

1 MINUTES OF THE REGULAR SCHEDULED MEETING  
2 OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
3 TUESDAY, DECEMBER 13, 2005 – 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 6:00 P.M.  
7

8 Present for the meeting: Mayor Art Schools, Commissioners Pete Allen, Nita  
9 Hedreen, Robert Isenhour, Floyd Messer, and John Wootten.  
10

11 Others present: Town Manager Frank Rush, Asst. Town Manager/Finance  
12 Officer Mitsy Overman, Town Clerk Rhonda Ferebee, and Planning Director  
13 Kevin Reed.  
14

15 Also present: Commissioner-Elect Maripat Wright and NC Representative Jean  
16 Preston.  
17

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

20 **4. ADOPTION OF AGENDA**  
21

22 Town Manager Frank Rush asked the Board to consider ***adding a special***  
23 ***Closed Session pursuant to NCGS 143-318.11(5) to discuss the potential***  
24 ***acquisition of real property to the Agenda as Item 18.5.***  
25

26 Commissioner Wootten asked that ***Item 15- Pay and Classification Study /***  
27 ***Personnel Policy be deleted from the Agenda.***  
28

29 ***Motion was made by Commissioner Messer to adopt the Agenda with these***  
30 ***two changes. The Board voted unanimously 5-0 in favor. Motion carried.***  
31

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

34 Mayor Art Schools noted the following announcements for the public:  
35

- 36 • Planning Board Regular Meeting – Monday, December 19 – 6:00 pm –  
37 Town Hall (one week early due to holiday)
- 38 • Town Hall Closed – Christmas Holidays – Friday, Dec 23 and Monday,  
39 Dec 26 (Recreation Center open)
- 40 • Recreation Center Closed – Christmas Holidays – Saturday, Dec 24
- 41 • Town Hall Closed – New Year's Holiday – Monday, Jan 2 (Recreation  
42 Center open)
- 43 • Board of Commissioners Regular Meeting – Tuesday, Jan 10 – 6:00 pm –  
44 Town Hall  
45  
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3 **6. SPECIAL PRESENTATION TO COMMISSIONER ISENHOUR**  
4

5 Mayor Schools presented a plaque of appreciation to Commissioner Isenhour on  
6 behalf of the Board and Town recognizing his dedicated service and  
7 contributions to the Town of Emerald Isle. Commissioner Isenhour previously  
8 served the Town as a Commissioner from December 1997 to December 1999,  
9 and has been serving in his current term since December 2003.

10  
11 Commissioner Isenhour thanked everyone for the privilege of serving as their  
12 Commissioner for four years.

13  
14 **7. INSTALLATION OF NEW ELECTED OFFICIALS**  
15

16 NC Representative Jean R. Preston administered the Oaths of Office to recently  
17 re-elected Mayor Schools, Commissioner Pete Allen, Commissioner John  
18 Wootten, and newly elected Commissioner Maripat Wright.

19  
20 Mayor Schools thanked NC Representative Jean Preston on behalf of the Board  
21 and Town for being present to perform the administration of the oaths of office.

22  
23 Following the installation of the new elected officials ***motion was made by***  
24 ***Commissioner Wootten to nominate Commissioner Floyd Messer continue***  
25 ***as Mayor Pro-Tem. The Board voted unanimously 5-0 in favor. Motion***  
26 ***carried.***

27  
28 NC Representative Jean Preston then administered the Oath of Office to Mayor  
29 Pro-Tem Messer.

30  
31 Following the Oath of Office ceremony the Board took a brief break for light  
32 refreshments.

33  
34 \*\*\*\*\* BREAK\*\*\*\*\*  
35

36 **8. CONSENT AGENDA**  
37

- 38
- 39 • Tax Refunds / Releases
  - 40 • 2006 Board of Commissioners / Planning Board Meeting Schedules
  - 41 • Resolution Accepting CAMA Public Water Access Grants – (05-12-13/R1)
  - 42 • Capital Project Ordinance – Coast Guard Road Traffic Improvements
  - 43 • Capital Project Ordinance – Police / Administration Building
  - 44 • Capital Project Ordinance Amendment – Coast Guard Road Storm  
45 Water Project

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- 5 • **Capital Project Ordinance Amendment – NC 58 Bicycle Path**
- 6 • **Resolution Authorizing Construction Contract with Johnson**
- 7 **Construction Co. for NC 58 Sidewalk – (05-12-13/R2)**
- 8 • **Budget Amendment – General Fund**
- 9 • **Capital Project Ordinance Amendment – NC 58 Sidewalk Project**
- 10
- 11

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

15  
16 **Note: A copy of Resolution 05-12-13/R1 and 05-12-13/R2 is incorporated herein by reference and**  
17 **hereby made a part of these minutes.)**

18  
19  
20 **9. PUBLIC COMMENT**

21  
22 There were no comments from the public.

23  
24 **10. PROPOSED REZONING – RESIDENTIAL MOTEL HOTEL (RMH) TO**  
25 **RESIDENTIAL-2 (R-2) – JANELL LANE**

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

30  
31 As you will recall, staff has been proceeding with the implementation measure identified in the 2004 CAMA Land Use  
32 Plan that involves the rezoning of certain properties from RMH to R-2. Specifically, the measure is to amend the  
33 Town's Zoning Map to rezone all developed areas which are currently RMH to R-2, except where the Future Land Use  
34 Map designates the areas as "mixed-residential". The Planning Board, at its meeting held on November 28, 2005, was  
35 asked to consider the next area. This area encompasses all of the properties located in Daisywood Subdivision with  
36 two exceptions. The first exception is the vacant lot on the northeast corner of Jannell Lane and Reed Drive which is  
37 currently zoned Business-3 (B-3). The second exception includes the Daisywood and Krystal Villa Townhouse  
38 developments which are designation on the Future Land Use Plan as Mixed Residential. Following its discussion of  
39 the matter, the Planning Board voted unanimously (6 to 0) to recommend to the Board of Commissioners that the  
40 rezoning be approved.

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

46  
47 There were no comments from the public.

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**  
6 **certain properties on Janell Lane from RMH to R-2, as indicated on the**  
7 **attached map. The Board voted unanimously 5-0 in favor. Motion carried.**

8  
9 **11. ORDINANCE AMENDING CABLE TELEVISION FRANCHISE**  
10 **AGREEMENT- 2<sup>nd</sup> Reading – (05-12-13/O1)**

11  
12 Town Manager Frank Rush discussed this item with the Board. An excerpt from  
13 Town Manager Rush's memo to the Board is provided as background:

14  
15 The Board of Commissioners is asked to approve the second reading of the attached ordinance amending the Town's  
16 cable television franchise agreement with Time Warner Cable at the December 13 meeting. The attached ordinance  
17 amendment would increase the franchise fee paid by Time Warner Cable from the current three percent (3%) rate to  
18 five percent (5%), effective February 1, 2006.

19  
20 NC local governments are authorized to levy a franchise fee of up to 5% of gross cable television subscriber revenues  
21 in exchange for granting cable television companies the right to provide service and the right to utilize public right-of-  
22 ways for cable lines. Many local governments levy the full 5%, however, some local governments, including Emerald  
23 Isle, continue to levy a lower fee. A review of Emerald Isle's franchise agreements indicates that the fee in Emerald  
24 Isle has been 3% since August 1978. As the Town has grown, with more cable subscribers added each year and with  
25 cable television rates increasing over time, the Town's cable television franchise fee revenues have also increased and  
26 have become an important revenue source for the Town. For FY 04-05, Time Warner Cable remitted a payment of  
27 \$64,858, a 9% increase over the FY 03-04 payment.

28  
29 Cable television is not currently subject to State taxation, however, beginning February 1, 2006 the State will begin  
30 levying a 7% State tax on cable television service. Cable companies will be granted a credit equal to the amount of  
31 local franchise fees paid, thus the total amount of State and local taxes and fees will not exceed 7% on the customer's  
32 bill. Because the cable companies must still collect 7% regardless of how much is remitted to local governments, the  
33 Town's residents will bear the same burden whether or not the Town's local franchise fee is 3% or higher (up to 5%).  
34 In short, if the Town's franchise fee is 3%, the State will receive 4% and the Town will receive 3%. If the Town's  
35 franchise fee is 5%, the State will receive 2% and the Town will receive 5%. It is obviously in the Town's best interest  
36 to increase the fee to 5%, and because these funds will stay in Emerald Isle as opposed to being sent to Raleigh, it is  
37 in the best interest of our residents and property owners to raise the fee to 5%.

38  
39 An increase in the franchise fee to 5% will result in additional revenues of approximately \$43,000. If approved, these  
40 revenues will be available for appropriation in the FY 06-07 budget.

41  
42 NC law requires that any ordinances granting a franchise or amending a franchise agreement be voted on twice at two  
43 separate meetings in order to be adopted. As you know, the Board approved the first reading of the attached  
44 ordinance at the November 15 meeting. If the Board approves the second reading at the December 13 meeting this  
45 fee increase will become effective on February 1, 2006. The Board should note that the ordinance approved on first  
46 reading at the November 15 meeting indicated an effective date of January 1, 2006, and my understanding was that  
47 that date was the effective date of the State's new 7% tax. I have since confirmed that the actual effective date is  
48 February 1, 2006, thus the ordinance has been amended to reflect a February 1, 2006 effective date for the second  
49 reading. There is also some question as to whether or not a public hearing is required on this issue, and we have  
50 taken the conservative approach and scheduled a public hearing on this issue for the December 13 meeting.

51

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

4  
5 There were no comments from the public.

6  
7  
8 **Motion was made by Commissioner Allen to close the Public Hearing. The**  
9 **Board voted unanimously 5-0 in favor. Motion carried.**

10  
11 **Motion was made by Commissioner Messer to approve the Ordinance**  
12 **Amending the Cable Television Franchise Agreement. The Board voted**  
13 **unanimously 5-0 in favor. Motion carried.**

14  
15 **Note: A copy of Ordinance 05-12-13/O1 is incorporated herein by reference and hereby made a part**  
16 **of these minutes.)**

17  
18 **12. BOGUE SOUND DRIVE CANAL DREDGING – (05-12-13/R3)**

19  
20 Town Manager Frank Rush discussed this item with the Board. An excerpt from  
21 Town Manager Rush's memo to the Board is provided as background:

22 The Board of Commissioners is asked to approve a resolution authorizing a contract with Brooks Dredging and Marine  
23 Construction, Inc. for the dredging of the canal adjacent to Bogue Sound Drive at the December 13 meeting. The total  
24 amount of the contract is \$135,000. The Board is also asked to approve a General Fund budget amendment to  
25 recognize State grant funds and appropriate General Fund balance to cover higher-than-anticipated costs.

26  
27 The original project scope for which the Town solicited bids involved the dredging of approximately 2,800 linear feet of  
28 the canal adjacent to Bogue Sound Drive to a depth of 4' at normal low water (the current depth of the canal at normal  
29 low water is 1' – 2'). The specified width of the dredged canal ranged from 20 ft. - 30 ft., with sloped sides. A total of  
30 approximately 5,700 cubic yards of material was estimated to be dredged from the canal and either trucked away or  
31 pumped to an upland disposal site located on land owned by the Emerald Isle Parks and Recreation Association, Inc.  
32 adjacent to Emerald Isle Chapel By The Sea.

33  
34 The Town completed an informal bid process on November 15, 2005, and received two bids for this project, as  
35 indicated below:

36		
37	Brooks Dredging and Marine Construction, Inc., Harkers Island, NC	\$162,500
38		
39	King Dredging Company, Inc., Beaufort, NC	\$171,000
40	(actual bid was \$193,800, but included additional items not included in Brooks' bid)	
41		

42 As you know, the Town's established budget for this project is \$120,000, thus the low bid exceeded the project budget  
43 by \$42,500. Subsequent discussions with the property owners on Bogue Sound Drive and negotiations with Brooks  
44 Dredging resulted in a revised project scope and a reduction in the contract price to \$135,000, as indicated in the  
45 attached resolution.

46  
47 The revised project scope still involves the dredging of the entire 2,800 linear ft of canal to a depth of 4 feet at normal  
48 low water, however the width of the canal has been adjusted to a 20 ft. wide "box cut" for the entire length of the canal.  
49 This change will result in an estimated 4,740 cy of material being dredged from the canal. Although the dredged canal  
50 will be slightly narrower than originally specified, the revised project scope will still result in significant navigation  
51 improvements for those who use the canal.

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1  
2 Brooks Dredging will use a clam-shell dredge that will load the spoils into trucks to be hauled to the disposal site, which  
3 is located approximately 1.5 miles west of the canal. A total of 3 or 4 off-loading sites will be used, and these sites are  
4 located 1) on private property located at 5312 Bogue Sound Drive, 2) at the public boat ramp located at the end of  
5 Kelly Drive, 3) on private property located at 5114 Bogue Sound Drive, and possibly 4) a 4<sup>th</sup> location on private  
6 property at 5102 Bogue Sound Drive. Permission has been secured from each of the private property owners.

7  
8 Permits for this project are already in hand, and they stipulate that all work must be complete by March 31, 2006. This  
9 work should not take more than 2 months to complete, and Brooks Dredging intends to begin work during the first or  
10 second week of January 2006.

11  
12 As you know, the Town has been awarded a \$96,000 grant from the NC Division of Water Resources to fund this  
13 project, and has already levied a one-time \$800 fee on each of the 30 property owners adjacent to the canal to  
14 generate the required \$24,000 local match. The combination of these two funding sources yields the original project  
15 budget of \$120,000. As noted above, the total amount of the contract with Brooks Dredging is \$135,000, thus an  
16 additional \$15,000 is necessary. The attached General Fund budget amendment appropriates \$15,000 from General  
17 Fund balance to meet this shortfall. The attached General Fund budget amendment also formally recognizes the grant  
18 revenue from the NC Division of Water Resources.

19  
20  
21 ***Motion was made by Commissioner Wootten to approve the Budget***  
22 ***Amendment for the General Fund. The Board voted unanimously 5-0 in***  
23 ***favor. Motion carried.***

24  
25 ***Motion was made by Commissioner Messer to approve the Resolution***  
26 ***Authorizing Contract with Brooks Dredging and Marine Construction, Inc.***  
27 ***The Board voted unanimously 5-0 in favor. Motion carried.***

28  
29 **Note: A copy of Resolution 05-12-13/R3 is incorporated herein by reference and hereby made a part**  
30 **of these minutes.**

31  
32  
33 **13. DISCUSSION – EXISTING OFF-PREMISES SIGNS (BILLBOARDS)**

34  
35 Town Manager Frank Rush discussed this item with the Board. An excerpt from  
36 Town Manager Rush's memo to the Board is provided as background:

37  
38 I have scheduled time on the Board's December 13 agenda for the Board to discuss the issue of existing off-premises  
39 signs (also considered billboards). There has been some question in the past about the Town's position on  
40 modifications to existing off-premises signs, and we are seeking policy direction from the Board of Commissioners  
41 regarding your goals for the Town's existing off-premises signs. Once this direction is received, and if necessary, staff  
42 will draft appropriate amendments to the Town's ordinances to achieve your goals for existing off-premises signs.

43  
44 The Town's sign ordinance clearly prohibits the erection of new off-premises signs. This prohibition has been in place  
45 for several years, and was clarified by the Board in September 2004. There are currently 10 existing off-premises  
46 signs in Town that were in place before the Town prohibited new off-premises signs, and these signs are considered  
47 non-conforming signs that are allowed to remain in place unless certain conditions change. Section 19-139, Non-  
48 conforming signs, reads as follows:

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3       Sec. 19-139. Nonconforming signs.  
4

5       (a) *Intent.* Signs in existence prior to the adoption of the ordinance from which this article is derived and  
6       which do not conform to the provisions of this article are declared nonconforming signs. It is the intent of this  
7       section to recognize that the eventual elimination of nonconforming signs is just as important to the health,  
8       safety, welfare, and appearance of the town as is the prohibition of new signs which would violate this  
9       article.

10  
11       (b) *General provisions.* Nonconforming signs may be continued, provided that they:

- 12               (1) Were erected prior to adoption of this ordinance.  
13               (2) Are not to be changed or replaced with another nonconforming sign, nor modified in any way  
14               except as noted in section 19-141(c). (*for maintenance purposes*)  
15               (3) Shall not be expanded or relocated.  
16               (4) Shall not be re-established after damage or destruction in excess of fifty (50) percent of the  
17               sign square footage at the time of the damage or destruction.  
18               (5) Shall not be modified in any way, which increases their degree of nonconformity.  
19               (6) Shall be removed within ten (10) days of the close of the business which they advertise.  
20

21       In recent years, Town staff have interpreted this ordinance to mean that the "copy" on these signs can be changed if it  
22       advertises the same business (thus falling into the maintenance category). Town staff have not allowed the area of the  
23       "copy" to be expanded (non-conforming signs shall not be expanded), nor have they allowed signs to be replaced with  
24       "copy" for a different business (interpreted as replacing one non-conforming sign with another non-conforming sign;  
25       closed businesses must remove signs within 10 days).  
26

27       There has been some question in the past about the ability to replace "copy" for a different business, and also the  
28       ability to expand the area of "copy" within the "frame" of an existing off-premises sign, and different individuals and  
29       groups cite different interpretations. It is understandable that there are different interpretations, and we are simply  
30       seeking policy direction from the Board of Commissioners on your goals for the existing off-premises signs so that the  
31       Town's ordinance can be clarified, if necessary. As such, we ask the Board to consider the following questions:  
32

- 33       1. Is there a desire to see the existing off-premises signs come down eventually? The Board should note  
34       that the "intent" of the existing ordinance is very clear: "the eventual elimination of non-conforming  
35       signs". This is the central policy question on which direction is needed. If there is a desire to see these  
36       signs come down, then the Town's ordinance should be rigidly constructed and stringently enforced. If  
37       there is no desire to see these signs come down, then the ordinance should be crafted to encourage  
38       these signs to remain attractive, functional, and neat in appearance.  
39
- 40       2. What circumstances should cause the existing off-premises signs to be required to come down?  
41       Triggers include significant damage of the "frame" of the existing sign, to the "copy" panels of the  
42       existing sign, or when the specific business advertised closes (so as not to harm that specific business;  
43       note that there may still be harm to the owner of the off-premises sign who would lose advertising  
44       revenue).  
45

46       Is it fair to prohibit the new owner of a business from having the benefit of the same sign if all that is  
47       changing is the "copy" (perhaps all that is changing is the name and owner of the business)? What if  
48       the business property is leased and the "copy" can not be changed – does this decrease the  
49       marketability of the property to be leased? If the purpose of the sign is simply to generate income for  
50       the owner of the sign (as is the case for true "billboards"), is it fair to prohibit the changing of the "copy"?  
51       Is it legally enforceable?  
52

53       Your opinions on the answers to these questions will be helpful in establishing the Board's policy  
54       direction to staff.

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3. If the existing off-premises signs remain either for a period of time or indefinitely, should the sign be considered as the "frame" of the sign, or the area of the "copy"? Perhaps the Town's definition of a sign or off-premises sign should be amended to clearly define whether the sign is the "frame" or the "copy".
  4. Is there a difference between a true "billboard", an "off-premises directional sign", and an "adjacent freestanding sign"? In Emerald Isle, there a total of 10 existing off-premises signs.

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Of these 10 signs, 2 or 3 could be considered as typical "billboards" – that is, they advertise businesses located nowhere near the sign itself (Gateway property, corner of Woodpecker, and possibly the sign at the northwest corner of Islander Drive that currently says "Boardwalk RV Park").

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A total of 5 or 6 of these signs could be considered "off-premises directional signs" – that is, they simply point the driver down the correct street to get to that specific business (Islander Motor Inn, Camp Ocean Forest, Bogue Inlet Pier / Bushwhackers, Clearwater Pools and Spas / Coastal Awnings, and possibly the sign at the northwest corner of Islander Drive that currently says "Boardwalk RV Park").

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A total of 3 of these signs could be considered "adjacent freestanding signs" – that is, they advertise businesses directly adjacent to the property on which the sign is located (Island Homes Realty / Self-Storage, adjacent to K&V Plaza on NC 58, and the Emerald Isle Movie Theater marquee sign). The Board should note that the Town's ordinance usually only allows one freestanding sign per property, so even if these signs were on the same property they may still be nonconforming.

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Should the Town treat these different kinds of off-premises signs differently depending on the purpose of the sign and the ownership / lease interest in the signs?

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The answers to the questions above will likely provide a clear policy direction from the Board to the staff, and we can draft any necessary ordinance amendments for consideration by the Planning Board and Board of Commissioners upon receiving direction.

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The Board should note that we are not seeking the Board's interpretation of the existing ordinance, as that is the role of the staff and the Board of Adjustment and not the Board of Commissioners.

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Town Manager Rush noted that this is the same issue as discussed at the November meeting. Mr. Rush pointed out that the central question to which the staff is looking for an answer is what the Board's ultimate goal for the 10 non-conforming off-premises signs that are in Town right now. Mr. Rush asked whether it is the Board's goal that they should gradually come down over time, see them eliminated, or whether the Board is comfortable with the signs remaining in place in perpetuity. Mr. Rush said that the answer to this question will dictate whether or not the ordinance needs to be amended to be clear about our approach with the non-conforming signs. Mr. Rush added that after discussing this issue further with Attorney Richard Stanley and Planning Director Kevin Reed they came to the conclusion that there is a distinction between the 10 signs.

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3 Mr. Rush said all 10 of the non-conforming signs are considered off-premises  
4 signs, billboards and off-premises signs being the same thing. Mr. Rush said  
5 they broke them down into 3 categories; some are true billboards where the copy  
6 is designed to be changed out and advertise any business, then there are  
7 several off-premises – directional signs – for example - advertising a business  
8 located a block off of Highway 58, and finally there are the adjacent freestanding  
9 signs – they advertise a business on the next parcel over.

10  
11 Mr. Rush said there will be legal issues involved, noting legislation enacted in the  
12 2004 Session of the General Assembly that provided more protections for  
13 billboard companies.

14  
15 Mr. Rush stated in response to a question from Commissioner Allen that the  
16 current ordinance is clear that you cannot have any new off-premises sign.

17  
18 Mr. Rush said the way the ordinance has been enforced in recent years is that  
19 we have allowed people to change the copy if it is for the same business but we  
20 have not allowed them to change if it was for a different business.

21  
22 Attorney Stanley added that there was one exception; if it is a general billboard  
23 that was always intended to advertise different signs – the copy is allowed to  
24 change. Attorney Stanley pointed out specifically that we have 2 or 3 billboards  
25 that change copy from time to time because there will be someone else renting,  
26 and they have been allowed to change copy because it was always intended to  
27 be a sign that could be rented.

28  
29 After further Board discussion of the directional and adjacent off-premises signs,  
30 Commissioner Messer and Commissioner Wootten commented that it would  
31 seem that if the business no longer exists as it is now, for example - the type of  
32 use changes, or completely goes out of business, or the sign is destroyed more  
33 than 50 percent, then the sign could be eliminated.

34  
35 Town Manager Rush said as the Board was comfortable with this approach he  
36 would have Planning Director Kevin Reed draft an ordinance to circulate to the  
37 Planning Board and then bring back to the Town Board in a couple of months,  
38 hopefully just to clarify what they have now.

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41 **14. PRESENTATION – FY 2004-2005 FINANCIAL AUDIT**

42  
43 Town Manager Frank Rush briefed the Board on the highlights of the financial  
44 audit. Mr. Rush said the audit had been completed – this being the 2<sup>nd</sup> year the  
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2 audit had been prepared by Pittard, Perry and Crone. The Town has a 3-year  
3 contract with this firm. Mr. Rush stated that he was pleased to report that once  
4 again the Town is in excellent financial shape.

5  
6 An excerpt from Town Manager Rush's memo to the Board is provided as  
7 background:

8  
9 I am pleased to report that the Town has received a clean audit report. PPC did not identify any significant deficiencies  
10 in our financial operations, and expressed their opinion that the Town's assets are well-managed by our staff. I am  
11 especially pleased to report that the Town maintains an excellent financial position, and staff and I are committed to  
12 maintain and improve that financial position in the future.

13  
14 A copy of the FY 04-05 audit report is attached for your review. Some of the highlights from the recent audit include:

15  
16 OVERALL FINANCIAL POSITION

- 17 • The Town had officially reported net assets of only \$137,436 as of June 30, 2005. The Board should note,  
18 however, that the calculation of net assets is grossly understated due to the fact that the Town's investment  
19 in two significant beach nourishment projects is not recorded as an asset. The calculation of net assets  
20 includes \$14,650,000 of outstanding General Obligation Bonds issued to finance the Town's beach  
21 nourishment projects, and the additional sand placed on the beach as part of this project is not included as a  
22 capital asset. The debt service on these bonds is funded by a special district property tax earmarked  
23 specifically for this debt service, thus, as this tax is collected and the related obligations are retired, the  
24 Town's net assets will increase by the amount of the annual bond payments each year.
- 25  
26 • The Town's officially reported net assets decreased by \$2,915,520 during FY 04-05. The decrease is solely  
27 due to the fact that the Town issued an additional \$4,500,000 of general obligation debt to finance the  
28 Town's second beach nourishment project. This additional debt was offset by the retirement of \$1,175,000  
29 of principal on bonds issued in 2002 for the Town's first beach nourishment project. The Town also retired  
30 \$153,865 of additional general (non-beach nourishment) debt during the fiscal year, and this also offset the  
31 officially reported decrease in net assets.
- 32  
33 • As of June 30, 2005, the Town's governmental funds reported combined ending fund balances of  
34 \$5,755,179, a decrease of \$445,138 in comparison with the prior year. The Board should note that the  
35 primary reason for this decrease was the use of \$2,130,000 of reserve funds in the Town's Beach  
36 Nourishment Debt Service Fund to cover higher-than-anticipated construction costs for the Bogue Inlet  
37 Channel / Western Phase Beach Nourishment Project, completed in April 2005. Other increases in fund  
38 balances in the Town's various funds offset the total decrease. The Board should note that \$2,580,205 of  
39 this ending fund balance is earmarked for future debt service payments for the beach nourishment bonds in  
40 the Beach Nourishment Debt Service Fund.
- 41  
42 • The Town's total outstanding debt as of June 30, 2005 was \$14,900,000. A total of \$14,650,000 is in the  
43 form of General Obligation bonds issued to finance the Town's two beach nourishment projects, and the  
44 remaining \$250,000 of outstanding debt is associated with the purchase of a new Fire Engine in 2004. (The  
45 outstanding Fire Engine debt has since been fully retired in July 2005.)
- 46  
47 • The Town's outstanding debt at June 30, 2005 is equal to 1.04% of the total assessed value in Emerald Isle.  
48 North Carolina General Statutes limit the amount of General Obligation debt that a unit of government can  
49 issue to 8 percent of the total assessed value. As such, the legal debt margin for the Town of Emerald Isle is  
50 \$99,634,678, a figure that the Town would never realistically approach.
- 51  
52

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- The Town maintained an outstanding property tax collection percentage of 99.65%. The Town is responsible for the collection of all property taxes, with the exception of property taxes on motor vehicles, which are collected by Carteret County. The Town's property tax collection rate is 99.84%, while the County's motor vehicle tax collection rate in Emerald Isle is 90.68%.

GENERAL FUND

- As of June 30, 2005, the Town's General Fund had a total fund balance of \$2,282,350. A total of \$1,652,796 is classified as undesignated fund balance. The Town's total General Fund balance increased by \$189,040 over the previous year, however, \$67,965 of this amount was simply transferred from fund balance in the no-longer-utilized general Debt Service Fund, representing a true General Fund balance increase of \$121,075.
- The total General Fund balance of \$2,282,350 is equal to 35.39% of total General Fund expenditures (including transfers out) of \$6,449,634. This is believed to be the largest General Fund balance in the entire history of the Town, and is a direct result of intentional efforts to gradually increase the Town's fund balance without increasing the General Fund property tax rate. This fund balance percentage is also consistent with the Board of Commissioners' formal policy to maintain an available fund balance of at least 25% of expenditures, with a goal to increase the available General Fund balance to the 50% level.
- General Fund revenues (not including transfers in and debt proceeds) in FY 04-05 totaled \$6,195,078, and exceeded budget estimates by \$130,107. General Fund expenditures (not including transfers out) totaled \$5,675,633 and were \$163,350 less than budgeted. After considering transfers in, debt proceeds, and transfers out, the General Fund ended FY 04-05 with a net surplus of \$189,040. As noted earlier, \$67,965 of this amount was simply transferred from fund balance in the no-longer-utilized general Debt Service Fund, representing a true net surplus of \$121,075.
- The Town's two largest sources of General Fund revenue are property taxes and sales taxes. General Fund property tax revenues were \$2,374,476, while sales tax revenues totaled \$1,757,400. Solid waste fees are the third largest revenue source, with \$925,659 collected in FY 04-05. Together, these three sources represented more than 76% of General Fund revenues.
- Public Safety expenditures (Police and Fire) continue to represent the largest portion of the General Fund budget. Total expenditures were \$2,720,072 in FY 04-05, or approximately 42% of all General Fund expenditures.

BEACH NOURISHMENT DEBT SERVICE FUND

- The Town's Beach Nourishment Debt Service Fund had a year-ending fund balance of \$2,580,205. This amount decreased by \$814,288 from the previous year, and this decrease was the result of the intentional use of \$2,130,000 of fund balance to cover higher-than-anticipated construction costs for the Bogue Inlet Channel / Western Phase Beach Nourishment Project. In an effort to replace a portion of these funds to cover future debt service payments, the Board of Commissioners committed to appropriate \$150,000 annually for seven years, beginning with a \$150,000 appropriation in FY 04-05. This commitment will replace \$1,050,000 of the \$2,130,000 used in FY 04-05, and there is no need to replace the remainder of the \$2,130,000 used in FY 04-05 due to projected surpluses in the Beach Nourishment Debt Service Fund.
- The Town made the second full year of interest payments on the 2003 beach nourishment bonds, and the second annual principal payment (\$1,175,000) on the 2003 bonds. The Town made a partial interest payment on the 2005 beach nourishment bonds during FY 04-05. The first principal payment on the 2005 bonds is not scheduled until February 2006.

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1  
2 OTHER FUNDS

- 3 • The Town received a \$3,792,000 grant from the NC Division of Water Resources in FY 04-05, and these  
4 funds were used to fund a portion of the construction cost of the Bogue Inlet Channel / Western Phase  
5 Beach Nourishment Project.  
6  
7 • The Town utilizes several capital project funds for ongoing, multi-year capital projects. PPC did note a  
8 negative fund balance of \$2,361 for the Bogue Inlet / Western Phase Beach Nourishment project fund, and  
9 Town staff will address this issue prior to June 30, 2006. PPC also noted a negative fund balance of  
10 \$121,765 for the NC 58 Bicycle Path project fund, however, this deficit is attributed solely to the timing of  
11 reimbursements from NCDOT for the grants awarded for this project.  
12  
13 • The Town has a total balance of \$42,727 in the Special Separation Allowance Fund that is being  
14 accumulated for future, statutorily-mandated separation payments to law enforcement officers.  
15

16 As noted earlier, Pittard, Perry, & Crone provided a favorable opinion of the Town's financial management practices.  
17 PPC did note, however, three items that need improvement. First, PPC recommends that the Town establish  
18 procedures to internally audit development permit fee revenues collected by the Planning and Inspections Department.  
19 Second, PPC recommends that the Town Manager approve all journal entries initiated by the Assistant Town Manager  
20 / Finance Officer in order to provide for oversight of these entries. Finally, PPC recommends that procedures be  
21 implemented to periodically reconcile the Town's fixed asset ledgers with the general ledger throughout the year.  
22 Town staff will implement measures to address these issues within the next month. PPC nor I have any reason to  
23 suspect any wrongdoing on the part of Town staff with regard to these recommendations, however, the implementation  
24 of these recommendations will provide additional internal controls to discourage fraud and / or theft in the future.  
25

26 Mr. Rush noted that the Audit Committee consisting of Mayor Schools, Mayor  
27 Pro-Tem Messer, and former Commission Isenhour met and reviewed the audit  
28 on December 2.  
29

30 Commissioner Wootten commented that the Management Discussion & Analysis  
31 written by Town Manager Rush was very impressive. Mr. Rush said that the  
32 State of North Carolina and the Governmental Accounting Standards Board  
33 requires this be done by the Town Manager.  
34

35 Following further discussion ***motion was made by Commissioner Messer to***  
36 ***accept the FY 2004-2005 Financial Audit. The Board voted unanimously 5-0***  
37 ***in favor. Motion carried.***  
38

39 Mayor Schools commended Asst. Town Manager / Finance Officer Mitsy  
40 Overman and the rest of the staff for their work.  
41

42 **15. PAY AND CLASSIFICATION STUDY / PERSONNEL POLICY - DELETED**

43  
44 **16. APPOINTMENTS**

45  
46 Summary of this item: The Board should fill vacancies on the Bicycle and  
47 Pedestrian Advisory Committee and the Board of Commissioners Audit  
48 Committee, and make a recommendation to the Carteret County Board of  
49 Commissioners for an open seat on the County Beach Commission.

1  
2 ***No appointment was made for the Bicycle and Pedestrian Committee at this***  
3 ***time.***

4  
5 ***Motion was made by Commissioner Allen to recommend Buck Fugate to***  
6 ***the Carteret County Board of Commissioners for an open seat on the***  
7 ***Carteret County Beach Commission. The Board voted unanimously 5-0 in***  
8 ***favor. Motion carried.***

9  
10 ***Motion was made by Commissioner Allen to appoint Commissioner Maripat***  
11 ***Wright to serve on the Board of Commissioners Audit Committee. The***  
12 ***Board voted unanimously 5-0 in favor. Motion carried.***

13  
14 **17. COMMENTS FROM TOWN CLERK, TOWN ATTORNEY, AND TOWN**  
15 **MANAGER**

16  
17 There were no comments from the Town Clerk or Town Attorney.

18  
19 Town Manager Rush reminded the Board about the Town Christmas party. Mr.  
20 Rush noted that the most recent internet auction of surplus property approved in  
21 November resulted in earnings of \$6768.

22  
23 Mr. Rush said he was still waiting on word from the State Division of Emergency  
24 Management regarding the FEMA beach erosion request. Mr. Rush also  
25 commented about the meeting with Lands End, Spinnakers Reach, and Dolphin  
26 Ridge to discuss storm water issues following Ophelia and Tammy this year.

27  
28 Mr. Rush said he hoped to have a construction contract on the Board's January  
29 agenda for the bicycle path project, still waiting on DOT approval. Mr. Rush said  
30 the goal for paving the parking lot at the Western Ocean Regional Access is to  
31 have a construction contract on the Board's February agenda with a total  
32 completion goal of May 1.

33  
34 **18. COMMENTS FROM BOARD OF COMMISSIONERS AND MAYOR**

35  
36 There were no further comments from Commissioner Allen, Hedreen, Messer or  
37 Wright.

38  
39 Commissioner Wootten spoke about the Village East area, specifically noting his  
40 concerns about the area as noted in the Land Use Plan, from the Post Office  
41 east to Black Skimmer. Commission Wootten said he would like to have the  
42 Planning Board take a look at taking that strip out of Village East and just putting  
43 back into commercial.

44  
45 There were no further comments from Mayor Schools.

1  
2 **18.5 CLOSED SESSION**  
3

4 ***Motion was made by Commissioner Hedreen to enter Closed Session***  
5 ***pursuant to NCGS 143-318.11(5) to discuss the potential acquisition of real***  
6 ***property. The Board voted unanimously 5-0 in favor. Motion carried.***  
7

8 ***Motion was made by Commissioner Allen to leave closed session. The***  
9 ***Board voted unanimously in favor. Motion carried.***

10  
11 No action was taken.  
12

13 **19. ADJOURN**  
14

15 ***Motion was made by Commissioner Wootten to adjourn the meeting. The***  
16 ***Board voted unanimously 5-0 in favor. Motion carried.***  
17

18 ***The meeting adjourned at 8:05 pm.***  
19

20 Respectfully submitted:  
21

22  
23  
24 Rhonda C. Ferebee  
25 Town Clerk  
26  
27  
28  
29