

1                                   **MINUTES OF THE REGULAR SCHEDULED MEETING**  
2                                   **OF THE EMERALD ISLE BOARD OF COMMISSIONERS**  
3                                   **TUESDAY, SEPTEMBER 12, 2006 – 6:00 P.M. – TOWN HALL**  
4  
5

6 The regular monthly meeting of the Emerald Isle Board of Commissioners was  
7 called to order by Mayor Pro-Tem Floyd Messer at 6:00 PM.  
8

9 Present for the meeting: Mayor Pro-Tem Floyd Messer, Commissioners Pete  
10 Allen, Nita Hedreen, John Wootten, and Maripat Wright.  
11

12 Absent for the meeting: Mayor Art Schools.  
13

14 Mayor Pro-Tem Messer noted that Mayor Schools was absent due to a tourism  
15 meeting in Washington, DC.  
16

17 Others present: Town Attorney Richard Stanley, Town Manager Frank Rush,  
18 Asst. Town Manager & Finance Officer Mitsy Overman, Town Clerk Rhonda  
19 Ferebee, Planning Director Kevin Reed, and Fire Chief Bill Walker.  
20

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

23 **4. ADOPTION OF AGENDA**  
24

25 Town Manager Frank Rush asked the Board to add an item regarding Cape  
26 Emerald Storm Water Pipe Repairs to the Agenda as Item 15.5.  
27

28 ***Motion was made by Commissioner Allen to adopt the Agenda with the***  
29 ***addition of Item 15.5. The Board voted unanimously 5-0 in favor. Motion***  
30 ***carried.***  
31

32 **5. PROCLAMATIONS / PUBLIC ANNOUNCEMENTS**  
33

34 Mayor Pro-Tem Floyd Messer noted the following announcements for the public:  
35

- 36       • **Proclamation – Firefighter Appreciation Month – September 2006 –**  
37       **(06-09-12/P1)**
- 38       • **Proclamation – Emerald Isle Day4Kids – Saturday, September 16 –**  
39       **10 am to 2 pm – Community Center – (06-09-12/P2)**
- 40       • **Proclamation – 2006 Fall Big Sweep /Litter Sweep – September**  
41       **16 – 30 – (06-09-12/P1)**
- 42       • **Anonymous Donation of \$500 Made for Bike Paths & Sidewalks –**  
43       **Donor Will Provide Additional \$500 if Matched By Others In The**  
44       **Community**  
45  
46

MINUTES OF THE REGULAR MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
SEPTEMBER 12, 2006  
Page 2 of 24

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- 4       • **Blood Drive – Friday, September 15 – 2 pm to 7 pm – Community**
- 5       **Center**
- 6       • **Bicycle and Pedestrian Advisory Committee Regular Meeting –**
- 7       **Monday, September 18 – 6 pm – Community Center**
- 8       • **Planning Board Regular Meeting – Monday, September 25 – 6 pm**
- 9       **Town Hall**
- 10      • **Board of Commissioners Regular Meeting – Tuesday, October 10 –**
- 11      **6 pm – Town Hall**
- 12

13      **Note: A copy of Proclamations 06-09-12/P1, 06-09-12/P2, and 06-09-12/P3 are incorporated herein by**  
14      **reference and hereby made a part of these minutes.)**

15

16      Town Manager Frank Rush read aloud for the Board and public the Proclamation  
17      for Firefighter Appreciation Month – September 2006.

18

19      Amy Pollock, Health Care Services Coordinator for the Muscular Dystrophy  
20      Association's Wilmington Office was present to recognize the Emerald Isle Fire  
21      Department. Ms. Pollock announced that for the 2<sup>nd</sup> year the Emerald Isle Fire  
22      Department went out boots in hand to "Fill the Boot" for the MDA campaign and  
23      the families here in Carteret County. Ms. Pollock said for the 2<sup>nd</sup> time they did an  
24      outstanding job raising over \$3,100 which will go toward services such as wheel  
25      chairs purchases, clinic visits, and summer camp. It was noted also that 3 of our  
26      firefighters attended the summer camp this year. Ms. Pollock called Fire Chief  
27      Bill Walker and Asst. Fire Chief Donnie Askew up to the podium. She stated that  
28      on behalf of the MDA she would like to present them with a Certificate of  
29      Excellence for their efforts, and each firefighter who participated would be  
30      presented with an MDA firefighter t-shirt. Ms. Pollock noted that the MDA is  
31      making strides in the right direction and they appreciate their time and effort and  
32      looked forward to booting with our Emerald Isle firefighters in the future.

33

34      Fire Chief Walker noted to the Board that Asst. Chief Askew headed up the drive  
35      this year and wished to comment. Asst. Chief Askew made a presentation to  
36      Amy Pollock on behalf of the Town of Emerald Isle and the citizens stating that  
37      the Emerald Isle Fire Department wished to present her with two checks. Mr.  
38      Askew stated that the "boot" this year raised \$3,113.85 for the 3 hours of work on  
39      Emerald Drive. Mr. Askew added that he appreciated the citizens of Emerald Isle  
40      for their patience as traffic did back up a bit during their campaign but he felt it  
41      was for a good cause. Also, Mr. Askew presented a check from the Volunteer  
42      Organization, volunteer members of the Emerald Isle Fire Department for \$500.

43

44      Town Manager Frank Rush stated that Mayor Schools has asked that he mention  
45      for the benefit of the audience a reminder that the Carteret County Board of

1  
2 Elections is again offering One-Stop Voting at the Western Carteret Community  
3 Center leading up to the elections this year. This option allows a way to vote  
4 without having to go to Beaufort. Mr. Rush stated that the Mayor was concerned  
5 that if they didn't see good turnout here in the western end of the County this  
6 option may be discontinued in the future.

7  
8 **6. CONSENT AGENDA**  
9

- 10 a. **Minutes – August 8, 2006 Regular Meeting**  
11 b. **Resolution Authorizing Construction Contract for Soundside Pier**  
12 **Repair and Replacement – Hurricane Ophelia – (06-09-12/R1)**  
13 c. **Budget Amendment – Disaster Recovery Fund**  
14 d. **Resolution Authorizing Hazard Mitigation Grant Application for Parks**  
15 **Maintenance Building – (06-09-12/R2)**  
16 e. **Resolution Authorizing Coast Guard Road Storm Water Monitoring**  
17 **Contract – (06-09-12/R3)**  
18 f. **Budget Amendment – General Fund – Coast Guard Road Storm**  
19 **Water Monitoring**  
20 g. **Budget Amendment – General Fund – Crew Drive Extension Project**  
21

22 Commissioner Wootten brought up the Consent Agenda item 6(e) regarding the  
23 Coast Guard Road Storm Water Monitoring plan, noting that it has expanded a  
24 lot in his opinion from what was originally discussed with EPA and DWQ. Town  
25 Manager Rush said that he shared Commissioner Wootten's concern about the  
26 scope of the work. Town Manager Rush said this is the 4<sup>th</sup> version; initially it was  
27 a much larger scope and much more additional cost. Mr. Rush expanded on the  
28 monitoring plan. Mr. Rush said that DWQ has finally agreed to this plan.  
29

30 ***Motion was made by Commissioner Wootten to approve the Consent***  
31 ***Agenda items. The Board voted unanimously 5-0 in favor. Motion carried.***  
32

33 **Note: A copy of Resolution 06-09-12/R1, 06-09-12/R2, and 06-09-12/R3 are incorporated herein by**  
34 **reference and hereby made a part of these minutes.)**  
35

36 **7. PUBLIC COMMENT**  
37

38 Ronnie Watson, 9102 Coast Guard Rd., read a letter written by resident Gus  
39 Wilgus, 117 Heverly Drive, which expressed his concerns over the amount of  
40 trash he has noticed increasing along the bike path and sidewalks. His letter  
41 stated that he felt more trash cans were needed, as well as more volunteers to  
42 walk and clean up the streets and roadways. His comments also addressed the  
43 litter problems around commercial enterprises. He noted solutions for town  
44 workers that would improve clean up, and also felt that closer inspection and  
45 supervision by elected and managerial staff was needed.  
46

MINUTES OF THE REGULAR MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
SEPTEMBER 12, 2006  
Page 4 of 24

1  
2 Mr. Watson added that he also had heard complaints about the litter problem on  
3 Emerald Isle. Mr. Watson felt a better job could be done, pointing out things  
4 such as keeping the lids on the beach trash cans, mowers assisting with the  
5 trash, stressing the need for some kind of solution for picking up the trash which  
6 would only become an ever increasing problem with more people and more  
7 tourists. Mr. Watson also mentioned the landscaping conditions around our  
8 municipal buildings, and amenities, and the need to maintain them and keep  
9 them clean, noting that Emerald Isle is a beautiful island, a jewel, and that it  
10 needs to be kept that way.

11  
12 Town Manager Rush said that they have added some additional trash cans on  
13 the bike path recently, noting that they were trying to keep the trash cans  
14 consistent with what was already there, and those cans are on back order. They  
15 placed trash cans in the areas that had been identified by Mr. Wilgus as being a  
16 problem. Mr. Rush acknowledged that trash is an issue in which you can always  
17 do a better job, adding that our folks do the best job that they can, and that a lot  
18 of good improvements have been made over the last few years. Mr. Rush said  
19 they have added several of the large beach trash cans that go in the ground, as  
20 well as added weekend trash collection in the last few years which has made a  
21 difference as well. Mr. Rush stated that we are trying our best and he  
22 appreciated Mr. Wilgus' efforts and welcomed that of others if they are interested  
23 also.

24  
25 **8. DISCUSSION / CONSIDERATION OF ACTIONS RELATIVE TO THE**  
26 **STATUS OF BOGUE INLET PIER - (06-09-12/R4)**  
27

28 Town Manager Frank Rush stated that the Board had three items for discussion  
29 and consideration related to Bogue Inlet Pier in their agenda packets and  
30 additional information handed out to them just prior to this meeting. The first item  
31 is an official offer to purchase and contract for the Town to acquire Bogue Inlet  
32 Pier and also remove affiliated storm water outfalls from that property. Secondly,  
33 a budget amendment that is associated with that contract, and third, a resolution  
34 authorizing a revised application to the Clean Water Management Trust Fund.  
35 Mr. Rush provided an overhead presentation displaying a graphic of the area.  
36 Mr. Rush said there is a total of about 18 acres of property including, and  
37 surrounding Bogue Inlet Pier that is under contract to be sold to a private  
38 development firm out of Raleigh. Mr. Rush said a lot of people are aware of the  
39 Clean Water Management Trust Fund Grant application that was submitted in  
40 early June of this year; requesting funding to acquire the pier. Mr. Rush noted  
41 that since that time they have been working closely with the prospective new  
42 owners of the pier properties and he is pleased to present to the Board tonight an  
43 official offer to purchase and contract, that would allow the Town to acquire  
44 Bogue Inlet Pier, and would also allow the Town to remove the storm water  
45 outfalls.

MINUTES OF THE REGULAR MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
SEPTEMBER 12, 2006  
Page 5 of 24

1  
2 Mr. Rush said that the contract calls for the acquisition of 3 separate tracts of  
3 land at the pier. Mr. Rush described all 3 tracts. (A copy of the aerial map  
4 indicating the 3 tracts is attached). Mr. Rush noted that all total it is about 3.8  
5 acres of property. The Town's contract with the prospective new owners, a firm  
6 called Mid-Atlantic Real Estate and Development, calls for the Town to purchase  
7 this land for \$3 million. The contract has been tentatively agreed to by Mid-  
8 Atlantic Real Estate and Development, and if the Board takes action on this  
9 tonight, it will be executed in the very near future. There are several other  
10 components of the contract, one of which that it is contingent on the Town's  
11 Clean Water Management Trust Fund (CWMTF) grant application being  
12 approved. This application was recently revised and the Town is now seeking  
13 \$3 million from this organization. This would go toward buying the land near the  
14 pier properties and under the pier properties; with a decision expected from the  
15 CWMTF by November 13, 2006. Mr. Rush felt the Town has a very good  
16 chance of securing these funds; the removal of ocean storm water outfalls is a  
17 key goal of several state planning documents, several local plans as well, it being  
18 a good thing to remove storm water from emptying out on the beach. Mr. Rush  
19 said that he hoped that the support in the community would continue. Mr. Rush  
20 said as part of the contract with the prospective new owners, the existing pier  
21 and pier house would be donated to the Town as a charitable contribution; the  
22 Town would own the actual structure and the actual pier house. Other  
23 components of the agreement before the Board include the construction of a new  
24 parking deck, Mid-Atlantic Real Estate will construct a parking deck at it's  
25 expense with approximately 170 public parking spaces included in that parking  
26 deck, the deck being built on land the Town owns, the parking deck being owned  
27 and operated by the Town of Emerald Isle. Another component of the contract  
28 is that Mid-Atlantic Real Estate will pay for renovations to the existing pier house.  
29 They are proposing a new development for this entire area that will be coming  
30 through our process later this fall, the agreement calls for them to renovate the  
31 pier house to match the architectural style of the development that they are  
32 proposing for the nearby area at their expense. Finally, the Town would commit  
33 to basically reconstruct and make significant streetscape improvements to Bogue  
34 Inlet Drive from Highway 58 all the way to the pier house with a goal of creating a  
35 grand entrance with the pier being the focal point of Emerald Isle in that location.  
36 Mr. Rush said that our Land Use Plan calls for the creation of a Village East,  
37 residential and commercial development, so the Town's commitment would be to  
38 commit up to \$500,000 to reconstruct the street, nice sidewalks, street trees,  
39 street lamps, and give a village type of feel.

40  
41 Mr. Rush said if the Board does approve the contract there is a Budget  
42 Amendment associated with it to allocate \$150,000 for the earnest money  
43 deposit, an additional \$15,000 that would be non-refundable for schematic  
44 drawings of the streetscape improvements and pier renovations, and finally a  
45 formal resolution amending the grant application.

1  
2 **Motion was made by Commissioner Wootten to authorize Town Manager to**  
3 **sign the contract to purchase the land as required and sign the contract**  
4 **which we have reviewed with the developers. The Board voted**  
5 **unanimously 5-0 in favor. Motion carried.**  
6

7 **Motion was made by Commissioner Wright to make the necessary budget**  
8 **adjustment to have the funds for the earnest money and the design money**  
9 **to carry through this project. The Board voted unanimously 5-0 in favor.**  
10 **Motion carried.**  
11

12 **Motion was made by Commissioner Allen to revise application to the Clean**  
13 **Water Management Trust Fund grant. The Board voted unanimously 5-0 in**  
14 **favor. Motion carried.**  
15

16 Note: A copy of Resolution 06-09-12/R4 is incorporated herein by reference and hereby made a part  
17 of these minutes.)  
18  
19

20 **9. PROPOSED REZONING – RESIDENTIAL MOTEL HOTEL (RMH) TO**  
21 **RESIDENTIAL MULTI-FAMILY (RMF) – SOUND OF THE SEA**  
22

- 23 a. Public Hearing  
24 b. Consideration of Rezoning  
25

26 Kevin Reed, Planning Director addressed the Board concerning this agenda  
27 item. The following excerpt from Planning Director Kevin Reed's memo to the  
28 Town Manager is provided as background:  
29

30 As you will recall, staff has been working with the Planning Board on another implementation measure identified in the  
31 2004 CAMA Land Use Plan. This effort involves the rezoning of certain properties from RMH to RMF. Specifically,  
32 that recommendation is to amend the Town's Zoning Map to rezone existing condominium developments from RMH to  
33 RMF where they have been designated as "mixed-residential" on the Future Land Use Map. The Planning Board was  
34 asked at its August 28, 2006 meeting to consider the rezoning of the next of these areas which encompasses the  
35 Sound of the Sea development located off of Reed Drive. The area is designated as mixed residential on the Future  
36 Land Use Map. You will find attached a map showing the area to be rezoned.  
37

38 Following its discussion of the matter, the Planning Board voted unanimously (6 to 0) to recommend to the Board of  
39 Commissioners that the property be rezoned.  
40

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

44 There were no comments from the public.  
45  
46  
47

1  
2 **Motion was made by Commissioner Wootten to close the Public Hearing.**  
3 **The Board voted unanimously 5-0 in favor. Motion carried.**

4  
5 **Motion was made by Commissioner Wright to approve the rezoning of the**  
6 **Sound of the Sea from RMH to RMF for the reasons indicated on the**  
7 **attached record of zoning amendment and to go along with the CAMA Land**  
8 **Use Plan. The Board voted unanimously 5-0 in favor. Motion carried.**

9  
10 **10. PRELIMINARY PLAT – BELL COVE VILLAGE SUBDIVISION**

11  
12 Kevin Reed, Planning Director addressed the Board concerning this agenda  
13 item. The following excerpt from Planning Director Kevin Reed's memo to the  
14 Town Manager is provided as background:

15  
16 A request has been received from Bell Cove, LLC for preliminary plat approval for the proposed Bell Cove Village  
17 Subdivision. The property to be subdivided is located on the west side of Emerald Drive and immediately north of the  
18 Bell Cove Village Commercial Center. The tract contains approximately 5.79 acres. The owners wish to subdivide the  
19 property in order to create 11 building lots. The property is currently zoned Residential Multi-Family (RMF) and all of  
20 the proposed lots meet the minimum size requirement of 12,500 square feet. In addition, the lots meet the minimum  
21 size requirement of 15,000 square feet for the construction of duplex structures. The subdivision will be served by  
22 private streets and will be a gated community. The development will have access via its street network to Coast Guard  
23 Road and Osprey Ridge Drive. The Town's 2004 CAMA Land Use Plan, specifically the Future Land Use Map,  
24 projects the property as Mixed Residential; therefore, the proposed subdivision is consistent with the Plan.

25  
26 The Planning Board reviewed a sketch plan for the proposed subdivision in September of 2005 and the preliminary plat  
27 is consistent with that sketch plan. The Town's Technical Review Committee (TRC) discussed the project at its  
28 meeting held on August 2, 2006. Following the TRC meeting, the applicants were asked to provide some additional  
29 information and make several changes and revisions to the plat. The Town's consulting engineer, Greg Meshaw, has  
30 been provided a copy of the stormwater plan for the proposed development. As of September 6, the Town's engineer  
31 has not approved the plan as being consistent with the Town's stormwater regulations. The Carteret-Craven Electric  
32 Cooperative and Bogue Banks Water Corporation have indicated that they can serve the proposed development. In  
33 addition, the State has issued a construction authorization for the installation of the water system. The applicants have  
34 provided correspondence from the Carteret County Health Department that all of the lots are suitable for meeting the  
35 permitting requirements for on-site septic systems.

36  
37 The eastern boundary of the proposed subdivision fronts along Emerald Drive (NC Highway 58) for a distance of  
38 approximately 1,200 feet. The Town's 2004 CAMA Land Use Plan includes the following policy:

39  
40 " 6.2 The Town supports the concept of creating the Emerald Isle Gateway on Emerald Drive,  
41 beginning at the Cameron Langston Bridge and extending to the Coast Guard Road intersection. The  
42 Gateway will focus on preserving existing vegetation, introduction of complementary native  
43 vegetation, and minimizing public and private signage. The Gateway will announce arrival at a  
44 special place."

45  
46 The Town has entered into an agreement with the property owners along the eastern boundary of the gateway to  
47 provide for a 30-foot conservation easement. This easement will assist the Town preserving the Gateway corridor  
48 along its eastern portion. It is not known how, or if, the proposed development could potentially impact the gateway  
49 corridor. The Planning Board discussed the policy but chose to defer any action to the Town Board.

50  
51 Following its discussion of the request, the Planning Board voted unanimously (6 to 0) to recommend to the Board of

MINUTES OF THE REGULAR MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
SEPTEMBER 12, 2006  
Page 8 of 24

Commissioners that the preliminary plat be approved subject to the approval of a stormwater plan for the proposed development.

Commissioner Wootten mentioned that the gateway issue was brought up when this property was commercial and it has since been zoned to residential. So the property itself has a 30 foot setback from any building to the end of the property line which is totally distinct from the other side of the road where the commercial village could come right up to the edge of the property line. Commissioner Allen noted also the state right-of-way which he felt would automatically give at least 100 foot buffer on that side of the highway.

***Motion was made by Commissioner Wootten to approve the preliminary plat for Bell Cove Village, contingent upon the approval of the storm water management plan. The Board voted unanimously 5-0 in favor. Motion carried.***

**11. SPECIAL USE PERMIT REQUEST – ENC FITNESS, INC. – EMERALD PLANTATION SHOPPING CENTER**

Planning Director Kevin Reed addressed the Board concerning this agenda item noting that because this is a Special Use Permit Request therefore it is a quasi-judicial process and anyone wishing to offer evidence tonight including Mr. Reed himself should be sworn in by the Town Clerk.

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

The Board of Commissioners is scheduled to consider a request for a special use permit (SUP) from ENC Fitness, Inc. for a new athletic facility (fitness center) in a 3,470 sq. ft. space in the Emerald Plantation Shopping Center. The specific location is the former CVS Pharmacy space near the Food Lion store.

The attached memo from Kevin Reed, Planning and Inspections Director, includes a detailed explanation of the special use permit request. A copy of the SUP application, other supporting information, and the layout of Emerald Plantation Shopping Center is also attached.

The process for granting or denying a special use permit is a quasi-judicial process, and there are important legal procedures that the Board must follow and important findings required in order to grant or deny the permit. Kevin Reed and Richard Stanley, Town Attorney, will be available to assist the Board in following the correct process at the September 12 meeting, and a brief summary of the process is outlined below:

- The Planning Director will outline the special use permit request for the Board of Commissioners, noting the application materials submitted by the applicant.
- The Planning Director and Town Attorney will review the specific criteria that the Board should consider when making a decision to grant or deny a special use permit request. The specific criteria are included on the attached Special Use Permit form, which is derived from Section 19-84 of the Town's ordinance. The Board will be required to make specific findings of fact in order to grant or deny the Special Use Permit.

MINUTES OF THE REGULAR MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
SEPTEMBER 12, 2006  
Page 9 of 24

- The Mayor (or Mayor Pro-Tem) should ask all interested parties who wish to testify to identify themselves to be sworn in by the Town Clerk.
- All interested parties should present pertinent information to the Board of Commissioners regarding the Special Use Permit so that the Board may consider such information in making the required findings of fact. The Board of Commissioners may ask questions of those testifying.
- After all interested parties have testified, the Board should deliberate over the special use permit request and make the specific findings of fact included on the attached Special Use Permit form. Because this is a quasi-judicial process, the Board should make its decisions based solely on the evidence presented.
- As part of the special use permit approval process, the Board of Commissioners may choose to impose additional special conditions that are designed to protect the health, safety, and welfare of workers and residents of the community, and to protect the value, use, and enjoyment of property in the general neighborhood.

The Board of Commissioners should use the attached Special Use Permit form as a guide in deliberating this special use permit request. The Board is required to actually state, for the record, each of the points included on the Special Use Permit form. The Board is also required to state, for the record, any additional conditions imposed on the Special Use Permit.

The Board should note that the Planning Board reviewed the special use request at its August meeting, and unanimously recommends approval with no additional conditions. Town staff have reviewed the special use permit, and have not identified any additional concerns that would warrant additional conditions. The Board should also note that the Town's ordinance allows for a public hearing on special use permit requests, but does not require a public hearing. Because this specific special use request is not anticipated to be controversial, Town staff did not schedule a formal public hearing. The Board should certainly allow anyone present at the meeting on September 12 to present evidence if they request. If the Board determines that a public hearing is in fact helpful for this request, the Board should table the special use permit request until October 10 and direct Town staff to advertise a public hearing.

Commissioner Wootten referenced the Town Manager's memo that this is a quasi-judicial process and requires public input, and he felt the normal course of action would be to have a public hearing on this matter. He suggested that unless it was detrimental to the potential business person, that the Board table this for 30 days and advertise the public hearing to give the public an opportunity to come in. Town Manager Rush stated that the ordinance doesn't require a public hearing but leaves to the discretion of the Planning Director to decide whether warranted or not. When they looked at this they considered it to be a non-controversial request which is why a public hearing wasn't scheduled, but certainly if the Board felt more comfortable scheduling a public hearing then they should do that.

***Motion was made by Commissioner Wootten to table this event for 30 days and pick it back up at the next meeting.***

Commissioner Hedreen commented that she attended the Planning Board meeting and this was discussed in detail and she didn't feel that what they want to do was intrusive and she would be willing to listen. She had questions about

MINUTES OF THE REGULAR MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
SEPTEMBER 12, 2006  
Page 10 of 24

1  
2 the sewer system and water, and she is now satisfied with that but certainly felt  
3 willing to hear this tonight.  
4

5 Commissioner Wright asked how putting this off for 30 days would affect ENC  
6 Fitness, Inc. Mr. Ed Smith responded that they would like to get started as soon  
7 as possible. He thought this would be good for the community. He said they  
8 have been trying to come here for a couple of years. Mr. Smith said that health  
9 clubs everywhere have to get a special use permit; this is the first time he has  
10 had to go through the Planning Board, and this process, usually they file and are  
11 told to go ahead.  
12

13 ***Mayor Pro-Tem noted there was a motion on the floor, and asked if there***  
14 ***was any more discussion on the motion made by Commissioner Wootten.***  
15 ***The Board voted 1-4 with Commissioner Wootten voting in favor of tabling,***  
16 ***Commissioners Allen, Hedreen, Messer, and Wright opposed. Motion***  
17 ***failed.***  
18

19 Planning Director Kevin Reed and the applicant Edward T. Smith, Jr. were both  
20 sworn in by the Town Clerk.  
21

22 Planning Director Kevin Reed stated that a request has been submitted by Ed  
23 Smith on behalf of ENC Fitness, Inc. for a special use permit to allow for the  
24 establishment of an athletic club at 8700 Emerald Drive. This property is located  
25 in the Emerald Plantation Shopping Center and the applicant desires to occupy  
26 the space located immediately adjacent to the new ABC Store. The property is  
27 currently zoned Business-3 (B-3) and according to Chapter 19-82 Table of  
28 Permitted Uses it is necessary to obtain a Special Use Permit prior to operating  
29 such use in the Town of Emerald Isle. The Planning Board considered this  
30 request at its meeting held on August 28, 2006 and following discussion of that  
31 matter voted unanimously to recommend to the Board of Commissioners that the  
32 Special Use Permit be approved. Mr. Reed stated that the Board had in their  
33 agenda packets an application for the Special Use Permit signed by the property  
34 owner as well as a legal description of the property and a detailed statement of  
35 how the applicant intends to use the property. (Copies of the application, legal  
36 description, and detailed statement are all attached to and incorporated into  
37 these minutes). Mr. Reed stated that the Board is required prior to the granting  
38 of a Special Use Permit to make specific findings of facts outlined in the Special  
39 Use Permit as follows:  
40  
41  
42  
43  
44  
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MINUTES OF THE REGULAR MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
SEPTEMBER 12, 2006  
Page 11 of 24

Special Use Permit  
ENC Fitness, Inc. – Emerald Plantation Shopping Center

Pursuant to Section 19-84 of the Emerald Isle Code of Ordinances, the Emerald Isle Board of Commissioners hereby makes the following findings of fact regarding the Special Use Permit request submitted by ENC Fitness, Inc. to operate an athletic club / facility in the Emerald Plantation Shopping Center:

- The proposed use will / will not materially endanger the public health or safety if located where proposed and if developed according to the plan as submitted and approved.
- The use meets / does not meet all conditions and specifications required by Chapter 19 of the Emerald Isle Code of Ordinances and other applicable town, county, state and federal laws and regulations.
- The proposed use will / will not substantially injure the value of abutting or adjoining property.
- The location and character of the use, if developed according to the plan as submitted and approved, will / will not be in harmony with the area in which it is to be located.
- The proposed use and location is / is not consistent with the Town's land use plan as updated and amended.

Having made the above findings of fact, the Emerald Isle Board of Commissioners hereby grants / denies the Special Use Permit, subject to the following additional conditions designed to protect the health, safety, and welfare of workers and residents of the community, and to protect the value, use, and enjoyment of property in the general neighborhood:

- \_\_\_\_\_
- \_\_\_\_\_

Mr. Reed stated that it is his opinion that these criteria can be met by this particular application package as presented to the Board tonight.

Mr. Edward T. Smith, Jr. applicant felt that the only issue was the issue mentioned by Commissioner Hedreen about the water site. He stated that he received facts about the water usage. He felt this would not hurt or harm the people here and ought to help them.

Commissioner Wootten asked about the square feet. Mr. Smith said it is 3,400 square feet.

Commissioner Hedreen asked if the storefront would be open so people could see in what is going on. Mr. Smith said it will be open.

Commissioner Hedreen stated that this will be on the Emerald Plantation sewage treatment plant and they have had some history of problems with that treatment plant. Commissioner Hedreen said that \$287,000 worth of repairs were done two years ago but the system is again in a notice of violation, and will need more

MINUTES OF THE REGULAR MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
SEPTEMBER 12, 2006  
Page 12 of 24

1  
2 repair so every time a new business comes people are concerned about what  
3 kind of load that shopping center will have. She understood that the water usage  
4 will be 2,300 gallons per month, and based on research they found that the  
5 average home uses 5,000 to 6,000 gallons so she felt this would not make a big  
6 impact. She had also spoken with Lynn Gilstrap who is in charge of the  
7 wastewater and sewage for Carteret County and she said it is not the volume of  
8 the water but the flow strength, and it is really more of a problem in the high peak  
9 months like July.

10  
11 Town Attorney Richard Stanley stated that each of the permit items need to be  
12 addressed individually, and following that, a separate motion is needed on  
13 whether or not to grant or deny, and in that motion they can grant for up to two  
14 years or less.

15  
16 ***Motion was made by Commissioner Wootten the proposed use will not***  
17 ***materially endanger the public health or safety if located where proposed***  
18 ***and if developed according to the plan as submitted and approved. The***  
19 ***Board voted unanimously 5-0 in favor. Motion carried.***

20  
21 ***Motion was made by Commissioner Wootten the use meets all conditions***  
22 ***and specifications required by Chapter 19 of the Emerald Isle Code of***  
23 ***Ordinances and other applicable town, county, state and federal laws and***  
24 ***regulations. The Board voted unanimously 5-0 in favor. Motion carried.***

25  
26 ***Motion was made by Commissioner Hedreen the proposed use will not***  
27 ***substantially injure the value of abutting or adjoining property. The Board***  
28 ***voted unanimously 5-0 in favor. Motion carried.***

29  
30 ***Motion was made by Commissioner Hedreen the location and character of***  
31 ***the use, if developed according to the plan as submitted and approved, will***  
32 ***be in harmony with the area in which it is to be located. The Board voted***  
33 ***unanimously 5-0 in favor. Motion carried.***

34  
35 ***Motion was made by Commissioner Wootten the proposed use and***  
36 ***location is consistent with the Town's land use plan as updated and***  
37 ***amended. The Board voted unanimously 5-0 in favor. Motion carried.***

38  
39 ***Motion was made by Commissioner Hedreen to grant the Special Use***  
40 ***Permit, subject to the following additional conditions designed to protect***  
41 ***the health, safety, and welfare of workers and residents of the community,***  
42 ***and to protect the value, use, and enjoyment of property in the general***  
43 ***neighborhood: for Two Years. The Board voted unanimously 5-0 in favor.***  
44 ***Motion carried.***  
45

MINUTES OF THE REGULAR MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
SEPTEMBER 12, 2006  
Page 13 of 24

1  
2 **12. POTENTIAL RE-OPENING OF THE VEHICLE ACCESS RAMP AT THE**  
3 **POINT**  
4

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

8  
9 The Board of Commissioners will consider whether or not to re-open the historical vehicle access ramp at the end of  
10 Inlet Drive at The Point at the September 12 meeting.

11  
12 As you know, The Point has experienced significant natural accretion over the past year and a half since the main  
13 channel in Bogue Inlet was relocated, and the recent placement of additional sand dredged from the Atlantic  
14 Intracoastal Waterway (AIWW) has also improved the beach in this area. The beach at The Point is now as wide as  
15 500 – 600 feet in some areas, and is at least 100 feet wide in the entire area. I have attached a recent aerial  
16 photograph from mid-July that illustrates the general condition of the beach in this area. The Board should note that  
17 conditions have not changed significantly from those depicted in the aerial photo since that time.

18  
19 The historical vehicle access ramp at the end of Inlet Drive has been closed for more than 6 years as a result of the  
20 previous encroachment of the main Bogue Inlet channel at The Point. The Town's goal has been to reopen The Point  
21 to public access after conditions improved and stabilized in this area, and the Environmental Impact Statement for the  
22 Bogue Inlet project and the Town's grant application to the NC Division of Water Resources indicated that a significant  
23 benefit associated with the Bogue Inlet project was the anticipated restoration of pedestrian and vehicle access at The  
24 Point when conditions stabilized.

25 As you know, the Town was able to re-open the Inlet Drive access for pedestrians in April 2006. With the continued  
26 accretion and recent sand placement, it may now be stable enough at The Point to reopen the historical vehicle access  
27 at the end of Inlet Drive. The Point is a very popular spot for surf fishermen, and the beach driving season begins  
28 again on Friday, September 15, making a decision on this issue very timely.

29  
30 If the vehicle access ramp at the end of Inlet Drive is reopened, it will provide a quick and easy vehicle access to this  
31 area. The reopening of this ramp would eliminate the need for vehicles to drive along the entire beach strand from the  
32 nearest vehicle access ramp at Doe Drive, a distance of approximately 2.5 miles. The Town opened the Doe Drive  
33 vehicle access ramp for general public use in 2004, and committed at that time to return the ramp to emergency  
34 vehicle use only at such time that the vehicle access ramp at Inlet Drive is reopened. Thus, if the Board decides to  
35 reopen the ramp at Inlet Drive, the Doe Drive ramp would be closed for general public use. Town staff would install a  
36 wooden "Hatteras ramp" at the Inlet Drive ramp, and would ready the vehicle access for the start of the beach driving  
37 season on September 15.

38  
39 If the vehicle access ramp at The Point is not reopened, the Doe Drive vehicle access ramp will remain available for  
40 public use, and beach drivers will need to drive approximately 2.5 miles to reach The Point. The Board should note  
41 that there has been significant (but expected) erosion of the large dunes near Channel Drive on the front beach, and it  
42 is now extremely difficult and sometimes impossible to travel through this area with a vehicle without driving up into the  
43 dune field. The Town obviously prohibits driving in the dune field, and this erosion will either make it impossible for  
44 beach drivers to access The Point or will force them to violate the Town's ordinances and drive up into the dune field.  
45 The Police Department will certainly make a concerted effort to discourage this practice and cite those who do drive in  
46 the dune field, however, it is difficult for the Police Department to witness all violations.

47  
48 Regardless of whether or not the vehicle access ramp is reopened, I believe that the Board should consider closing  
49 certain areas of the beach to vehicles, effective September 15. The area located north of the Inlet Drive ramp parallel  
50 to Bogue Court only recently received sand from the dredging of the AIWW and is only approximately 100 feet wide.  
51 Due to the recent nature of this sand placement and the relatively narrower width of beach, it may be prudent to  
52 prohibit vehicles from this area until conditions further stabilize. Similarly, the Board may wish to close the area of the  
53 front beach near Channel Drive that is experiencing significant erosion. The Town's ordinance governing beach driving

MINUTES OF THE REGULAR MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
SEPTEMBER 12, 2006  
Page 14 of 24

1 grants the Town Manager the authority to close certain areas of the beach to vehicles, and I will be seeking your  
2 direction on this matter regardless of the Board's decision on the vehicle access ramp at Inlet Drive at The Point. It is  
3 my recommendation that these areas be closed to vehicle traffic, and that signs and "post and rope" barriers be  
4 installed to prevent vehicle traffic. The attached aerial photo indicates the approximate locations at which these signs  
5 and barriers would be installed. If the Board concurs with this recommendation, the appropriate signs and barriers will  
6 be installed as quickly as possible, with a goal of having them in place by September 15.  
7

8  
9 Mayor Pro-Tem Messer opened the floor to public comment on this issue.

10  
11 Will Haden, 10508 Wyndtree Drive, current President of the Point Wyndtree  
12 Property Owners Associations, felt the potential opening of the ramp in 3 days for  
13 the benefit of the fishermen, when it has been closed for six years was a little  
14 preliminary at this particular point in time. Mr. Haden said that he respects  
15 fishermen and hunters, they are conservationists, but he asked the Board to at  
16 least consider leaving the ramp closed for this fishing season to allow the sand  
17 that has been lost from Channel Drive to the Point, to start filling in over the  
18 winter to give the fishermen access next year. He felt if you opened up just the  
19 small area at the point to drive you would be stuffing the proverbial 10 lbs. into a  
20 5 lb bag because everyone would want to park at the Point. Mr. Haden felt the  
21 sand from Channel Drive around to the Point was at a point where it did not need  
22 vehicles on it for the remainder of this year. Mr. Haden asked that the Board give  
23 serious consideration to waiting a while on the installation of the ramp. Mr.  
24 Haden felt that fishing was a need to drive on the beach, as well as allowing  
25 handicap on the beach in a motor vehicle, but he had serious concern of the  
26 general public having access, likening it to driving on our highways, it is a  
27 privilege not a right. He felt with the incoming of the mandatory fishing license  
28 starting January 2007, the Town give consideration to issuing permits next fall for  
29 driving on the beach to those with State issued fishing licenses or handicap  
30 stickers. The driver who wants to do donuts in the sand, ride up and down the  
31 beach, have a beer party, should not have access to driving on the beach.  
32

33 Ed Murphrey, 11203 Inlet Drive, thanked the Board for those at the Point for their  
34 efforts to provide a beach at the Point. He noted that if not for their efforts there  
35 wouldn't be a beach, a ramp, and a lot of houses that are there now. He said  
36 they agree with the suggestion that part of the beach should be blocked off  
37 because of the newness of the sand and the instability of those areas. He said  
38 that if the Board sees fit they would like to make this a neighborhood watch area  
39 so that those in the area, including law abiding people using the Point to surf fish,  
40 could help patrol in order to keep people from abusing this privilege. Mr.  
41 Murphrey said they were concerned about vehicles being in that area in a high  
42 tide situation; feeling it may be better to wait another year or a few more months  
43 and give the beach a better chance to stabilize.  
44  
45  
46

MINUTES OF THE REGULAR MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
SEPTEMBER 12, 2006  
Page 15 of 24

1  
2 David Haskins, 102 Bogue Court, said that he sanctioned the prior comments,  
3 and agreed with them 100% as someone coming to Emerald Isle since 1978 and  
4 seeing the dramatic negative and dramatic positive changes that the Point has  
5 taken. Mr. Haskins requested at least the review for another year to give the  
6 Point some chance to stabilize. He noted that he was fortunate to be second row  
7 having watched the water lap over the sandbags, praying his neighbors homes  
8 were not going to leave, and he would like not to see the abuse or degradation to  
9 the beach, having seen what goes on and how people abuse things.

10  
11 Town Manager Rush said that the accretion has been very positive and  
12 significant over the past year, with about 600 feet of new beach at that location.  
13 Mr. Rush said this is certainly a Board decision as to whether or not it is  
14 advisable to reopen that ramp. If the ramp is reopened he would encourage that  
15 certain areas of the beach be blocked off and closed to vehicular traffic because  
16 they could use more protection, particularly to the right of the Inlet Drive ramp  
17 and also the Channel Drive area. Mr. Rush said if the Board chooses not to  
18 open the vehicle access ramp at the Point he would imagine that the Town would  
19 continue to open the Doe Drive ramp.

20  
21 Commissioner Allen commented that this island is about 26 miles long, with  
22 Emerald Isle being about 13 of that. He felt that with the exception of Pine Knoll  
23 Shores which doesn't allow beach driving that still left approximately 20 miles of  
24 beachfront for driving on the beach. He felt there was too much at stake at the  
25 Point to take a chance. Commissioner Allen added that the problem is not  
26 caused by the fishermen, but you have one or two bad apples in the barrel that  
27 mess up everybody. He suggested the Town should take a look at least through  
28 the hurricane season, and probably for the winter.

29  
30 Commissioner Wright agreed that the Town should delay the opening at least  
31 through the hurricane season, and probably for another year, for all the reasons  
32 given, so much time, money and effort to getting that area rebuilt it seemed  
33 shortsighted to risk damage at this point.

34  
35 Commissioner Allen suggested moving the No Parking signs in that area for the  
36 season, allowing parking on the street and letting people walk down.

37  
38 Commissioner Wootten said there is a lot of sand down there, and the taxpayers  
39 paid a lot of money to protect the homes, but also to provide the recreational use  
40 of the beach, it was even part of the permit process that we had to open up  
41 access to the beach to people as part of that process. Commissioner Wootten  
42 didn't see a problem with putting up barricades to block off certain areas.  
43 Commissioner Wootten said that the erosion taking place at Channel Drive will  
44 be there for 3-4 more years, that was not a temporary thing, so he felt that they  
45 had to provide an ability for fishermen to get to that Point area, that being the

MINUTES OF THE REGULAR MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
SEPTEMBER 12, 2006  
Page 16 of 24

1  
2 prime fishing territory. Commissioner Wootten added that if it becomes a  
3 problem then they can turn around and close it. He felt the situation could be  
4 controlled and if necessary they could reverse the decision.

5  
6 Commissioner Hedreen said that the peak fishing is October, November, and if  
7 they see that they have a real problem then they can close it down in a couple of  
8 months or less if it looks like it is not being taken care of and respected.

9  
10 Mayor Pro-Tem Messer said that he was down there yesterday noting that there  
11 was a lot of sand out there. Mayor Pro-Tem Messer added that he felt the  
12 taxpayer had a right to go out there; he didn't think it was a privilege, but he felt it  
13 was a right. He said that if we do open it up it should be a very limited time and a  
14 very limited area.

15  
16 The Board further discussed the areas that should be barricaded. Mayor Pro-  
17 Tem Messer said that he would like to come up with a happy medium, it would  
18 not be a win-win situation but would not necessarily be a lose-lose situation  
19 either. Mayor Pro-Tem Messer added that this issue could be reviewed again at  
20 the next meeting.

21  
22 **Motion was made by Commissioner Wootten to open the ramp at the Point**  
23 **with a Hatteras decking. The Board voted 3-2 in favor. Mayor Pro-Tem**  
24 **Messer, Commissioner Hedreen and Wootten voting in favor –**  
25 **Commissioners Allen and Wright opposed. Motion carried.**

26  
27 **Motion was made by Commissioner Wootten to have the Town Manager**  
28 **construct to his best judgment barriers or No Driving Beyond straight out**  
29 **from the ramp and on both ends of the stretch of the Channel Drive area.**  
30 **The Board voted unanimously 5-0 in favor. Motion carried.**

31  
32 Commissioner Allen suggested that a written handout be prepared to accompany  
33 the permits with forceful language stating that if they do not stay within the  
34 boundaries they will be cited by the Police Department. Town Manager Rush  
35 said that if there are violations people will get a citation, and if there are  
36 egregious violations the Police Department should revoke the permits.

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**13. DESIGN CONTRACT – NEW EMS STATION – (06-09-12/R5)**

- a. Resolution Authorizing Contract with EDA-Morehead for Design Services**
- b. Budget Amendment – General Fund**

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

The Board of Commissioners is asked to approve the attached resolution authorizing a contract with EDA-Morehead, Morehead City, NC, for design services for a new EMS station in Emerald Isle. The total amount of the contract is 8% of construction costs, which are currently estimated at \$600,000, resulting in an estimated design fee of \$48,000. A budget amendment is also attached for the Board's consideration to appropriate funds for this contract.

The new EMS station will be located on Town-owned property located on NC 58 between Live Oak Street and Maritime Forest Drive. This vacant lot is approximately 14,500 sq. ft., and should be suitable for the construction of an approximately 3,000 + sq. ft. station to house Emerald Isle EMS, Inc. The design contract includes the programming phase, which will determine the exact specifications and features of the building, however, we are anticipating a facility with 2 or 3 vehicle bays, office space, sleeping quarters, a kitchen, and training room.

The estimated cost of the new EMS station is \$600,000, and would be financed through a combination of EI EMS, Inc. reserves (approximately \$200,000), proceeds from the sale of the existing EI EMS station (approximately \$350,000), and a future Town contribution (approximately \$50,000). The new EMS station would be deeded to EI EMS, Inc., but would include a reverter clause that stipulates that the new station would be conveyed to the Town of Emerald Isle at such time that EI EMS, Inc. ceases to exist.

The Joint EMS Committee, consisting of representatives of EI EMS, Inc. and the Town, solicited qualifications from several interested design firms. The Joint EMS Committee reviewed the qualifications, narrowed the list to 3 firms, and conducted interviews in late July. The Joint EMS Committee unanimously recommends a contract with EDA-Morehead due to their local presence, significant experience with EMS stations, and their overall approach to the project.

If approved by the Board of Commissioners, this contract would be funded 50%/50% by the Town and EI EMS, Inc. Each entity's contribution would be \$24,000, and EI EMS, Inc. would remit their share to the Town who would execute and administer the contract. The primary contacts for the design will be the Town Manager and Ben Dadd, a member of the Joint EMS Committee. EDA-Morehead will obviously have a great deal of interaction with EI EMS, Inc's leadership, and will make periodic reports to the Joint EMS Committee.

It is anticipated that design work will occur over the next 6-9 months, and that construction bids will be solicited soon thereafter. Based on the current cost estimates and financing plan, it is likely that this project can be completed with minimal impact on the Town's annual budget. The design of the new EMS station will be reviewed by the Joint EMS Committee, EI EMS, Inc., and the Board of Commissioners prior to soliciting construction bids. Any construction contract would be presented to the Board for approval at the appropriate time.

There is no funding included in the Town's FY 06-07 budget for EMS station design work, and the attached budget amendment is also presented for the Board's consideration. The attached budget amendment appropriates a total of \$24,000 from General Fund balance for the Town's contribution for this contract, and also recognizes a \$24,000 contribution from EI EMS, Inc. to provide a total initial design budget of \$48,000. The Board should note that the

MINUTES OF THE REGULAR MEETING  
 OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
 SEPTEMBER 12, 2006  
 Page 18 of 24

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design fee will be adjusted depending on the actual construction cost, and will ultimately be 8% of the total construction cost, potentially resulting in additional compensation to EDA-Morehead at a later date.

BUDGET AMENDMENT  
 FY 2006-07

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

GENERAL FUND

	Increase	Decrease
<u>Revenues</u>		
Contribution from EI EMS, Inc.	24,000	
General Fund Balance	<u>24,000</u>	<u>-</u>
TOTAL	48,000	-
<u>Expenditures</u>		
Emergency Medical Services	<u>48,000</u>	<u>-</u>
TOTAL	48,000	-

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Following discussion by the Board ***motion was made by Commissioner Wootten to approve the Resolution Authorizing Contract with EDA-Morehead for Design Services for a new EMS Station. The Board voted unanimously 5-0 in favor. Motion carried.***

***Motion was made by Commissioner Wootten to approve the General Fund Budget Amendment. The Board voted unanimously 5-0 in favor. Motion carried.***

Note: A copy of Resolution 06-09-12/R5 is incorporated herein by reference and hereby made a part of these minutes.)

**14. ORDINANCE AMENDING CHAPTER 8 – FIRE PREVENTION AND PROTECTION – REGARDING VOLUNTEER FIREFIGHTERS – (06-09-12/01)**

Fire Chief Bill Walker discussed this proposed ordinance amendment with the Board. To follow is an excerpt from the Town Manager’s memo to the Board as further background:

The attached ordinance amendment would make two significant changes. First, the “per call” stipend (currently \$10) paid to volunteer firefighters would be eliminated, and second, the Town would continue its strong volunteer firefighter tradition, but would move the volunteer contingent directly under the Fire Department’s organizational structure instead of the current structure in which the volunteers operate under a separate organizational structure.

The attached memo from Bill Walker, Fire Chief, includes a detailed explanation of this ordinance amendment and the issues that have led to this point. The Board should note that the primary driver of this recommendation is a recent IRS ruling regarding how volunteer firefighters are classified if they receive payment (i.e., a “per call” stipend) from the Town. The Fire Chief undertook a long and inclusive process with the volunteer firefighters to devise the attached ordinance amendment, and ultimately this concept was approved by the volunteer firefighters themselves.

It should be noted that the proposed ordinance amendment in no way reflects any lack of support or appreciation for the volunteer firefighters that serve the Town of Emerald Isle. In fact, the exact opposite is true, and it is my intention and the Fire Chief’s intention to continue to reward and compensate the volunteer firefighters in other ways that do not result in IRS scrutiny. The FY 06-07 Fire Department budget includes \$4,000 for volunteer firefighter compensation, and these funds will continue to be used to benefit the volunteer firefighters in ways that are mutually acceptable to the volunteers and the Fire Chief.

The Board should also note that one initial alternative that was considered was the creation of an “auxiliary firefighter position” that would actually become a paid employee of the Town. This alternative was one approach considered to resolve the IRS’ concerns, and was presented as an alternative to the volunteers. Because only one of the 11 volunteers expressed interest in this (the other 10 preferred to be unpaid volunteers), we dropped this alternative from consideration.

If the Board approves the attached ordinance amendment, the end result is that the Town will continue to have a strong volunteer firefighter program, but they will not be paid and will fall under the organizational structure of the Town’s Fire Department.

Fire Chief Walker stated that the volunteers are great; they do a great job for the Town and save the Town thousands of dollars every year. Chief Walker said there are changes necessary to the attached ordinance as follows:

**ORDINANCE AMENDING CHAPTER 8 – FIRE PROTECTION –  
REGARDING VOLUNTEER FIREFIGHTERS**

**WHEREAS**, the Town of Emerald Isle and the Emerald Isle Fire Department greatly value the contributions of volunteer firefighters, and seek to continue a strong volunteer tradition while complying with new regulatory rulings, and

**WHEREAS**, the Town of Emerald Isle previously adopted an ordinance for the purpose of paying a stipend to the volunteer firefighters, and

MINUTES OF THE REGULAR MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
SEPTEMBER 12, 2006  
Page 20 of 24

1  
2 WHEREAS, due to recent IRS rulings, this practice results in significant financial and bureaucratic complications, and  
3 the Town now desires to amend Chapter 8 – Fire Protection in order eliminate this stipend, and  
4

5 WHEREAS, the Town of Emerald Isle previously adopted an ordinance allowing the volunteer fire department to adopt  
6 by-laws governing their membership and function under their own organizational structure, and a recent decision by  
7 the volunteers indicates their desire to merge and operate under the Town fire department structure, and  
8

9 WHEREAS, the Town now desires to amend Chapter 8 – Fire Protection in order to merge the volunteer fire  
10 department structure into the Town fire department structure, and  
11

12 WHEREAS, the Board of Commissioners, Town Manager, and Fire Chief will seek alternative methods to reward the  
13 Town's dedicated volunteer firefighters and express the Town's appreciation for their service,  
14

15  
16 NOW, THEREFORE, BE IT ORDAINED by the Emerald Isle Board of Commissioners that  
17

- 18 1. Chapter 8- Fire Protection – Section 8-34, is hereby repealed in its entirety.  
19

20 ~~Sec. 8 34. Compensation of members.~~

21 ~~The members of the fire department shall receive such compensation as the board of commissioners shall~~  
22 ~~direct.~~

23  
24 ~~(Code 1983, § 3-2007; Ord. of 3-13-87(1), § 3)~~  
25  
26  
27

- 28 2. Chapter 8- Fire Protection – Section 8-38, is hereby repealed in its entirety.  
29

30 ~~Sec. 8 38. Bylaws of volunteer fire department.~~

31 ~~Subject to review and final approval by the town administrator and board of commissioners, the membership~~  
32 ~~of the volunteer fire department is authorized to propose and adopt by laws governing membership, officers,~~  
33 ~~meetings, department rules and regulations, and other affairs of the volunteer fire department. All by laws~~  
34 ~~shall be consistent with town, state and federal rules and regulations, and a current certified copy of the by-~~  
35 ~~laws with all amendments thereto shall be maintained in the offices of the town administrator and the~~  
36 ~~Emerald Isle Fire Chief. All members of the volunteer fire department shall likewise be given a copy of the~~  
37 ~~by laws.~~

38  
39 ~~(Ord. of 3-13-87(1), § 4; Ord. of 1-12-88(1), § 1; Ord. of 10-16-90; Ord. of 4-9-97)~~  
40 ~~Secs. 8-39 – 8-44. Reserved.~~  
41

42 ~~Editor's note: Ord. of April 9, 1996, repealed §§ 8-39 – 8-44, which pertained to bylaws; suspension and~~  
43 ~~dismissal of members; conduct of members; disciplinary steps; training requirements and general rules,~~  
44 ~~regulations and standard operating procedures. See the Code Comparative Table.~~  
45

- 46 3. The Town Clerk is authorized to amend the sections as set forth above.  
47  
48 4. This ordinance shall become effective immediately upon its adoption. If any section, sentence, clause or phrase  
49 of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent  
50 jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.  
51

52 Town Manager Rush noted that the Town has approximately \$4,000 budgeted  
53 for the per call payments made in the past, and he and Chief Walker said it is

MINUTES OF THE REGULAR MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
SEPTEMBER 12, 2006  
Page 21 of 24

1  
2 certainly their intention to find some other way to use the \$4,000 that benefits  
3 these volunteers, they are absolutely appreciated. Mr. Rush said that his  
4 direction to Chief Walker was to work with the volunteers to come up with  
5 something they would like.

6  
7 Following discussion ***motion was made by Commissioner Wright to approve***  
8 ***the Ordinance Amending Chapter 8 – Fire Prevention and Protections –***  
9 ***Regarding Volunteer Firefighters. The Board voted unanimously 5-0 in***  
10 ***favor. Motion carried.***

11  
12 **Note: A copy of Ordinance Amendment 06-09-12/O1 is incorporated herein by reference and hereby**  
13 **made a part of these minutes.)**

14  
15 **15. INTERLOCAL AGREEMENT WITH PINE KNOLL SHORES AND INDIAN**  
16 **BEACH FOR FEMA SAND REPLACEMENT PROJECT**

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 asked to approve the attached Interlocal Agreement regarding the upcoming FEMA  
23 Sand Replacement Project at the September 12 meeting. The attached agreement stipulates the general terms and  
24 conditions of the partnership between Emerald Isle, Indian Beach, and Pine Knoll Shores to complete this project in a  
25 cooperative manner this winter.

26  
27 As you know, Emerald Isle lost approximately 570,000 cubic yards of sand during Hurricane Ophelia. Fortunately,  
28 FEMA and the NC Division of Emergency Management (NCEM) have agreed to fund the replacement of this sand, as  
29 local beach nourishment projects are considered infrastructure and are eligible for Public Assistance funds offered by  
30 these agencies in the aftermath of declared disasters. Indian Beach lost approximately 298,000 cubic yards and Pine  
31 Knoll Shores lost approximately 240,000 cubic yards during Hurricane Ophelia. FEMA and NCEM have also agreed to  
32 fund the replacement of sand lost in Indian Beach and Pine Knoll Shores, and the three Towns believe that the most  
33 cost-effective project is a combined project to nourish all 3 towns this winter. As such, bids are currently being solicited  
34 for a combined project involving the replacement of approximately 1,108,000 cy of sand along approximately 55,000  
35 linear feet of beach in 5 separate reaches in the 3 towns. The sand source for the project is the Beaufort Inlet Offshore  
36 Dredged Materials Disposal Site (ODMDS) that is of excellent quality.

37  
38 In Emerald Isle, approximately 262,000 cy of sand will be placed along approximately 13,600 linear feet of beach  
39 between Conch Court and Lee Avenue. This equates to a placement rate of approximately 20 cy / linear ft. in this  
40 area. Approximately 308,000 cy of sand will be placed along approximately 14,000 linear feet of beach between Gregg  
41 Street and 6<sup>th</sup> Street. This equates to a placement rate of approximately 23 cy / linear ft. in this area. These areas  
42 were identified as the areas that sustained the greatest sand losses during Ophelia. I have attached a map of the  
43 areas to receive sand from the FEMA Sand Replacement Project for your information.

44  
45 The attached Interlocal Agreement was drafted by Neil Whitford, Town Attorney for Pine Knoll Shores and Indian  
46 Beach, and incorporates input from Richard Stanley, Emerald Isle Town Attorney, and me. The Interlocal agreement  
47 includes the following key provisions:

48  
49  
50  
51

MINUTES OF THE REGULAR MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
SEPTEMBER 12, 2006  
Page 22 of 24

- There will be one joint bid solicitation for one project, but 3 separate contracts between each town and the low bidder.
- The mobilization and demobilization expenses will be split equally by the 3 towns.
- Each town will pay the unit cost price for the amount of sand placed in the town. For example, if the unit cost is \$9 per cy and Emerald Isle receives 570,000 cy, then our cost would be \$5.13 million for the actual sand placed on the beach.
- Each town will pay for other costs (including turtle trawling and down-time charges) for the charges that occur while sand placement is occurring in that town.
- Work will be completed in Pine Knoll Shores first, then Indian Beach, and then Emerald Isle.

The last provision is the most significant for Emerald Isle. As you know, beach nourishment projects can only be completed between November 16 and April 1 of each year due to permitting issues. The FEMA Sand Replacement Project is further constrained by the fact that all work must be complete by March 16 in order to remain eligible for FEMA funding. It will be important to monitor the progress of the dredging contractor throughout the project to be certain that the work will be completed on time in Emerald Isle. The bid specifications include an overall project completion date of February 15, with liquidated damages of \$10,000 per day after March 1, however, it will still be important to diligently monitor the contractor's progress and work toward other solutions if necessary to insure that the deadlines are met.

The sequence of work and deadlines may become even more important due to recent feedback from the US Army Corps of Engineers that they may not allow dredging to begin until December 1 with the possibility of delaying work until January 1. This issue is still evolving and much discussion remains before these dates become reality, however, the Board should be aware of this issue. Greg "Rudi" Rudolph, Carteret County Shore Protection Officer and others are scheduled to meet with Corps officials in Wilmington on September 13 to discuss this issue in more detail. Unless directed otherwise by the Board, my position on behalf of the Town is that any requirement to delay the start of the project to a date after November 16 is completely unacceptable, and the Town should exhaust all appeal efforts (including soliciting assistance from Senators Dole and Burr and Representative Jones) before accepting a December 1 or January 1 start date. I will update the Board on this issue after the September 13 meeting. If the December 1 or January 1 start date is actually implemented, it may be necessary to revisit the Interlocal Agreement regarding the sequence of the work.

Permits for the project are expected within the next couple of weeks, and the bid solicitation has already been issued. The bid opening date is September 27, at which time bids will be opened and read aloud, assuming that 3 bids are received. If less than 3 bids are received, a second solicitation will be issued and the bids, regardless of the number of bids received, will be opened in early October. I anticipate that the Board of Commissioners will be asked to approve a construction contract at the October 10 regular meeting.

**(A copy of the Interlocal Agreement is hereby attached to and incorporated into these minutes)**

Following discussion ***motion was made by Commissioner Allen to approve the Interlocal Agreement with Pine Knoll Shores and Indian Beach for the FEMA Sand Replacement Project. The Board voted unanimously 5-0 in favor. Motion carried.***

1  
2  
3 **15.5 ADDED ITEM – STORM WATER PIPE REPAIRS – CAPE EMERALD – (06-**  
4 **09-12/R6)**  
5

- 6       **a. Revised Resolution Authorizing Contract for Storm Water Pipe**  
7       **Repairs – Cape Emerald**  
8       **b. Budget Amendment – General Fund**  
9

10 Town Manager Frank Rush stated that there was an error made in the distance  
11 of the new pipe to be repaired in Cape Emerald. The result is that a project  
12 thought to cost \$97,500 actually has a price tag of \$120,000. Town Manager  
13 Rush said it is requested that the Board approve the revised Resolution  
14 authorizing the contract for \$120,000. Mr. Rush added that the Town has a  
15 budget amendment of \$15,000 and would need to come up with the additional  
16 \$5,000, the budget amendment before the Board would reduce the contingency  
17 by \$5,000 and add that to Public Works.  
18

19 ***Motion was made by Commissioner Hedreen to approve Resolution***  
20 ***Authorizing Contract for Storm Water Pipe Repairs – Cape Emerald. The***  
21 ***Board voted unanimously 5-0 in favor. Motion carried.***  
22

23 ***Motion was made by Commissioner Wootten to approve the Budget***  
24 ***Amendment moving \$5,000 from the contingency into Public Works. The***  
25 ***Board voted unanimously 5-0 in favor. Motion carried.***  
26

27 **Note:** A copy of Resolution 06-09-12/R6 is incorporated herein by reference and hereby made a part  
28 of these minutes.)  
29

30 **16. APPOINTMENTS – BOARD OF ADJUSTMENT – 2 ALTERNATES**  
31

32 **Summary of this Item:** The Board needs to appoint two individuals to the two  
33 alternate member positions on the Board of Adjustment. Alternate #1's term will  
34 expire in May 2007, and Alternate #2's position will expire in May 2008.  
35

36 ***Motion was made by Commissioner Wright to appoint Tom Kelly to the***  
37 ***Alternate #1 position for a term that expires in May 2007. The Board voted***  
38 ***unanimously 5-0 in favor. Motion carried.***  
39

40 The Board directed staff to continue advertising for the remaining Alternate #2  
41 Board of Adjustment position.  
42  
43  
44  
45  
46

1  
2 **17. 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 Rush following up on the comments made about the trash on  
8 Highway 58 stated that we are certainly not perfect but our folks try hard to keep  
9 those areas clean.  
10

11 The Board noted that you could put all the trash cans out that you wanted but  
12 that wouldn't do a bit of good, people were needed to pick the trash up. It was  
13 noted that making more of an investment in the greenways was an issue that  
14 could be looked at in the next budget cycle.  
15

16 **18. COMMENTS FROM MAYOR AND BOARD OF COMMISSIONERS**  
17

18 Mayor Pro-Tem had no further comments. Commissioners Wright and Allen had  
19 no further comments.  
20

21 Commissioner Wootten hoped that the Town Manager would not take the  
22 comments about the appearance of the Town as a personal assault on him.  
23

24 Commissioner Hedreen added that Mr. Rush when hearing something negative  
25 should think about all of his hard work on Bogue Inlet Pier and the miracle that  
26 the Town had gotten this far. The Board applauded this effort by Mr. Rush.  
27

28 **19. ADJOURN**  
29

30 ***Motion was made by Commissioner Allen to adjourn the meeting. The***  
31 ***meeting was adjourned at 8:03 pm.***  
32

33 Respectfully submitted:  
34

35  
36  
37 Rhonda C. Ferebee  
38 Town Clerk  
39  
40