

**February 8, 2005 Agenda**  
**February 8, 2005 Minutes**

## **Action Agenda**

### **REGULAR MEETING OF THE EMERALD ISLE BOARD OF COMMISSIONERS TUESDAY, FEBRUARY 8, 2005 6:00 PM - EMERALD ISLE TOWN HALL**

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Adoption of Agenda  
(Agenda approved 5-0 vote with addition of Item 11.5 - Resolution Urging Federal Government Leaders to Restore Funding for Maintenance Dredging of the Atlantic Intracoastal Waterway and Shallow-Draft Inlets in North Carolina)
5. Proclamations / Public Announcements
  - a. Scouting for Food Good Turn
6. Consent Agenda
  - a. Tax Refunds / Releases
  - b. Budget Amendment – General Fund
  - c. Capital Project Ordinance Amendment – NC 58 Bicycle Path Project  
(Consent Agenda approved 5-0 vote)
7. Public Comment
8. FY 2005-06 Budget
  - a. Budget Calendar  
(Budget Calendar approved with changes 5-0 vote)
  - b. Public Hearing – Early Citizen Input
9. Proposed Rezonings – Residential Motel Hotel (RMH) to & Residential-2 (R-2) – Central Emerald Isle
  - a. Public Hearing
  - b. Bluewater Bay / Archers Point Area
  - c. Oakland Hills Subdivision (Ethel, James, Purdie)
  - d. Surfside Subdivision (Black Skimmer, Seagull, Sandpiper) / Sound Drive  
(Approved 5-0 vote)
10. Ordinance Amending Chapter 19 – Zoning - Dunes and Vegetation
  - a. Public Hearing
  - b. Consideration of Ordinance  
(Tabled until March 8 Meeting)
11. Discussion – Length of Mayor’s Term  
(Consensus for 4-Year Term; Directed Staff to Place Appropriate Action Items on March 8 Agenda)

**Added - Item 11.5 Resolution Urging Federal Government Leaders to Restore Funding for Maintenance Dredging of the Atlantic Intracoastal Waterway and Shallow-Draft Inlets in North Carolina**  
(Approved 5-0 vote)

12. **Appointments**
  - a. **Planning Board – 4 Vacancies (March 2005)**  
(Approved reappointment 5-0 vote Eddie Barber, Bob Conrad, Bob Smith, Ken Sullivan for two-year terms expiring March 2007)
  - b. **Carteret County Beach Commission – 1 Vacancy (Recommendation Only)**  
(Approved to recommend 5-0 vote Jerry Huml)
  - c. **Emerald Isle Parks and Recreation Association, Inc. – 1 Vacancy**  
(Approved appointment 5-0 vote Linda Hughs)
13. **Comments from Town Clerk, Town Attorney, and Town Manager**
14. **Comments from Board of Commissioners and Mayor**
15. **Adjourn**

MINUTES OF THE REGULAR SCHEDULED MEETING  
OF THE EMERALD ISLE BOARD OF COMMISSIONERS  
TUESDAY, FEBRUARY 8, 2005 – 6:00 P.M. – TOWN HALL

The regular monthly meeting of the Emerald Isle Board of Commissioners was called to order by Mayor Art Schools at 6:00 P.M.

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

Others present: Town Attorney Richard Stanley, Town Manager Frank Rush, Assistant Town Manager/Finance Officer Mitsy Overman, Town Clerk Rhonda Ferebee, and Planning Director Kevin Reed.

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

#### **4. ADOPTION OF AGENDA**

***Motion was made by Commissioner Isenhour to adopt the Agenda.***

Town Manager Rush asked if one item could be added to the Agenda. This would be Agend Item 11.5 - Resolution Urging Federal Government Leaders to Restore Funding for Maintenance Dredging of the Atlantic Intracoastal Waterway and Shallow-Draft Inlets in North Carolina.

***Commissioner Isenhour amended his motion to include the additional item 11.5 to the Agenda. The Board voted unanimously 5-0 in favor. Motion carried.***

#### **5. PROCLAMATIONS / PUBLIC ANNOUNCEMENTS – (05-02-08/P1)**

- a. **Scouting for Food Good Turn**

Mayor Schools read aloud the Proclamation "Scouting For Food" Good Turn proclaiming the period of February 5 – 12, 2005 as "Scouting for Food Week" in Emerald Isle.

(Note: A copy of Proclamation 05-02-08/P1) is incorporated herein by reference and hereby made a part of these minutes.)

Mayor Schools noted the following announcements for the public:

- Planning Board – Regular Meeting – Monday, February 28 at 6:00 pm – Town Hall
- Ceremonial Ribbon Cutting / First Ride – NC 58 Bicycle Path – Saturday, March 5 at 9:00 am – Merchants Park
- Board of Commissioners – Regular Meeting – Tuesday, March 8 at 6:00 pm – Town Hall
- Emerald Isle St. Patrick's Day Festival – Saturday, March 12 All Day – Emerald Plantation Shopping Center

## **6. CONSENT AGENDA**

- a. **Tax Refunds / Releases**
- b. **Budget Amendment – General Fund**
- c. **Capital Project Ordinance Amendment – NC 58 Bicycle Path Project**

***Motion was made by Commissioner Wootten to adopt the Consent Agenda. The Board voted unanimously 5-0 in favor. Motion carried.***

## **7. PUBLIC COMMENT**

Doje Marks, 134 Sandcastle Drive, spoke concerning the lack of visible house numbers in Emerald Isle. Ms. Marks said that while town ordinances require house numbers of at least 4 feet in height be in place before owners may receive their certificate of occupancy, many houses have no numbers, some are impossible to read from the road, and some homes are still using lot numbers for house numbers. She said as a longtime member of Emerald Isle EMS Rescue Squad the frustration of receiving emergency calls and being unable to find the house. Ms. Marks said house numbers need to be near the intersection of the driveway and street, and the rules should apply not only to new construction but to old construction. She stressed the need for something to be done about this situation now.

Commissioner Isenhour heartily endorsed what Ms. Marks stated, having learned his lesson when he recently had a medical event, and felt this is something that should be taken seriously.

Jay Thomas, 115 Lee Drive, thanked the Board for the new bike path, adding that it is a great asset to the Town.

Bobbie Brown, 104 Stuart Drive, spoke concerning the deer population. She said she is again killing the deer. She also commented concerning construction debris on an oceanfront site causing environmental harm to marine life, she asked if this could be addressed.

Commissioner Isenhour read aloud a letter given to him from the Point Wyndtree Property Owners Association, written to Frank Rush, Town Manager as follows:

'Dear Frank - We want to take this opportunity to express to you our gratitude for all of the hard work that you have done to get the channel relocation and rebuilding program underway. We know that without your efforts the project might not have gone forward in a timely manner. We appreciate your hard work on our behalf and look forward

the completion of the project. Sincerely,

Mary Pat Wright for Jim Osika, President of Point Wyndtree Property Owners Association'

## **8. FY 2005-06 BUDGET**

Town Manager Frank Rush stated that we are heading into the FY05-06 budget process, not in the last few years an effort has been made to solicit early input from citizens at the front end of the budget process. In that spirit he has scheduled a public hearing tonight to hear comments from the public about any items of concern, whether they be about services, project tax rates, fees. Mr. Rush also noted the proposed FY 05-06 Budget Calendar provided to the Board which outlines the key dates in the budget process. Mr. Rush said there will be another public hearing required by law which is tentatively scheduled for Thursday, June 2, 2005 at a special meeting, a public hearing on the official Town budget, as recommended by the Town Manager. The budget is required by law to be adopted no later than June 30 to take effect for the July 1, 2005-June 30, 2006 fiscal year.

### **TOWN OF EMERALD ISLE**

#### **FY 2005-2006 BUDGET CALENDAR**

Tues, February 8	Mayor and Board of Commissioners adopt budget calendar at regular monthly meeting
Tues, February 8	Public Hearing for early citizen input on FY 2005-2006 Budget at regular monthly meeting
Fri, February 18	Board of Commissioners general planning workshop (Daytime Meeting)
Fri, February 25	Town Manager and Assistant Town Manager meet with department heads to begin budget process
Fri, February 25	Budget request forms distributed to Emerald Isle EMS
Fri, February 25 –	Department heads prepare budget requests and develop revenue
Fri, March 25	estimates for their programs and services

- Fri, March 25 Department budget requests and revenue estimates due
- Fri, March 25 Emerald Isle EMS budget request and revenue estimates due
- Mon, March 28 - Town Manager and Assistant Town Manager review
- Fri, April 8 department budget requests
- Mon, April 11- Town Manager and Assistant Town Manager meet with department heads
- Fri, April 22 to discuss budget requests
- Wed, April 13 Joint EMS Committee meets to review Emerald Isle EMS budget request
- Fri, April 22 Town Manager and Assistant Town Manager finalize revenue estimates and recommended expenditure budget
- Mon, April 25 – May 6 Preparation of recommended budget booklet; additional revisions to recommended budget
- Tues, May 10 Town Manager's Recommended Budget submitted to Mayor and Board of Commissioners at regular monthly meeting
- Mon, May 16 Special Board of Commissioners Budget Workshop Meeting  
(Evening Meeting)
- Mon, May 23 Special Board of Commissioners Budget Workshop Meeting  
(Evening Meeting)
- Thurs, June 2 Special Board of Commissioners Budget Workshop Meeting –  
Public Hearing on FY 2005-2006 Budget  
(Evening Meeting)
- Tues, June 14 Adopt FY 2005-2006 Budget at regular monthly meeting

***Motion was made by Commissioner Messer to adopt the Budget Calendar as presented.***

Following discussion, ***Commissioner Messer amended his motion to change the May 16 meeting to May 12, and to change the February 18 workshop to read – To Be Announced. The Board voted unanimously 5-0 in favor. Motion carried.***

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

There were no comments from the public.

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

#### **9. PROPOSED REZONINGS – RESIDENTIAL MOTEL / HOTEL (RMH) TO RESIDENTIAL (R-2) – CENTRAL EMERALD ISLE**

Kevin Reed, Planning Director, explained the proposed rezoning details to the Board. He gave an overhead presentation with maps of the 3 distinct areas in the central part of Emerald Isle. These areas are the Bluewater Bay Subdivision and Archers Point, the Oakland Hills Subdivision (Ethel, James, Purdie), and the Surfside Subdivision (Black Skimmer, Seagull, Sandpiper, etc.) and select properties on Sound Drive. Mr. Reed noted the 2004 CAMA Land Use Plan includes a policy recommendation to go to single family neighborhoods fully developed already for one-two family dwellings in which the underlying zoning is residential motel hotel (RMH), and rezone those to R-2 in order to protect the one-two family nature of those neighborhoods. Mr. Reed noted the acreage tract located immediately north of the Toy Hall complex is shown on future CAMA Land Use Plan as being mixed residential, therefore I would anticipate at some point in the future modifying the zoning there to match the future land use of mixed residential.

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

Jim Heatherly, 8607 Powell Drive, asked about the 29 acre tract and why this area was not rezoned. Mr. Reed answered that this area is projected on the future land use plan as being mixed residential. Mr. Reed said at this point the only policy that the Board has directed staff to address is the rezoning of the property zoned RMH to R-2, and this is the process they are going through now.

Commissioner Wootten added that when going through the Land Use Plan there were several large undeveloped areas they designated to be developed with condominiums under the right conditions, noting as Mr. Reed had stated, as soon as they finish getting the residential square away they would go back to address those areas.

Jim Wellspeak, 7514 Sandpiper Lane, asked about the zoning of the property that borders his two properties, whether it would remain RMH. Mr. Reed stated that area would remain RMH the time being. Mr. Reed stated the property Mr. Wellspeak is referring to is part of the eastern commercial corridor.

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

***Motion was made by Commissioner Wootten to approve the rezoning of Area 1 (Bluewater Bay, Archers Point), Area 2 (Oakland Hills), and Area 3 (Surfside and Selected)***

***Sound Drive Properties) as shown on the maps presented by staff. The Board voted unanimously 5-0 in favor. Motion carried.***

## **10. ORDINANCE AMENDING CHAPTER 19 – ZONING – DUNES AND VEGETATION**

Kevin Reed, Planning Director, presented information to the Board concerning this ordinance amendment. Mr. Reed noted that in the fall of last year the Planning Board forwarded three possible changes to the Board of Commissioners for their consideration relative to Chapter 19 Dunes and Vegetation. The three changes encompassed adding language in the “Intent” section to bolster the rights of property owners; secondly, to increase the size of protected trees from a caliper of 3” to a caliper of 4”; and finally to increase the fine for a violation from \$500 to \$1,000. Mr. Reed said on January 25, there was a joint workshop with the Planning Board in which changes to the Chapter 19 were discussed, staff was directed to proceed with amendments to Chapter 19 that encompassed those three changes, and in addition staff was asked to tweak the language in the ordinance to remove the provision that required owners of existing lots to obtain a permit prior to removing trees from their property.

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

There were no comments from the public.

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

Commissioner Wootten noted the Planning Board came forward requesting the size of the protected trees to be increased from 3” to 4” which was to make the ordinance more flexible for citizens, but noted at the joint session this was taken a step further with the position being that developed lots were exempt regardless of the size of the tree. Commissioner Wootten felt by changing the size requirement from 3” to 4” they are now weakening the ordinance as it relates to undeveloped lots.

Following discussion, ***it was the consensus of the Board to table this item until the following regular monthly meeting on March 8<sup>th</sup>.***

## **11. DISCUSSION – LENGTH OF MAYOR’S TERM**

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

As you know, the Board of Commissioners discussed the possibility of changing the length of the Mayor’s term office from 2 years to 4 years at the November 2004 regular meeting. There was not consensus of the Board at that time to make any changes, and the Board requested that staff solicit the input of our residents and property owners through the Town’s website before considering this issue again. I have scheduled this item for further discussion at the February 8 meeting.

We posted a notice on the website for the past 2 ½ months, and received 29 separate emails on this matter representing the views of 39 people. Of those 29 emails, 26 indicated a preference for 4-year terms, and 3 indicated a preference for 2-year terms. Of the 39 people represented, 36 indicated a preference for 4-year terms.

and 3 indicated a preference for 2-year terms. There were 2 people who suggested holding a referendum, 2 who suggested a 3-year term, and 1 who suggested term limits. The Board should note that this is not a scientific poll, rather an informal mechanism to gather feedback. We advertised the opportunity to comment on this issue in the December issue of Emerald Tidings (Island Review) and also gave it a prominent location on the Town's website.

As discussed previously, there are 3 methods that can be used to change the Mayor's term that are authorized by the North Carolina General Statutes. These methods are summarized below:

- The Board can adopt a resolution of intent to change the Mayor's term, schedule and conduct a public hearing, adopt an ordinance changing the Mayor's term, and then publish a notice of the adoption of the ordinance. This process could occur over the course of two regularly scheduled Board meetings in Emerald Isle, plus a 10 day period after adoption of the ordinance.
- The Board can adopt a resolution of intent to change the Mayor's term, schedule and conduct a public hearing, and then adopt an ordinance changing the Mayor's term that is subject to a referendum. A notice must be published prior to the referendum. This process could occur over the course of two regularly scheduled meetings in Emerald Isle, and then the referendum must occur within 90 days of the adoption of the ordinance.
- The people may initiate a referendum on a change in the Mayor's term, provided that 10% of the registered voters sign a petition requesting such. If such a petition is received, the Board must schedule the referendum to occur not less than 60 days and not more than 120 days from the date the petition is received. If the referendum is approved, the Board must adopt an ordinance implementing the change.

The Board should note that any change to the Mayor's term must occur at least 90 days prior to the first election of a Mayor to which the 4-year term would apply. Thus, if the Board makes such a change by ordinance, this change must occur no later than the July 2005 regular meeting in order for this change to be effective for the winner of the November 2005 Mayor's election. If the Board chooses to conduct a referendum or if the citizens force a referendum, that referendum should occur no later than July 2005 in order for a change to take effect for the winner of the November 2005 Mayor's election. This would obviously require a special election in Emerald Isle. If the Board chooses to conduct a referendum, or if the citizens force a referendum, and that referendum is held in November 2005, then the change in the Mayor's term would be effective for the winner of the 2007 Mayor's election.

I have attached a copy of an excerpt from the North Carolina General Statutes that addresses changes in the Mayor's term, as well as other changes to the form and structure of municipal government. I have also attached an email from David Lawrence at the UNC Institute of Government that includes information regarding how many municipal governments' Mayors serve 2-year, 4-year, and "other" terms. In 2002, there were 333 Mayors serving 2-year terms, 192 Mayors serving 4-year terms, and 16 Mayors serving "other" terms in North Carolina municipalities. Of the 83 cities in Emerald Isle's population range (2,500 – 5,000 people), 39 Mayors were serving 2-year terms, 39 were serving 4-year terms, and 5 were serving "other" terms.

Following discussion by the Board, ***there was general consensus for a 4-year term, and the Board was directed to place appropriate action items on the March 8 agenda for an ordinance change.***

**Added ITEM 11.5 – RESOLUTION URGING FEDERAL GOVERNMENT LEADERS TO RESTORE FUNDING FOR MAINTENANCE DREDGING OF THE ATLANTIC**

## **INTRACOASTAL WATERWAY AND SHALLOW-DRAFT INLETS IN NORTH CAROLINA – (05-02-08/R1)**

Town Manager Frank Rush explained this item to the Board. Mr. Rush noted that the Board past May passed a resolution expressing concerns about the lack of federal funding for dredging of the intracoastal waterway and shallow-draft inlets, Bogue Inlet being one of those North Carolina. Mr. Rush said they did send that resolution to Senator Dole, Senator Edward and Representative Jones, and unfortunately the President's budget came out yesterday and does not have any funding in it for maintenance dredging in Bogue Inlet, that being the connecting channel from the waterway down to the ocean area where we are doing our project. Mr. Rush said as it stands now we need to depend on Congress to add money back to the federal budget to maintain the intracoastal waterway and Bogue Inlet. Mr. Rush said the resolution before the Board was drafted by the North Carolina Shore and Beach Preservation Association, and all coastal towns of North Carolina are asked to adopt this resolution in February.

***Motion was made by Commissioner Messer to adopt the Resolution Urging Federal Government Leaders To Restore Funding For Maintenance Dredging Of The Atlantic Intracoastal Waterway and Shallow-Draft Inlets In North Carolina. The Board voted unanimously 5-0 in favor. Motion carried.***

(Note: A copy of Resolution 05-02-08/R1) is incorporated herein by reference and hereby made a part of these minutes.)

## **12. APPOINTMENTS**

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

### Planning Board – 4 Vacancies (March 2005)

The terms of Planning Board members Eddie Barber, Bob Conrad, Bob Smith, and Ken Sullivan will expire in March 2005. It is my understanding that all 4 have expressed interest in continuing to serve on the Planning Board.

The length of these terms is 2 years each, and all would serve until March 2007. The terms of remaining members Jim Craig, Gerry Huml, and Ceil Saunders all expire in March 2006.

### Carteret County Beach Commission

Former Town Commissioner and current County Commissioner Pat McElraft continues to serve on the Beach Commission but is now occupying the dedicated County Commissioner slot. This results in a vacancy in one of two Emerald Isle slots on the Beach Commission, and the Beach Commission has requested that the Town Board make a recommendation to be forwarded to the Beach Commission and the County Commissioners, who will make the official appointment.

Vincent Olivieri, an oceanfront property owner in the 7100 block, occupies the other Emerald Isle slot on the Beach Commission.

I have attached a copy of the Beach Commission's by-laws and additional information about the Beach Commission for your information.

Emerald Isle Parks and Recreation Association, Inc.

Pete Allen was one of the Board's 3 initial appointments to the public non-profit Emerald Isle Parks and Recreation Association, Inc. when this organization was created this past summer. With Commissioner Allen's recent appointment to the Board of Commissioners, it was necessary for him to resign from the Parks and Recreation Association, Inc. to eliminate any perception of a stronger link between the Town and that organization. The Board should appoint an individual to serve the remainder of Pete Allen's term, which expires in August 2005.

***Motion was made by Commissioner Isenhour to reappoint to the Planning Board Eddie Barber, Bob Conrad, Bob Smith, and Ken Sullivan. The Board voted unanimously 5-0 in favor. Motion carried.***

***Motion was made by Commissioner Isenhour to recommend Jerry Huml to the Carteret County Beach Commission. The Board voted unanimously 5-0 in favor. Motion carried.***

***Motion was made by Commissioner Wootten to accept Pete Allen's resignation from the Emerald Isle Parks and Recreation Association, Inc. The Board voted unanimously 5-0 in favor. Motion carried.***

***Motion was made by Commissioner Allen to appoint Linda Hughs to the Emerald Isle Parks and Recreation Association, Inc. The Board voted unanimously 5-0 in favor. Motion carried.***

**13. COMMENTS FROM TOWN CLERK, TOWN ATTORNEY, AND TOWN MANAGER**

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

Town Manager Frank Rush updated the Board on the current status of the Bogue Inlet West Nourishment Project, and the stormwater project.

**14. COMMENTS FROM BOARD OF COMMISSIONERS AND MAYOR**

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

**15. ADJOURN**

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

***The meeting was adjourned at 6:53 pm.***

Respectfully submitted:

Rhonda C. Ferebee  
Town Clerk