, the Town has been proactive in dealing with storm water issues in recent years, and there  
11 are concrete plans for future beneficial activities. The Town can likely make a good case that it should be  
12 allowed to "chart its own course" regarding storm water issues. If the Board pursues this option, it may be  
13 advantageous to go on record with a goal to seek approval for the Universal Storm Water Management  
14 Program.  
15

16 *Option 2 – Embrace Phase II*

17 As noted above, the Town is already undertaking many beneficial activities relative to storm water runoff. If  
18 the Town pursues USMP, the additional 5 requirements do not appear to be difficult for the Town to  
19 implement in the future. Additionally, the Town will have more than 3 years to comply with the requirements.  
20 Finally, action by the Town to embrace the Phase II program may result in the enhancement of the Town's  
21 relationship with DWQ and other regulatory and grant-awarding agencies.  
22

23 I look forward to discussing these issues with the Board at the March 13 meeting. Based on the Board's direction on  
24 March 13, I will draft a letter outlining the Town's official position to the EMC prior to the March 31 deadline.  
25

26 Johnny Martin, Moffatt & Nichol, provided a brief PowerPoint presentation for the  
27 Board and public to illustrate what is proposed with the Phase II program versus  
28 the Universal Stormwater Management Program (USMP) as discussed at the last  
29 meeting, and as compared to the Town's existing stormwater ordinance.  
30

31 **(A copy of this PowerPoint presentation is attached in its entirety and hereby made a part of these**  
32 **minutes).**  
33

34 Commissioner Messer commented that it appears that Emerald Isle is ahead of  
35 the curve, that the Town has been managed very well, and he encouraged the  
36 Town Manager to use his expertise to convince the agency that they are not  
37 needed, as the Town has apparently been doing a good job.  
38

39 Mr. Rush said based on the Boards direction he would indicate in his letter to the  
40 NC Environmental Management Commission by March 31, 2007, that the Town  
41 would like to continue as we have been doing, be left out of the Phase II at this  
42 point in time, and clearly during that argument cite all of the things Emerald Isle  
43 has done in the past, and has plans to do in the future.  
44

45 Mr. Rush commented that if they still put the Town in Phase II, there is still the  
46 option to pursue the Universal Stormwater Management Program (USMP). Mr.  
47 Rush felt that Emerald Isle's current ordinance is just as stringent, noting that  
48 there would likely be some procedures or language that would need to be  
49 tweaked.  
50

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Johnny Martin, responding to a question from Town Attorney Stanley, stated that the Town would be considered Phase II compliant under the USMP.

Commissioner Wootten suggested that Mr. Rush blend into the letter the additional measures required under USMP and how the Town will implement to make a stronger case so as not to be put into Phase II.

Doje Marks, 134 Sandcastle Drive, read excerpts from a letter that she had written to a member of the Board in 2000. Ms. Marks referenced an article in the Tideland News that noted in 1983 that a section of Emerald Isle property off of Coast Guard Road, blocks 45, 46, and 47 had severe drainage problems. Ms. Marks referenced another article in the Daily News in 1991 that noted that Emerald Isle was having drainage problems. Ms. Marks read quotes that referenced the cost quoted to solve the stormwater problems over the past years. Ms. Marks claimed that the Town had ignored its own ordinances and allowed the wholesale clearing of lots, creating new stormwater problems in Lands End, Spinnakers Reach and Dolphin Ridge subdivision. Ms. Marks stated that the trouble with stormwater is not going away and needs to be addressed before it doubles or triples again. Ms. Marks said she suspected that most taxpayers that are residents of Emerald Isle would be happy to add a penny to their taxes if it meant not having to deal with stormwater problems in our streets and neighborhoods, and asked the Board to please consider.

Ronnie Watson, 9102 Coast Guard Road, said that based on comments he has heard the Town is exceeding the State requirements now, and he felt that the Town should respond that the State should let Emerald Isle do its own thing and see what kind of response is received. Mr. Watson said that Phase II scared him, and he hoped that the Town would be able to make a strong case that would not require the Town to do anything.

Mr. Rush noted that the Town's engineering consultant Greg Meshaw has been doing a line by line comparison of the Town ordinance as to whether it would be advantageous to amend our current ordinance or adopt a model ordinance.

Greg Meshaw, consulting engineer for the Town, spoke about his findings thus far in his comparison of the ordinances. Mr. Meshaw suggested that once the comparison is finished instead of stating that the Town wants to be a USMP, rather state that our ordinance on what we consider to be the important things, is as good as or better than the USMP Program. Mr. Meshaw felt that the argument could be stated that the Town has a strong ordinance, and also a good history for new development. In addition, show how our ordinance compares to the requirements of USMP, indicating the Town thinks it is just as good, and we think we are doing well. If the Town is still designated anyway, then by default the Town could go to the USMP Program.

1  
2 The Board was in agreement with this strategy. Mr. Rush stated that he would  
3 draft the official response and comments for the Board's review prior to sending.  
4

5 **11. ORDINANCE AMENDING CHAPTER 2 – ADMINISTRATION – AND**  
6 **CHAPTER 12 – OFFENSES AND MISCELLANEOUS PROVISIONS – TO**  
7 **ALLOW THE SALE, SERVICE, AND CONSUMPTION OF ALCOHOLIC**  
8 **BEVERAGES ON TOWN PROPERTY FOR AUTHORIZED SPECIAL EVENTS –**  
9 **(07-03-13/O2)**

10  
11 Parks and Recreation Director Alesia Sanderson addressed the Board  
12 concerning this agenda item. The following excerpt from Town Manager Rush's  
13 memo to the Board is provided as background:

14  
15 The Board of Commissioners is scheduled to consider the attached ordinance amendment that would allow the sale,  
16 service, and consumption of alcoholic beverages on Town property for authorized special events. A permit issued by  
17 the Town Manager or Police Chief would be required in order to include alcohol in a special event on Town property.  
18

19 Section 12-4 of the Town's ordinance does not allow the sale, service, or consumption of alcoholic beverages on any  
20 public property in the Town, and this ordinance has prevented both outside groups using Town facilities and the Town  
21 itself from including alcoholic beverages in special events. Alesia Sanderson, Parks and Recreation Director, is  
22 requesting the change in Town policy due to the demand in the community for the inclusion of alcoholic beverages at  
23 certain special events held on Town property. Alesia Sanderson, Town Attorney Richard Stanley, and I discussed this  
24 matter, and we are all comfortable with allowing special events on Town property to include alcoholic beverages  
25 provided that certain precautions are taken to promote safety and limit the Town's liability. The attached ordinance  
26 amendment was prepared by the Town Attorney with these concerns in mind.  
27

28 Ms. Sanderson stated that this ordinance amendment prepared by Town  
29 Attorney Richard Stanley contained provisions that address the ABC  
30 requirements, names an event director, and requires either the Town Manager or  
31 Police Chief as the licensing authority for the Town. Ms. Sanderson stated that  
32 these groups if they are selling alcohol would not only be required to have an  
33 ABC permit, but also required to have the Town permits for it to be legal on Town  
34 owned property.  
35

36 Commissioner Messer asked about the Town's insurance liability, and Ms.  
37 Sanderson indicated that there were provisions in the ordinance that cover the  
38 requirements to be provided from the special events director.  
39

40 Commissioner Hedreen asked about charges for use of the gym, and also what  
41 measures were in place to handle repayment for any damaged property. Ms.  
42 Sanderson noted the fee schedule in place, and also noted that there is a  
43 requirement that a staff member is paid by the special event group to be in  
44 attendance, noting also the close proximity of our Police Department in the event  
45 of unruly behavior. Town Attorney Stanley added that our ordinance also  
46 requires that as a condition of permit there be a defined and limited area.  
47

1  
2 ***Motion was made by Commissioner Messer to approve the Ordinance***  
3 ***Amending Chapter 2 – Administration – and Chapter 12 – Offenses and***  
4 ***Miscellaneous Provisions – To Allow for the Sale, Service, and***  
5 ***Consumption of Alcoholic Beverages on Town Property for Authorized***  
6 ***Special Events. The Board voted unanimously 5-0 in favor. Motion carried.***

7  
8 **Note: A copy of Ordinance 07-03-13/O2 is incorporated herein by reference and hereby made a part**  
9 **of these minutes.**

10  
11 **12. NEW TOWN ADMINISTRATIVE OFFICE BUILDING**

- 12  
13 **a. Resolution Authorizing Design Contract with Burnette Architecture –**  
14 **(07-03-13/R4)**  
15 **b. Budget Amendment – General Fund**  
16 **c. Capital Project Ordinance**  
17

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

21  
22 The Board of Commissioners is scheduled to consider the attached resolution authorizing the Town Manager to enter  
23 into a contract with Burnette Architecture, Morehead City, NC for design services for the proposed new Town  
24 Administrative Office Building. The total contract amount authorized in the attached resolution is \$56,000. The Board  
25 is also asked to consider two associated items: a budget amendment appropriating General Fund balance for this  
26 work and the establishment of a capital project ordinance for this project to make it easier to track project revenues and  
27 expenses over multiple fiscal years.

28  
29 The attached resolution authorizes a contract consistent with the attached proposal from Burnette Architecture. The  
30 proposal outlines the typical scope of work for a project of this type - programming, schematic design, detailed design,  
31 construction documents, bid process coordination, contract award, and construction administration services for the  
32 proposed new Town Administrative Office Building. The total contract amount of \$56,000 is equal to 8% of the  
33 estimated construction cost of \$700,000 for the project. The Board should note that a detailed contract would be  
34 prepared by Burnette Architecture, reviewed by the Town Attorney, and executed by the Town Manager if the Board  
35 approves the attached resolution.

36  
37 A 3,500 sq. ft. building is envisioned on two levels directly behind the existing Town Hall building in front of the tennis  
38 courts. (A map depicting this general area is attached.) The new building would house the offices of the Mayor /  
39 Commissioners, Town Manager, Assistant Town Manager / Finance Officer, Town Clerk / Human Resources Officer,  
40 Tax Collector, and Administrative Assistant. Sufficient storage and meeting space would be included in the new  
41 building, along with a small amount of additional office space for future expansion. No new administrative positions are  
42 envisioned at this time, however, there may be a need in the long-term. The new building will also be designed to  
43 accommodate the future addition of a new Town Meeting Room (likely at least 10 years away, if not more).

44  
45 As you know, Town administrative staff will soon vacate the current administrative office space (approximately 3,000  
46 sq. ft.) to allow for expansion of the Police Department. It is anticipated that this work will begin in May or June, and  
47 that Town Hall staff will temporarily occupy the Town Hall meeting room for a period of 12 – 18 months. In order to  
48 minimize the timeframe of this temporary arrangement, it is advantageous to begin the design process for the new  
49 building as soon as possible. If a design contract is awarded in March, it is estimated that construction could begin this  
50 fall, with a potential completion date of mid-2008.  
51

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As we have discussed previously, the construction cost of the new building will be financed, likely over a 5-year or 10-year term. Sufficient funding for debt service payments will be included in the FY 07-08 budget and beyond. Annual debt service payments for a 5-year debt instrument are estimated at approximately \$175,000 per year, and \$100,000 per year for a 10-year debt instrument.

The attached budget amendment appropriates General Fund balance for design expenses for this project. Depending on the Town's fund balance position at June 30, 2007, I may recommend that the Board fold these design expenses into the debt issued to finance construction of the project. I am somewhat concerned about the appropriation of General Fund balance this fiscal year, and the Town needs to carefully manage fund balance levels when establishing the FY 07-08 budget. The attached capital project ordinance is procedural in nature, and will simply allow the Town to track project revenues and expenses over multiple fiscal years.

Following general discussion ***motion was made by Commissioner Wright to approve the Resolution Authorizing a Design Contract with Burnette Architecture. The Board voted unanimously 5-0 in favor. Motion carried.***

**Note: A copy of Resolution 07-03-13/R4 is incorporated herein by reference and hereby made a part of these minutes.**

BUDGET AMENDMENT  
 FY 2006-07

The budget for FY 2006-2007 is hereby amended as follows:

GENERAL FUND

	Increase	Decrease
<u>Revenues</u>		
Appropriated Fund Balance	56,000	-
TOTAL	56,000	-
<u>Expenditures</u>		
Transfer to Town Administrative Office Building CPO	56,000	-
TOTAL	56,000	-

Copies of this ordinance shall be filed with the Finance Officer, Budget Officer, and Town Clerk, to be kept on file by them for their direction in the disbursement of Town funds for this project.

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**Motion was made by Commissioner Wootten to approve the General Fund Budget Amendment appropriating \$56,000 for design services. The Board voted unanimously 5-0 in favor. Motion carried.**

---

TOWN OF EMERALD ISLE  
CAPITAL PROJECT BUDGET ORDINANCE  
TOWN ADMINISTRATIVE OFFICE BUILDING PROJECT

Be it ordained by the Board of Commissioners of the Town of Emerald Isle that, pursuant to NCGS 159-13.2, the following

Capital Project Ordinance is hereby established for the Town Administrative Office Building Project:

	<u>Adopted Budget</u> <u>(March 13, 2007)</u>
<u>Revenues</u>	
Transfer from General Fund	<u>56,000</u>
TOTAL	56,000
<u>Expenditures</u>	
Design / Construction Administration	<u>56,000</u>
TOTAL	56,000

The Town Manager, as Budget Officer, is hereby authorized to transfer funds between line items within this capital project ordinance, however, any net increases or decreases to total capital project ordinance appropriations shall require a capital project ordinance amendment by the Board of Commissioners.

Copies of this ordinance shall be filed with the Finance Officer, Budget Officer, and Town Clerk, to be kept on file by them for their direction in the disbursement of Town funds for this project.

9 **Motion was made by Commissioner Hedreen to approve the Capital Project Ordinance for the Town Administrative Office Building Project. The Board**  
10 **voted unanimously 5-0 in favor. Motion carried.**  
11  
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3 **13. ISLANDER DRIVE SIDEWALK**  
4

- 5 **a. Resolution Authorizing Construction Contract with Johnson**  
6 **Construction – (07-03-13/R5)**  
7 **b. Budget Amendment – General Fund**  
8

9 Town Manager Frank Rush addressed the Board concerning this agenda item.  
10 The following excerpt from Town Manager Rush’s memo to the Board is provided  
11 as background:  
12

13 The Board of Commissioners is scheduled to consider the potential construction of a new sidewalk along Islander  
14 Drive at the March 13 meeting. If the Board decides to proceed with this project, the Board should consider the  
15 attached Resolution Authorizing Construction Contract with Johnson Construction in the amount of \$33,350, and the  
16 attached budget amendment formally appropriating this amount.  
17

18 The Town’s 5-Year Capital Replacement / Improvement Program adopted by the Board in June 2006 indicates the  
19 Town’s goal to construct a new sidewalk on one side of Islander Drive in FY 08-09. As you know, the Board discussed  
20 this project at its meetings on January 9 and January 25, and indicated that this project should receive higher priority if  
21 funds can be identified in FY 07-08. As a result of the Board’s recent discussions and due to the fact that Johnson  
22 Construction is currently working on another sidewalk project for the Town, I asked Johnson Construction to provide a  
23 quote for the Islander Drive sidewalk project. Johnson Construction provided the attached quote for \$33,350.  
24

25 If the Board authorizes a contract for this project, a new 5’ wide concrete sidewalk would be constructed along the west  
26 side of Islander Drive from the edge of the vehicular travel lane of NC 58 to Reed Drive and then to Louise Avenue.  
27 The sidewalk would also be extended along the north side of Louise Avenue into the Western Ocean Regional Access  
28 (WORA) parking lot. The total length of new sidewalk is 1150 linear feet.  
29

30 The new sidewalk would not require the relocation of any major right-of-way encroachments at this time, as all of the  
31 major encroachments are located along the east side of Islander Drive. The only encroachments that would be  
32 impacted by this project are existing railroad ties that are of little value to the adjacent businesses. The new sidewalk  
33 would provide a dedicated pedestrian route to the WORA and would greatly improve pedestrian safety. The new  
34 sidewalk would tie into the existing bicycle path, and would also be in place prior to planned construction of new hotels  
35 on both the northwest and southwest corners of the NC 58 / Islander Drive intersection.  
36

37 The Board should note that the completion of this project is presented for consideration at this time due to the fact that  
38 concrete costs have been escalating significantly in recent months, and I am advised that an additional cost increase  
39 will be implemented on April 29, 2007. Johnson Construction Company has indicated that they can complete this  
40 project prior to April 29 if a contract is authorized within the next week or two.  
41

42 The Board should note that there are no funds available in the FY 06-07 budget for this work, and the attached budget  
43 amendment presented for consideration appropriates \$33,350 from General Fund balance. As you know, the Town  
44 has exhausted the FY 06-07 General Fund contingency. The Board should also note that the Town is also facing other  
45 expenditures from General Fund balance in the coming months for other items (design and permitting work for Coast  
46 Guard Road Storm Water Project – Phase II, design work for new Town administrative building).  
47

48 Commissioner Hedreen felt the Town has done a fantastic job of bike paths and  
49 sidewalks and this is the one missing link, there is a big congregation of people in  
50 that area and where there is the most risk of someone getting hurt.  
51

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- 1
- 2 Commissioner Hedreen felt this was a natural progression of something that
- 3 should be acted upon now.
- 4
- 5 Commissioner Wootten agreed that the Town should do this now but should also
- 6 make sure the money is put into next year's budget to repay the general fund.
- 7
- 8 ***Motion was made by Commissioner Wootten to approve the Resolution***
- 9 ***Authorizing Construction Contract with Johnson Construction. The Board***
- 10 ***voted unanimously 5-0 in favor. Motion carried.***
- 11
- 12 **Note: A copy of Resolution 07-03-13/R5 is incorporated herein by reference and hereby made a part**
- 13 **of these minutes.**
- 14
- 15

BUDGET AMENDMENT  
 FY 2006-07

The budget for FY 2006-2007 is hereby amended as follows:

GENERAL FUND

	Increase	Decrease
<u>Revenues</u>		
Appropriated Fund Balance	33,350	-
TOTAL	33,350	-
<u>Expenditures</u>		
NonDepartmental (Islander Drive Sidewalk)	33,350	-
TOTAL	33,350	-

Copies of this ordinance shall be filed with the Finance Officer, Budget Officer, and Town Clerk, to be kept on file by them for their direction in the disbursement of Town funds for this project.

- 16
- 17 ***Motion was made by Commissioner Wootten to approve the Budget***
- 18 ***Amendment appropriating \$33,350 from General Fund balance with the***
- 19 ***understanding that it would be budgeted and replaced in the General Fund***
- 20 ***Balance next year. The Board voted unanimously 5-0 in favor. Motion***
- 21 ***carried.***

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

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

7 Town Manager Frank Rush noted the Coast Guard Road project was basically  
8 done but cautioned that landscape was still being installed in the traffic island,  
9 signs and markings. Mr. Rush brought up the possibility of a speed limit change  
10 to 25 mph in that small section between Deer Horn Drive and Highway 58.  
11

12 Mr. Rush updated the Board on the status of the Police Station expansion and  
13 renovation. Mr. Rush noted that the staff at Town Hall by unanimous decision  
14 would be moving temporarily into the Town Hall Board Room for the construction  
15 period for the Police Department as well as the new Town Administration  
16 building.  
17

18 Mr. Rush noted that Moffat & Nichol will have a proposal for design and  
19 permitting services for Phase 2 of the Coast Guard Road project by the end of  
20 the month and if acceptable it will be on the Board's April meeting agenda to  
21 consider.  
22

23 Mr. Rush concluded by stating that the EMS Station design is underway; a  
24 meeting to review the design is scheduled to review and start making plans.  
25

26 **15. COMMENTS FROM MAYOR AND BOARD OF COMMISSIONERS**  
27

28 There were no further comments from the Mayor and Board of Commissioners.  
29

30 **16. ADJOURN**  
31

32 ***Motion was made by Commissioner Messer to adjourn. The Board voted***  
33 ***unanimously 5-0 in favor. Motion carried.***  
34

35 ***The meeting was adjourned at 7:40 pm.***  
36

37 Respectfully submitted:  
38  
39  
40

41 Rhonda C. Ferebee, CMC  
42 Town Clerk