

1 **MINUTES OF THE REGULAR SCHEDULED MEETING**
2 **OF THE EMERALD ISLE BOARD OF COMMISSIONERS**
3 **TUESDAY, JULY 14, 2015 – 6:00 P.M.**
4 **TOWN BOARD MEETING ROOM**
5
6
7

8 **1. Call To Order**
9

10 The regular monthly meeting of the Emerald Isle Board of Commissioners was called to
11 order by Mayor Eddie Barber at 6:00 PM in the Town Board Meeting Room.
12

13 **2. Roll Call**
14

15 Present for the meeting: Mayor Eddie Barber, Commissioners Tom Hoover, Floyd
16 Messer, Jim Normile, John Wootten, and Maripat Wright.
17

18 Also present during the regular meeting: Town Manager Frank Rush, Town Attorney
19 Richard Stanley, Finance Director Laura Rotchford, Town Clerk Rhonda Ferebee,
20 Public Works Director Artie Dunn, and Town Planner Josh Edmondson.
21

22 **3. Opening Prayer**

23 Bernie Whalley, Emerald Isle resident offered the Opening Prayer. Mayor Barber noted
24 that Mr. Whalley was recently nominated by Commissioner Messer and subsequently
25 selected by the Carteret Community College Board of Trustees to receive the Dr.
26 Joseph T. Barwick Civic Award for his lifetime of service to Carteret County for the past
27 28 years. Mayor Barber congratulated Mr. Whalley and said it was an honor for
28 Emerald Isle that Mr. Whalley received this award and he was applauded for his service
29 and contributions by all in attendance.

30 **4. Pledge of Allegiance**
31

32 Mayor Eddie Barber led the Pledge of Allegiance.
33

34 **5. Adoption of Agenda**
35

36 *Motion was made by Commissioner Hoover to adopt the Agenda. The Board*
37 *voted unanimously 5-0 in favor. Motion carried.*
38

39 **6. Proclamation / Public Announcements**
40

41 Mayor Barber noted the following Proclamation and announcements for the public.
42

- 43 • **Youth Surfing Competition – Thursday, July 16 – 4:15 pm – Western Ocean**
44 **Regional Access**

- 1 • EmeraldFest Concert – Thursday, July 16 – 6:30 – 8:00 pm – WORA – “Wild
- 2 Honey”
- 3 • Police Educating The Public (PEP) / Beach Safety Course – Tuesday, July
- 4 21 – 10 am and 6 pm – Town Board Meeting Room
- 5 • Teen Night Club / Laser Light Dance Party – Tuesday, July 21 – 7 – 10:30
- 6 pm – Community Center
- 7 • Coffee With A Cop – Thursday, July 23 – 9 am – Stir It Up
- 8 • EmeraldFest Concert – Thursday, July 23 – 6:30 – 8:00 pm – WORA –
- 9 “Outer Banks Philharmonic”
- 10 • Planning Board Meeting – Monday, July 27 – 6 pm – Town Board Meeting
- 11 Room
- 12 • Teen Night Club / Laser Light Dance Party – Tuesday, July 28 – 7 – 10:30
- 13 pm – Community Center
- 14 • EmeraldFest Concert – Thursday, July 30 – 6:30 – 8:00 pm – Western
- 15 Ocean Regional Access – “Now & Then”
- 16 • Teen Night Club / Laser Light Dance Party – Tuesday, August 4 – 7 – 10:30
- 17 pm – Community Center
- 18 • EmeraldFest Concert – Thurs, Aug 6 – 6:30 – 8:00 pm – WORA – “Scearce
- 19 & Ketner”
- 20 • Board of Commissioners Regular Meeting – Tuesday, August 11 – 6 pm –
- 21 Town Board Meeting Room

22

23 7. Public Comment

24

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

27

28 Bernie Whalley, 5306 Ocean Drive shared his comments as follows:

29

30 “In the last two decades our children have grown up knowing only a smidgeon of the
31 history of our country. They have heard things mentioned about the Gulf War and what
32 has taken place in Iraq, Afghanistan and Pakistan. Maybe some of their relatives were
33 in the Korean War and just maybe they heard some war stories from their dads or
34 uncles. What they do not know and should be reminded of is this:

35

36 71 years ago in the summer of 1944, United States Army, the Canadian Army and the
37 British Army had fought their way from the beaches of Normandy France to the port city
38 of Cherbourg, France to liberate that town and rebuild the port there so supplies could
39 be brought in to supply our troops, thus making it possible to move forward toward
40 Berlin and the end of WWII in Germany.

41

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1 In the same time frame in the South Pacific the United States Marine Corps and some
2 divisions of the United States Army were fighting their way through the Japanese held
3 islands of Tinian and Saipan. The defeat and capture of these islands made it possible
4 to build landing strips long enough to handle the takeoff and landing of our B-29 Heavy
5 Bombers. The Enola Gay was one of the bombers that took off from Tinian and
6 dropped the first Atomic bombs in the history of mankind thus forcing the surrender of
7 Japan.

8
9 My purpose in telling this story tonight is to awaken people to the fact that had not these
10 two major events have taken place 71 years ago this Nation, as we know it, would not
11 exist today. Instead we would be speaking the German and Japanese languages in
12 America today.

13
14 I hope you will do your part to awaken your friends, neighbors, and especially our youth
15 that this country is Free only because so many young men gave their lives to make it so
16 71 years ago.”

17
18 **8. Consent Agenda**

- 19
20 a. Tax Releases
21 b. Minutes – April 14, 2015 Regular Meeting
22 c. Minutes – May 12, 2015 Regular Meeting
23 d. Minutes May 12, 2015 Closed Session
24 e. Minutes – May 28, 2015 Special Meeting
25 f. Budget Amendment – General Fund

26
27 ***Motion was made by Commissioner Wright to approve the items on the Consent***
28 ***Agenda. The Board voted unanimously 5-0 in favor. Motion carried.***

29
30 **Clerks Note: A copy all consent agenda items as referenced above are incorporated herein by reference and**
31 **hereby made a part of these minutes.**

32
33 **9. Ordinance Amending Chapter 6 – Development Standards – and Chapter 10 –**
34 **Definitions and Rules of Interpretation – of the Unified Development Ordinance to**
35 **Allow Limited Off-Premises Directional Signage for Certain Commercial**
36 **Properties (15-07-14/O1)**

37
38 Josh Edmondson addressed the Board concerning this Agenda item. The following
39 excerpt from his memo to the Town Manager is provided for additional background:

40 The planning board has been discussing if a need exists to add provisions to the UDO to allow for some type of off-premises signage.
41 That need was brought forward by a business owner in Emerald Isle wishing to have this type of signage to provide greater visibility for
42 the business because of the distance located off Emerald Drive. I received valuable input from the board which allowed for the
43 development of this proposed amendment. The amendment is proposed as follows:

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1 Addition of Definition to Chapter 10, Section 10.2

2 Off-premises Directional Sign - A free standing sign that displays only the name of a business and directional arrow Intended
3 to note the direction of the business from the location of the off-premises directional sign that is located at a place other than
4 the property on which such sign is located and is applicable only to those businesses located more than one-thousand (1000)
5 feet from Emerald Drive.
6

7 Addition of Regulations to Chapter 6, Section 6.6.6

8 (7) One (1) permanent, freestanding off-premises directional sign permitted, in accordance with the following:

- 9 (A) The business is located in a commercial or mixed use zoning district and is not a
10 residential or residentially related use
11 (B) The off-premises sign will be located in a commercial or mixed use zoning district
12 (C) The business is located more than one-thousand (1,000) feet from Emerald Drive
13 (D) Only one such sign allowed per business
14 (E) Owner of the property where the off-premises sign is to be located shall provide written
15 permission as part of the sign application
16 (F) The sign shall be no larger than thirty-two (32) square feet
17 (G) The sign shall not exceed five (5) feet in height
18

19 Based on these proposed regulations only two businesses would qualify to make application for this type signage. These would
20 include Bogue Inlet Pier and Island Harbor Marina but changes to the proposed language could increase or decrease this figure.
21 Please find included with this memo the memo to the planning board, ordinance and a map depicting the qualifying properties.
22

23 While deciding on this off-premises sign issue, I think a discussion needs to be had about existing off-premises signage. While
24 there are very few, these nonconforming signs do exist and are only allowed through current ordinance as follows:
25

26 **8.2.2 - General Provisions**

27 Nonconforming signs may be continued, provided that they:

- 28 (1)
29 Were erected prior to adoption of the various sign regulations from which this Ordinance derives, and with which
30 they are in violation.
31 (2)
32 Are not changed or replaced with another nonconforming sign, nor modified in any way except as noted in [section](#)
33 [6.6.7](#).
34 (3)
35 Shall not be expanded or relocated.
36 (4)
37 Shall not be re-established after damage or destruction in excess of fifty (50) percent of the sign square footage at
38 the time of the damage or destruction.
39 (5)
40 Shall not be modified in any way that increases their degree of nonconformity.
41 (6)
42 Shall be removed within ten (10) days of the close of the business that they advertise.
43

44 The intent of this language was for the eventual removal of any remaining nonconforming signs. However, the case seems to be
45 people are maintaining/repairing there nonconforming signage within these above parameters. In most instances, the faces of
46 these signs are getting replaced, repaired or are simply being maintained. The framing or structure holding the face is remaining
47 as is which allows the nonconforming status to remain. Because these signs continue to remain, staff is requesting for direction
48 from the Commissioners that would allow for the total replacement of a nonconforming sign. It is staffs opinion that if they
49 continue to remain the Town could at least allow for them to be as presentable as possible.
50

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1 Town Planner Josh Edmondson noted that the Town had been approached by Mike
2 Stanley, Bogue Inlet Pier, to develop an ordinance allowing some type of off-premises
3 signage to aid in providing direction to the pier. Mr. Edmondson noted their research
4 into how other communities handle and found several instances where communities do
5 allow for this particular type of signage. Mr. Edmondson stated that not many
6 communities had the distance requirement as was proposed however he felt that was
7 an essential part of the ordinance. Mr. Edmondson explained as noted in his memo
8 above the definition of off-premises signage. In addition, Mr. Edmondson noted the
9 seven recommended regulations as noted in his memo above. Mr. Edmondson stated
10 that if the Board was comfortable with the requirement that such signage would only be
11 allowed if the commercial property was located more than 1,000 feet from NC 58
12 (Emerald Drive) that the only two commercial properties that would qualify were Island
13 Harbor Marina and Bogue Inlet Pier.

14
15 ***Motion was made by Commissioner Messer to open the Public Hearing. The***
16 ***Board voted unanimously 5-0 in favor. Motion carried.***

17
18 Paxon Holz, President of McCabe & Company, a corporation that owned Camp Ocean
19 Forest, asked whether Camp Ocean Forest would not also qualify for an off-premises
20 sign. Ms. Holz stated that they had an off-premises sign for years that was on the
21 property owned by her father who was also one of the three owners of McCabe &
22 Company who created Camp Ocean Forest and the Mobile Home Park. Ms. Holz
23 stated that her father had allowed a directional sign to be placed on his property and it
24 stood for many years, the upright steel poles still remained along with the surrounding of
25 wood in place and the meter base. Ms. Holz said that a hurricane had knocked the sign
26 down and they weren't allowed to replace it but they kept the uprights because they
27 were more than 50% of the value. Ms. Holz wondered if Camp Ocean Forest which
28 was right next to the pier and 1,000 feet from the road would not also qualify for the off-
29 premises sign. Ms. Holz said that at some point most of the campgrounds, mobile
30 home parks, and other places of that nature on Emerald Isle may be redeveloped and
31 certainly if there were a resort, hotel, or conference center nobody could find them.
32 Ms. Holz asked 1) if Camp Ocean Forest would qualify for the directional sign using the
33 poles that remained, and 2) if so they would be allowed to put that sign back.

34
35 Town Planner Josh Edmondson stated that his interpretation of the ordinance was that
36 the RV Parks, mobile home parks, still consisted of residential use and therefore fell
37 outside of the proposed ordinance.

38
39 Town Manager Rush added that he thought that the Camp Ocean Forest parcel was
40 less than 1,000 feet from Hwy 58 (Emerald Drive), being a parcel that ran from the
41 ocean to Hwy 58 (Emerald Drive). Mr. Rush stated to the question of whether she
42 could replace the sign that under the ordinance drafted for consideration tonight it would
43 not be allowed. Mr. Rush felt that Ms. Holz was asking for some other language that

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1 would allow it. Mr. Rush said the draft as presented tonight only applied to businesses
2 1,000 feet or more from Hwy 58 (Emerald Drive).

3
4 Ms. Holz stated that the Campground was on the oceanfront and they were different
5 parcels adding that if it took separating the campground from the mobile park they
6 would be glad to do that but would hope the interpretation could include this business,
7 because the Campground was a business, people came and went with their RVs, tents,
8 but unless you knew where it was you couldn't find it.

9
10 The Board discussed the current location of the upright sign poles with Ms. Holz, it
11 being noted by Ms. Holz that it was located on the north side of Hwy 58 (Emerald Drive)
12 where they had maintained the upright poles and the easement, and whether Ms. Holz
13 felt she could conform to the sign size requirements. Ms. Holz stated that they would
14 comply with whatever decision the Board made.

15
16 Commissioner Wootten suggested they go ahead with the ordinance as proposed and
17 then consider the request made by Ms. Holz. Commissioner Messer agreed that he
18 would like to have time to look at the location and height of the sign for the campground.

19
20 ***Motion was made by Commissioner Hoover to close the Public Hearing. The***
21 ***Board voted unanimously 5-0 in favor. Motion carried.***

22
23 ***Motion was made by Commissioner Wootten to approve the Ordinance Amending***
24 ***Chapter 6 – Development Standards – and Chapter 10 – Definitions and Rules of***
25 ***Interpretation – of the Unified Development Ordinance to Allow Limited Off-***
26 ***Premises Directional Signage for Certain Commercial Properties. The Board***
27 ***voted unanimously 5-0 in favor. Motion carried.***

28
29 **Clerks Note:** A copy of Ordinance Amendment 15-07-14/O1 as referenced above is incorporated herein by
30 reference and hereby made a part of these minutes.

31
32 **10. Ordinance Amending Chapter 10 – Business Regulations – of the Code of**
33 **Ordinances (Comprehensive Review) (15-07-14/O2)**

34
35 Town Manager Frank Rush addressed the Board regarding this Agenda item. The
36 following excerpt from his memo to the Board is provided for additional background:

37
38 As part of the Town's ongoing comprehensive review of all Town ordinances, the Board of Commissioners is scheduled to
39 consider proposed amendments to Chapter 10 of the Code of Ordinances at the July 14 meeting. Chapter 10 is currently titled
40 "Licenses and Business Regulations", and would be retitled simply as "Business Regulations" if the attached ordinance
41 amendment is adopted. The attached ordinance is similar to the version originally presented to the Board at the June 9 meeting,
42 however, the attached July 14 version incorporates comments received at and since the June 9 meeting.

43
44 As you know, the Town has been undertaking a comprehensive process that is intended to review, clarify, and ideally condense
45 and simplify the entire Code of Ordinances of the Town of Emerald Isle. The Town is now nearly 58 years old, and numerous

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1 ordinance amendments have been made over the years with input by many different groups and individuals, all likely with good
2 intentions, and sometimes there are unintended impacts on or conflicts with other ordinance provisions. State law and common
3 practice also change over time, and this sometimes leads to out of date provisions or confusion. In other cases, it may be helpful
4 for the Town to critically ask itself if it really needs certain ordinance provisions, and also if new policies are warranted.
5

6 As discussed previously, my goal is for Town staff and me to complete a comprehensive review of all Town ordinances with a
7 critical eye. During this review, conflicting or confusing provisions are being targeted for clarification, unnecessary provisions are
8 being targeted for elimination, and in some cases out of date or un-enforced provisions are being targeted for elimination. The
9 Board previously reviewed and approved comprehensive amendments to the Town Charter, Chapters 1 – 9, and Chapter 14,
10 and comprehensive amendments to Chapter 10 are on the Board's July 14 meeting agenda. In the case of Chapter 10, there
11 are also significant policy changes that the Board should be aware of, and weigh in appropriately on these changes.
12

13 The attached ordinance amendment was drafted by me, with input from Town Attorney Richard Stanley, Police Chief Jeff
14 Waters, Town Planner Josh Edmondson, Trey Allen, an attorney at the UNC School of Government, NC DMV personnel, and
15 local attorney Mike Lincoln (comments made at the June 9 meeting and submitted later). The attached ordinance amendment
16 includes a clean version of the proposed new Chapter 10, and I have also attached a separate version using the underline and
17 ~~strikethrough~~ features to show the specific differences in the proposed ordinance amendment.
18

19 Chapter 10 has been amended many times over the years, and currently only includes 1) a regulation prohibiting the sale of
20 goods or merchandise on public sidewalks and 2) regulations pertaining to taxicab services in Emerald Isle. (The Town's
21 current regulations pertaining to taxicab services also include limousine services and designated driver services, however, for
22 simplicity the term "taxicab" services" is used to apply to all three of these services in the Town's current regulations.) These
23 regulations were simplified in 2006, and are generally less involved than many other municipal "taxicab" ordinances. Essentially,
24 the Town's ordinance requires that all drivers receive a permit from the Police Department, maintain relatively clean driving and
25 criminal histories, and maintain proper insurance. The primary goal of the ordinance is to provide a mechanism for the Police
26 Department to simply be aware of the taxicab, limousine, and designated driver service drivers originating within Emerald Isle.
27

28 The attached ordinance amending Chapter 10 relocates Taxicab Services from Article V. to Article I., and retitles Article I. as "For
29 Hire Vehicles". With the exception of changes noted later in this memo, the attached ordinance includes only minor changes that
30 do not change the substance of the Town's regulations. The Board should note that Town Attorney Richard Stanley and Town
31 staff believe the Town clearly has the authority to regulate limousine services, and also verified this with the NC Division of Motor
32 Vehicles. There are also other NC municipalities that include limousine services in their ordinances regulating taxicab services.
33

34 The most significant changes in the proposed new Chapter 10 include the addition of a new Article II. that would now regulate
35 towing services in Emerald Isle, and also the relocation of the Town's ordinances prohibiting / regulating itinerant and satellite
36 merchants from Chapter 6 (Planning and Inspections / Building Regulations) to the new Chapter 10. The new Article III., itinerant
37 and satellite merchants, includes two additional exemptions that would expand the ability for satellite merchants to operate in
38 Emerald Isle.
39

40 The most significant changes in the proposed new Chapter 10 are noted below:
41

- 42 • The provision prohibiting the sale of goods or merchandise on public sidewalks has been eliminated, and will be added
43 to Chapter 17 – Streets and Sidewalks when that chapter is updated.
44
- 45 • Article II. includes new language that formally regulates towing services provided by private towing companies for
46 private businesses. This new language is modeled closely after the Town's current ordinance provisions requiring "for
47 hire vehicle" driver's permits, and establishes a new towing services operator's permit with standard criminal history
48 and driving history checks. Similar to "for hire vehicles", the primary goal of the proposed ordinance is to provide a
49 mechanism for the Police Department to simply be aware of the towing services operating in Emerald Isle.
50
- 51 • Article II. also establishes standards for the towing of vehicles from private lots. There have been recent issues
52 involving private towing services, and in an effort to be fair to Emerald Isle businesses (who have every right to have

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1 an unauthorized vehicle towed from their lot) and to those towed, there are provisions requiring 1) adequate signage
2 at the business to warn of potential towing, including the amount of the recovery fee, 2) a relatively nearby storage lot
3 that is secure; within 15 driving miles of the corporate limits, 3) a requirement for the towing service to notify the EIPD
4 before towing a vehicle, and 4) a requirement that cash, debit cards, and credit cards be accepted for payment. All of
5 these requirements are fairly standard requirements for towing services. It is important to note that the Town does not
6 have authority to establish a maximum recovery fee, and thus the proposed ordinance does not include such a
7 provision.
8

- 9
- 10 • The Board should note that the new July 14 version of Article II. (towing services) incorporates all changes requested
11 by local attorney Mike Lincoln outlined in the attached letter dated June 16. Chief Waters and I have discussed the
12 requested changes, and believe the changes are reasonable. The new July 14 version eliminates the requirement for
13 a certified copy of the driver's license, eliminates the potential for the Chief of Police to require a physical examination
14 report, makes it clear that the Chief of Police "shall" issue a permit if the ordinance requirements are met, and requires
15 the storage lot to be within 15 miles of the corporate limits. The Board should note that the Town does not intend to
16 charge a Town fee for towing operator's permits, and no fee is included in the Town's official Fee Schedule. Applicable
17 fees may apply for fingerprint services provided by the State, however.
 - 18 • The Board should note that the new July 14 version of Article I. ("for hire vehicles") also incorporates the changes
19 regarding a certified copy of the driver's license, physical examination report, and that the permit "shall" be issued, in
20 order to be consistent with these same requirements in Article II. (towing services).
 - 21 • The relocated Article III. continues to prohibit itinerant merchants and satellite merchants, and retains the existing
22 exemptions for satellite merchants to operate in very limited circumstances and locations. Satellite merchants are
23 currently permitted on oceanfront commercial parcels only (through an exemption; must meet certain requirements and
24 register with the Town), and the intent behind this provision is to provide convenience for beach visitors in these
25 relatively transient areas. The June 9 ordinance amendment originally expanded this exemption to also include
26 oceanfront condominium complexes, however, based on feedback from the Board, this exemption is not included in the
27 attached July 14 version.
 - 28 • The attached ordinance amendment also retains the new authority for the Board of Commissioners to authorize limited
29 duration "food truck rodeo" events at any location within the Town (that was approved at the June 9 meeting). As you
30 know, a food truck rodeo was held on the property at the corner of NC 58 / Islander Drive / Reed Drive on June 26 and
31 27, with four food trucks participating each day from 11 am – 4 pm. Town staff received both positive and negative
32 feedback about the food truck rodeo, and according to the attached ordinance the Board would need to consider any
33 future food truck rodeos on a case-by-case basis.

34
35
36
37 Town staff received several positive comments from residents and visitors that they enjoyed the different food
38 offerings, and the opportunity to try something new and different in Emerald Isle. Town staff also received several
39 complaints from existing businesses that food trucks should not be allowed because they draw business away from
40 fixed business operations in Emerald Isle that pay taxes, pay rent, employ local people, and contribute to community
41 events, and because of the difficulty for fixed businesses to survive through the lean offseason period. Town staff also
42 received complaints about unauthorized parking by those attending the food truck rodeo, and that illegal signs were
43 utilized (signs in the public right of way and advertising flags). For any future food truck rodeo requests, we
44 recommend that the sponsor be required to submit a formal application and plan that outlines the number of trucks, the
45 hours and dates of operation, a parking plan, and a signage plan, and we believe that the submission of a formal
46 application and plan for any future events would resolve any parking and signage concerns.
47

- 48 • The attached ordinance amendment also includes clarifying language to make it clear that satellite merchants
49 operating at an open air market permitted through the Town's Unified Development Ordinance are exempt from the
50 Town's ordinance prohibiting satellite merchants. By definition, the vendors that set up at an open-air market are
51 satellite merchants, as defined in the Town's ordinance. The Town Planner and I believe that a case could be made in
52 the Town's UDO that open air markets are a permitted use in the Business zoning district and the Village zoning

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1 districts, however, in light of the concerns expressed by local businesses, it would be helpful to draft new language in
2 the UDO to clarify this as a permitted use and also establish relevant standards for the construction and operation of
3 an open air market so that there is a common understanding in the business community. If the Board is comfortable
4 with the concept of open air markets, I will task the Town Planner with drafting the appropriate ordinance amendment
5 for future consideration by the Planning Board, and, ultimately, the Board of Commissioners. I understand that the
6 owners of the property at the corner of NC 58 / Islander Drive / Reed Drive have potential interest in establishing an
7 open air market at that location in the future.
8

9 I look forward to discussing the attached ordinance amendment with the Board again at the July 14 meeting. If the Board is
10 comfortable with the proposed amendments, the Board may consider adoption at the July 14 meeting. If the Board would like
11 more time to review the proposed amendments, formal Board action can certainly be delayed until the August meeting or later.
12

13 Although we have strayed from the original goal to consider one chapter each month, my goal going forward is still to present at
14 least one of the 4 remaining chapters for comprehensive review and amendments each month or at least every other month in
15 the future. If we stay on schedule, one chapter will be presented every 1 or 2 months, and at the end of the 4 – 8 month period
16 the entire Code of Ordinances will have been thoroughly reviewed and updated – ideally in a simpler, leaner, more user-friendly,
17 easier-to-understand format.
18

19 Town Manager Rush noted that the Board considered this item at their June 9 meeting,
20 with much discussion and input from the public ultimately tabling the decision on this
21 ordinance until tonight's meeting. Mr. Rush pointed out changes that were made to this
22 version as compared to the version presented on June 9. Mr. Rush noted with regard to
23 taxicab services they had done a lot of research with the Town Attorney and School of
24 Government, and NC Division of Motor Vehicles, and did determine that limousine
25 services are considered "for hire vehicles" and could also be regulated in the same
26 manner as taxicab services. Mr. Rush said that they changed the title of that particular
27 article to "For Hire Vehicles". In addition, a few changes were made to the application
28 requirements for the drivers permit – Mr. Rush referenced a letter in the Board packets
29 from Attorney Mike Lincoln who represented one of the towing companies in which he
30 made several suggestions to remove items required for the towing services operators
31 permit licenses. Mr. Rush said they incorporated those changes feeling comfortable
32 with the changes because they modeled the towing services ordinance article after the
33 taxicab services article and made those same changes in the taxicab services article as
34 well. Mr. Rush noted in towing they did also make the change as discussed by the
35 Board at the June 9 meeting setting the distance to the storage location to 15 miles from
36 the Town limits.
37

38 Mr. Rush noted in Article 3 – Itinerant and Satellite Merchants – based on the Boards
39 direction given at their meeting on June 9 - they removed the earlier proposed exception
40 for condominium complexes located on the oceanfront, so if the Board adopted the
41 ordinance as presented tonight it would not expand that exception and would not allow
42 satellite merchants to operate at an oceanfront condominium complex, and they are
43 currently only allowed at oceanfront commercial parcels in the Town. Mr. Rush noted
44 that they had retained the provision for the Board to approve a food truck rodeo on a
45 case by case basis going forward. The Board had approved a one time event at the
46 June 9 meeting for the last weekend in June, and they had received a lot of feedback

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1 following the food truck rodeo that weekend both positive and negative. Mr. Rush
2 recommended if the Board authorized future food truck rodeos on a case by case basis
3 that they simply require a formal written plan for the event dealing with signage and
4 parking. Mr. Rush said that they also retained the language that made it clear that a
5 satellite merchant operating at an open air market, farmers market or other outdoor
6 market as approved as part of our UDO was also an exemption under this ordinance,
7 suggesting that if the Board approved retaining that exemption they may want to task
8 the Planning Board with looking at exactly what would be required for any future open
9 air or farmers market.

10
11 The Board discussed farmers market versus open air market. Commissioner Hoover
12 recalled that they had allowed a farmers market or vegetable market in the distant past
13 but it had been removed because there had been no interest in anyone coming to
14 Emerald Isle to set up that type of market. Commissioner Normile commented that he
15 looked at these as two different things with an open air market being a market where a
16 vendor could sell virtually anything and thus compete with their local brick and mortar
17 businesses, where a farmers market was a vendor selling vegetables, produce, plants,
18 flowers, honey, uncooked meats. Commissioner Normile said in his review of the
19 Town's economic plan when they surveyed their property owners and residents there
20 were 649 requests from the respondents for some type of farmers market.
21 Commissioner Normile would like to give the people what they asked for in the
22 economic plan in the survey in regards to a "farmers market" where you were not selling
23 wares but selling produce, vegetables, fish, and uncooked meats. Commissioner
24 Hoover said he agreed except for the meats and fish where you would be competing
25 with the brick and mortar businesses.

26
27 Commissioner Normile also asked for clarification in section 10-44 subparagraph (3)
28 where the second sentence discussing satellite merchants operating and the portion of
29 the sentence "or public beach access facility" if that was referring to the Town's Eastern
30 and Western Ocean Regional Access points. Town Manager Rush confirmed that was
31 what it referred to and it had been in the ordinance since the exemption was created
32 about 5 years ago, the town as the property owner had to give consent and they had
33 never acted on or pursued that at the town level. Commissioner Normile said that in
34 reading that sentence an existing business here in Emerald Isle if they had such
35 initiative could take a sandwich stand or an ice cream cart to their regional access
36 points with permission of the Town and sell that to our visitors coming over from the
37 beach. Mr. Rush said that was correct and what he would recommend to the Board if
38 that was something they would like to pursue would be they go through a transparent,
39 competitive, fair process so that everyone had a chance to submit a proposal.

40
41 Commissioner Normile mentioned the food truck scenario to follow up on the rodeo
42 event that took place that the Board approved recently. Commissioner Normile said he
43 spent a lot of time at the rodeo on both days and a lot of time travelling around to

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1 parking lots looking at existing brick and mortar establishments to see if there were
2 crowds, parking spaces during the one rodeo event. Commissioner Normile just
3 generally speaking felt that the existing businesses were probably not affected by that
4 one event, if they allowed a rodeo to happen weekly forever just as an example, over
5 time he felt that could affect our local brick and mortar businesses. Commissioner
6 Normile said on the other side of that coin we as an assembly call upon some of the
7 same vendors to come and support us when we were raising money for this or that
8 festival, they come and then go away, so he didn't feel it was fair to just say we need
9 those vendors when we want them while raising money and the other 364 days they
10 don't matter. He felt there was a balance that could be found, citing the same economic
11 survey when they asked citizens what they wanted there were 437 responses
12 requesting events such as this. He felt the way the language was presented in the
13 ordinance it provided the Board with the opportunity to control the frequency of these
14 types of events.

15
16 Commissioner Messer commented that it may not have hurt anyone's business but the
17 businesses thought that it had, based on comments and letters they had received.
18 Commissioner Messer felt it was more a detriment to the people it affected than it was a
19 positive, detrimentally affecting a lot of people for the benefit of 3 or 4 truck owners.

20
21 Mayor Barber asked for comments from the public.

22
23 John Steele, owner of Michaelangelo's in Emerald Isle and Atlantic Beach, stated he
24 had nothing against the food trucks but his businesses stayed open year round, leaving
25 about \$70,000 in the checkbook by the end of the summer to carry the restaurant
26 through the winter even though they still made money September, October, and
27 November, it took that money to carry through to the next season. He didn't feel it was
28 right to allow them to come in and make money just during the season; they should
29 make an investment in the community. Mr. Steele said if they didn't make it on the
30 tourists they didn't survive here. Mr. Steele said they were tax collectors, they were
31 here for the Town working and employing people year round, paying rent. He thought
32 the food trucks once in a while would be fine but not all summer long.

33
34 John Olivera, owner of Lil' Johnny's Crab Shack food truck, spoke of wanting to start a
35 business here but issues he encountered with environmental health that wouldn't allow
36 a food truck to run off of a septic system caused it to not be a feasible process. Mr.
37 Olivera said he would like to participate in more events in Emerald Isle and to bring
38 structure in hopefully having future food truck rodeos. Mr. Olivera said that Raleigh did
39 food truck rodeos monthly and they were huge and brought in a lot of business. He felt
40 if they could find a way to do it so that it was structured and brought in more tourists, not
41 just for the food truck rodeo, but for the Town of Emerald Isle, because he strongly
42 believed the ultimate goal was to promote tourism. Mr. Olivera said he would like to find

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1 common ground realizing the Town would never want to be like Raleigh, but to make it
2 an event that would draw hundreds and thousands of people here.

3
4 Mr. Olivera stated also that the owner of the Holiday Trav-L Park was asking for an
5 amendment to have a satellite merchant anywhere on the footprint of the Holiday Trav-L
6 Park property within the property limits of the park, but outside of the gate in the area of
7 the wine market, the go-cart track.

8
9 Town Manager Rush stated that what Mr. Olivera referred to if looking at section 10-44
10 exemption (3) that pertained to all satellite merchants operating on private property on
11 ocean pier, hotel, RV park, public beach access facility – they had applied that
12 exemption to this point only to include the portion of Holiday Trav-L Park between Reed
13 Drive and the ocean. They had applied the exemption to the campground proper, and
14 the way they had interpreted and implemented the ordinance they had not allowed
15 satellite merchants to be on the north side of Reed Drive, and he thought Mr. Olivera
16 was asking to expand the exemption to the go-cart, and wine market areas.

17
18 Ronnie Watson, owner of Holiday Trav-L Park felt the thing that was confusing to him
19 was that they owned the Holiday Trav-L Park resort, the strip of land that was part of the
20 park resort from the Valero store all the way to the corner of Motel Drive. Mr. Watson
21 said they didn't want to do a food truck event all the time but once in a while and they
22 can put the food trucks in the Trav-L Park but couldn't put it in front of the Valero store
23 or any of that parcel of land they owned. They paid taxes on the land and it was zoned
24 commercial but he didn't understand why he could put food trucks on the ocean side but
25 couldn't put one at the rec hall as it was part of the Trav-L park and had been for 39
26 years.

27
28 Town Manager Rush said for many years there were no exceptions for satellite
29 merchants and then 5-7 years ago the Board created the exemptions in section 10-44.
30 At the time the Board's reasoning for allowing the exemption was to allow just on
31 oceanfront parcels just to cater and be a convenience for people visiting the beach in
32 those transient types of locations, prior to that they were not allowed anywhere.

33
34 Mr. Watson said they would not want to do anything to hurt the Town or any other
35 business but times have changed. Mr. Watson spoke of a time several years ago at the
36 go-cart track area when they had a guy come in with a John Deere tractor and he made
37 ice-cream and here came the Police and shut them down. Mr. Watson said he was
38 probably ignorant to the fact but went by what the Police said to do and closed them
39 down. Mr. Watson said they were asking for something that would benefit their
40 customers and there were a lot of people at the go-cart track that were not staying in the
41 park that came and catered to the go-carts. He thought doing a food truck rodeo once
42 in a while for 5 hours – 11am-4pm – didn't hurt anybody, he felt the seasons were very

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1 narrow and he felt this might help the shoulder season and that it was something they
2 could look at but not for every weekend.

3
4 Ellis Nelson, Vice-President of the Pebble Beach Homeowners Association, was there
5 to state that the homeowners association had expressed interest in having a hotdog cart
6 come to their premises and sell hotdogs, soft drinks, chips and that type of thing. Mr.
7 Nelson said they were very mindful of the Town ordinance protecting the brick and
8 mortar establishments, and certainly supported that ordinance and its concept. Mr.
9 Nelson said in this particular case they had selected Mr. Jason Griswold, Griswold's
10 Hotdogs wanting to offer a convenience to their guests, owners, and visitors at Pebble
11 Beach only. In discussions he had with Mr. Rush the comment was made several times
12 that if someone were at the pool enjoying the scenery and wanted a hotdog or soft drink
13 or bag of chips was not going to go back to the condo get in the car and go down to
14 Emerald Drive for a small snack, and that was exactly what they had proposed. Mr.
15 Nelson said he didn't see that as a threat to a brick and mortar establishment. They
16 also realized if someone was travelling down Coast Guard Road they couldn't visit
17 Griswold's Hotdogs because of Pebble Beach's controlled access. Mr. Nelson asked if
18 they could get a temporary 60 day permit authorization to allow Mr. Griswold to operate
19 on their premises selling a very limited scope menu which they didn't feel would be a
20 threat to any merchant as they were keeping things very simple. Mr. Nelson said that
21 under no circumstances would they solicit business from the beach and they did not
22 want people coming up from the beach, but it would be strictly for the convenience for
23 their owners and guests. Mr. Nelson asked the Board to reconsider allowing this
24 exemption for oceanfront condominium communities.

25
26 Clarke Merrell, owner Dank Burrito food truck, who also had other brick and mortar
27 restaurants in Morehead City, Beaufort, Swansboro, and Emerald Isle commented that
28 he straddled both sides of this having both a food truck and brick and mortar
29 restaurants. Mr. Merrell said he kept hearing the comment of food trucks coming in and
30 scooping up all of the profit. Mr. Merrell said when the St. Patrick's festival occurs every
31 year they bring in extra porta-potties. He felt the Town got busy in the summer and
32 needed extra food establishments because he didn't think there were enough in the
33 Town. Mr. Merrell talked of growing up in Emerald Isle and his family operated a
34 restaurant so he grew up in that industry his whole life and he knew what hard winters
35 were like and what busy summers were like. He said food trucks just wanted a fair shot
36 and thought coming to some type of agreement would be great. He thought the rodeos
37 were a good idea and he thought if Emerald Isle could come up with a plan and build on
38 that people would fill up gas stations, buying beer and cigarettes, stay the night in one
39 of the hotels so other things would be affected other than just food. Mr. Merrell asked
40 that they give consideration and take a look at this, put some fair guidelines on it and
41 make it work.

42

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1 Steve Harlacher, owner Chowdaheads, stated that as Michaelangelo's and others in
2 Town they were family restaurants. Mr. Harlacher said they were used to people
3 coming year after year. Mr. Harlacher said they also pay for wind and hail insurance,
4 something a food truck does not have to pay. Mr. Harlacher said during the winter he
5 and his wife didn't take a salary as they wanted to keep their 10 employees. Mr.
6 Harlacher said jokingly come September there were tumbleweeds going down Hwy 58,
7 it dried up unless it was good fishing season. Mr. Harlacher said the food truck rodeo
8 was on a Friday and Saturday, two of the best days they had and were they always
9 going to come in and pick the weekend for the events, maybe they could come in on a
10 Monday or Tuesday. Mr. Harlacher wondered what fees the food trucks would be
11 required to pay – zoning fees, licenses. He felt the trucks should have some skin in the
12 game.

13
14 Walter Hancock, Islander Suites, commented that they relied on the food trucks for a
15 different reason than most. Mr. Hancock said that because they unlike the DoubleTree
16 Inn and the Clamdigger on the Island they don't have a restaurant in-house, and in
17 order for them to have that amenity and attract that business at this end of the island
18 they had to invite these trucks. Mr. Hancock said they had done this for 6 years; some
19 had been great, their guests could go to the pool, beach and get a sandwich, they list
20 that as amenity and it was something they had to be able to offer to be competitive with
21 other hotels of their size, and it had been very successful. He felt they were offering
22 their guest's one meal a day by offering that service and that still left two other meals
23 where they would have to go somewhere else. Mr. Hancock said in the 9 years he had
24 managed the Islander property not once had he been approached by any local
25 restaurant to offer that service to their hotel, it had all been people off island. Mr.
26 Hancock said they would love to have someone local come in and be able to offer that
27 service food truck or cart. Mr. Hancock said this service was for their guests and the
28 vendor couldn't solicit toward the beach, or go down on the beach handing out coupons,
29 couldn't have flyers or banners, but just an umbrella that said hot dogs for example. Mr.
30 Hancock said this was an amenity they had to have to be competitive with others their
31 size.

32
33 Mr. Rush noted that the Islander was already exempted as an oceanfront hotel to have
34 satellite merchants on that property.

35
36 Mr. Hancock said they were exempt but that they were also in support of the food
37 trucks. Mr. Hancock said they started FlavorFest last year and this year it had a food
38 truck aspect and they would have 4-5 food trucks parked on their property similar to a
39 rodeo and that was in September. He said they set up for 5 hours, people had lunch
40 there, if they spent the night they were going to eat dinner somewhere else so he felt it
41 attracted business.

42

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1 Mr. Rush noted that these were some of the nuances they dealt with everyday as they
2 enforced the ordinance, so the FlavorFest last year as it was a really successful event
3 was a charitable event and that was why it was allowed but then when you look at the
4 area of the Holiday Trav-L park going back to the Board's original intent to cater to the
5 beach visitors, transient nature, convenience factor on the beach, that was why they
6 had never allowed satellite merchants on the go-cart area for example because it was a
7 different parcel and it was also set well back from the beach whereas for example as in
8 a similar location as the parking lot at Richard Stanley's office or the El Zarape parking
9 lot, and the community over time has not wanted to allow merchants to set up at other
10 locations on the island. Mr. Rush said that it got tricky when you got those inquiries and
11 you tried to determine the right way to approach a situation, so he would caution the
12 Board that whatever was decided by the Board they would certainly implement but they
13 needed to be very clear in the language going forward so it was a level playing field and
14 people didn't perceive that things were not being applied fairly.

15
16 Town Manager Rush explained that the way the ordinance was currently written the
17 satellite merchant exemption applied to oceanfront piers, oceanfront hotels and motels,
18 oceanfront regional beach access facilities, oceanfront RV parks and campgrounds.
19 Mr. Rush said historically they were allowed at the Trav-L park proper, the Islander and
20 Bogue Inlet Pier, with them all registering and being completely legitimate. Mr. Rush
21 said the other eligible parcels were the Town's regional beach access facilities but again
22 the Town as the property owner had never allowed satellite merchants at those
23 locations, but it was an option available to the Board at some point going forward. The
24 other 3 locations were the Beachfront East and West RV park, and also the Boardwalk
25 RV park, and they could probably make a case for Camp Ocean Forest, the only other
26 properties that were oceanfront and commercial use which were the key words in the
27 Boards policies from 5-6 years ago.

28
29 The Board discussed with Mr. Watson and Ms. Collins, Holiday Trav-L Park the location
30 they were interested in setting up a food truck on their property. Tammy Collins said
31 she felt they were different because the parcel they owned covered from Hwy 58 all the
32 way to the oceanfront and was zoned commercial but part of the property was on the
33 Hwy 58 side of Reed Drive.

34
35 Mayor Barber said there were some who had reservations about food trucks and he
36 would like to note for the record that he received letters from Dairy Queen, Circle Pizza,
37 Chowdaheads, El Zarape, and York Properties – Emerald Plantation with 4 restaurants,
38 that they were all opposed to food trucks and he had also been contacted by other
39 restaurant owners about their opposition to food trucks.

40
41 Jason Griswold, owner of Griswold Hotdogs, stated they were really small with a small
42 menu and felt that satellite merchant was the least expensive way to start out his
43 business. He said they were just hoping for a chance to get on the property at Pebble

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1 Beach so they could operate there, he was hoping to create a customer experience in
2 order to create a better name for food trucks/carts in general. Mr. Griswold said he
3 wanted to be able to be involved in events and help the community.
4

5 Mr. Rush noted that in order for Mr. Griswold to operate at Pebble Beach he would need
6 for the Board to amend the ordinance and include oceanfront condominium complexes
7 in section 10-44 as an exemption. If Mr. Griswold wanted to operate at the Islander or
8 the Trav-L park proper or Bogue Inlet Pier for example he could do that tomorrow
9 provided the property owner gave him permission and he registered with the Town. Mr.
10 Rush said up to this point with the limited exemptions they had not charged any fees but
11 simply required they registered, had health department permits, but if the Board did
12 expand the exemptions to any degree they may want to consider some type of fee
13 associated but currently there was no fee to register.
14

15 Mayor Barber felt the issue may need more discussion and study because of the
16 different directions it was going.
17

18 Mr. Rush suggested that this whole ordinance was a part of a comprehensive review of
19 Chapter 10, and the way it was presented in their packets it basically maintained the
20 status quo, it did not allow the expansion of the exemption to the condominium
21 complexes, it did not allow food truck rodeos at any time other than on a case by case
22 basis approved by the Board, it did not change the distinctions for Holiday Trav-L park
23 and the portion between Holiday Trav-L park and Hwy 58, so one option the Board
24 could consider would be to adopt the ordinance as presented and then take some more
25 time to study some of the more specific issues, or they could table the whole ordinance
26 and it could be brought back to the Board at their August meeting.
27

28 The Board had a great deal of discussion with the Town Attorney, and Town Manager
29 regarding the language to use regarding Section 10-44 Exemptions for clarification
30 based on the Board's expectations with input from the public.
31

32 Following such discussion ***motion was made by Commissioner Messer to approve***
33 ***the Ordinance Amending Chapter 10 with section 10-44. – Exemptions to read as***
34 ***follows:***
35

36 ***(1) All bona-fide non-profit charitable, educational, religious, scientific, or***
37 ***civic organizations engaged in fundraising activities for a period not***
38 ***greater than two (2) consecutive days;***
39

40 ***(2) All satellite merchants, with expressed written permission of the property***
41 ***owner and/or special event organizer, participating in a special event***
42 ***sponsored by or permitted by the town;***

1
2 (3) **All A satellite merchant approved by the town offering food services**
3 **exclusively for the private property and operating on the private property**
4 **of an ocean fishing pier, hotel, motel, campground, recreational vehicle**
5 **park, or nearby or adjacent shops, rental offices, recreational facilities, or**
6 **amenities associated with the ownership or operation of the pier, hotel,**
7 **motel, campground, or recreational vehicle park, or public beach access**
8 **facility having frontage on the Atlantic Ocean and visited or frequented**
9 **by transient guests or travelers moving in and out periodically, provided**
10 **that:**

- 11
12 a. **the satellite merchant has written permission from the**
13 **property owner;**
14 b. **no satellite merchant sales activities occur on a public**
15 **street, right-of-way, or the beach strand; and**
16 c. **the satellite merchant registers as a satellite merchant with**
17 **the town on an annual basis;**

18
19 (4) **Licensed seafood dealers operating as a satellite merchant prior to the**
20 **effective date of the ordinance from which this article derives, and**
21 **offering only locally-caught seafood for sale; and**

22
23 (5) **Any special events, competitions, or instructional lessons of a temporary**
24 **nature that occur within the Atlantic Ocean or on the beach strand and**
25 **have been granted prior sanction or approval by the town.**

26
27 (6) **All satellite merchants participating in a limited duration food truck rodeo**
28 **event approved by the Board of Commissioners.**

29
30 (7) **All satellite merchants operating at a duly permitted ~~open-air market,~~**
31 **farmer's market or other outdoor market approved in accordance with**
32 **the town's Unified Development Ordinance.**

33
34 (8) **Satellite merchants offering limited food services exclusively for the**
35 **owners, renters, or guests of oceanfront condominium complexes or**
36 **developments, and not available to or open to the general public.**

37
38 **The Board voted unanimously 5-0 in favor. Motion carried.**
39

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1 **Clerks Note: A copy of Ordinance Amendment 15-07-14/O2 as referenced above is incorporated herein by**
2 **reference and hereby made a part of these minutes.**

3
4 **11. Resolution Adopting Beach Monitoring and Maintenance Plan (15-07-14/R1)**

5
6 Town Manager Frank Rush addressed the Board regarding this Agenda item. The
7 following excerpt from his memo to the Board is provided for additional background:

8
9 The Board of Commissioners is scheduled to consider the attached Resolution Adopting Beach Monitoring and Maintenance
10 Plan at the July 14 meeting. Upon adoption, the Town's updated plan will be formally submitted to the Federal Emergency
11 Management Agency (FEMA). The goal of the plan is to document the Town's efforts to monitor and maintain the Town's
12 previously nourished beach in compliance with FEMA regulations so that the Town will remain eligible for FEMA Public
13 Assistance funding to replace any nourishment sand lost in a future Federally-declared disaster event. The attached Beach
14 Monitoring and Maintenance Plan was prepared by Moffatt & Nichol Engineers for the Town, under contract to the Carteret
15 County Shore Protection Office.

16
17 FEMA regulations authorize the reimbursement of costs associated with beach nourishment if sand from an engineered,
18 nourished beach is lost during a Federally-declared disaster event. If the beach qualifies, FEMA will reimburse the Town for the
19 actual sand lost during that event only; the Board should note that FEMA will not reimburse the Town for normal erosion losses
20 that occur apart from the Federally-declared disaster event. Routine beach profile surveys are essential to determine the volume
21 of sand lost during the specific disaster event, and the Carteret County Shore Protection Office has contracted for annual beach
22 profile surveys along Emerald Isle's beach for the past several years.

23
24 In order to qualify for FEMA assistance following a Federally-declared disaster event, the beach must be an engineered beach,
25 periodic beach profile monitoring (surveys) must be conducted, and the beach must be maintained in accordance with a formal
26 program involving periodic renourishment. The Town first developed, and the Board first approved, a Beach Monitoring and
27 Maintenance Plan in 2003, and has relied on that plan (and subsequent amendments) since that time. The Town has diligently
28 adhered to that plan since 2003, and as a result the Town was fortunate to have received significant FEMA assistance in the
29 aftermath of Hurricanes Isabel (~ \$2 million), Ophelia (~ \$6.8 million), and Irene (~ \$4.1 million). This significant FEMA
30 assistance enabled the completion of beach nourishment projects in 2004, 2007, and 2013 that replaced most of the sand lost to
31 erosion during these hurricanes. The completion of these projects has enabled the Town to maintain a wide and healthy beach
32 strand throughout the Town for the past decade, and fortunately, the beach remains in a very stable condition today.

33
34 As you know, the Carteret County Shore Protection Office, in conjunction with the Town (and other towns on Bogue Banks) has
35 been working for the past few years on the development of a new 50-year beach nourishment Master Plan for the entire island.
36 That plan includes very detailed analyses, and forecasts future nourishment events and sand volumes necessary to maintain
37 adequate storm protection and a desirable recreational beach. In order to maintain consistency with the 50-year Master Plan
38 (and the Town's separate Static Line Exception Plan), a new Beach Monitoring and Maintenance Plan has been developed by
39 Moffatt & Nichol for the Town, and would replace the Towns' current plan initially developed in 2003.

40
41 The Beach Monitoring and Maintenance Plan is attached for the Board's review (I have not included various appendices due to
42 the length of these documents), and is a detailed plan that includes scientific, policy, and financial information, and is designed to
43 meet with approval from FEMA. The attached plan is consistent with the Town's Static Line Exception Plan recently renewed by
44 the NC Coastal Resources Commission and is consistent with the Town's long-term financing plans for future beach nourishment
45 activities. The highlights of the attached plan are summarized below:

- 46
47
- 48 • The Town's initial, engineered beach nourishment projects completed in 2003 and 2005 are summarized, and are the
49 genesis of the Town's long-standing commitment to beach nourishment. The Town placed a total of approximately 2.6
50 million cy of sand along approximately 10.4 miles of beach in 2003 and 2005, at a total cost of approximately \$23
51 million.

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- 1 • Subsequent beach nourishment projects are summarized, including sand placed in 2004 after Hurricane Isabel (~
2 156,000 cy along approximately 2.3 miles of beach), in 2007 after Hurricane Ophelia (~ 650,000 cy along
3 approximately 5.3 miles), and in 2013 after Hurricane Irene (~ 650,000 cy along approximately 4.2 miles).
4
5 • The performance of past nourishment projects is reviewed, and the monitoring program reveals that, overall along the
6 entire beach strand, there is now more sand in place today than was in place after the completion of the initial
7 nourishment projects in 2003 and 2005. The Town's original Beach Nourishment Monitoring and Maintenance Plan
8 included "triggers" whereby the Town would renourish various beach segments when 50% of the original nourishment
9 material had been lost to erosion, thus the Town has clearly adhered to the plan since it was first adopted in 2003. The
10 healthy condition of the beach today is a direct result of the Town's subsequent beach nourishment efforts that were
11 made possible primarily through the availability of FEMA assistance after Isabel, Ophelia, and Irene.
12
13 • Various beach monitoring efforts are described in the attached plan, including biological monitoring, sea turtle
14 monitoring, and beach profile monitoring (annual surveys).
15
16 • The new plan establishes new "triggers" for future nourishment events, and these new "triggers" are based on the
17 amount of sand in place on the beach, expressed in cy / linear ft. (i.e., the amount of sand in the beach profile – a 1 ft.
18 wide swath – from the dune to an offshore depth of 12 feet). The new plan abandons the 50% approach included in
19 the original plan.
20
21 • The new plan establishes the following "triggers" for future nourishment events:
22
23 o Bogue Inlet area (from The Point to ~ Deer Horn Dunes) 235 cy / lf
24 o El West (from ~ Deer Horn Dunes to ~ Sea Crest) 266 cy / lf
25 o El Central (from ~ Sea Crest to ~ Ocean Reef) 211 cy / lf
26 o El East (from ~ Ocean Reef to Indian Beach town limits) 221 cy / lf.
27
28 • These "triggers" require the Town to nourish the beach when the average beach profile volume in these areas dips
29 below the amounts indicated above. As of summer 2014 (the last year that monitoring data is available), each of these
30 areas includes significantly more sand than the amount of the "trigger", and should not need to be nourished for
31 several more years, as indicated below:
32
33 o Bogue Inlet area (from The Point to ~ Deer Horn Dunes) ~ 322 cy / lf
34 o El West (from ~ Deer Horn Dunes to ~ Sea Crest) ~ 310 cy / lf
35 o El Central (from ~ Sea Crest to ~ Ocean Reef) ~ 292 cy / lf
36 o El East (from ~ Ocean Reef to Indian Beach town limits) ~ 273 cy / lf.
37
38 Unless significant erosion occurs as a result of storms that are not Federally-declared disaster events, it seems likely
39 that each area of the beach in Emerald Isle will remain above the "trigger" for several years, and thus should remain
40 eligible for future FEMA assistance in the event of erosion caused by a Federally-declared disaster event in the next
41 few years.
42
43 • The new plan outlines the volume of sand projected to be necessary for future beach nourishment events, and also
44 identifies various sand sources. Approximately 50 million cy of sand is expected to be necessary for all of the towns
45 located on Bogue Banks for the next 50 years, and adequate sand is available to meet this projected need. The two
46 main sand sources for Emerald Isle will likely be the ODMDS (offshore dredged material disposal site; off Atlantic
47 Beach and associated with Morehead City shipping channel) and periodic dredging of shoals that form in the Bogue
48 Inlet navigation channel.
49
50 • The new plan also outlines the Town's financing plan for future beach nourishment activities, and identifies a total
51 average annual cost for the Town of approximately \$2.1 million. The new plan anticipates a total of approximately \$1.4

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1 million derived from County room occupancy taxes and nearly \$700,000 derived from Town property taxes specifically
2 earmarked for beach nourishment. Both of these revenue sources are well established and should be reliable in the
3 future.

4 I look forward to discussing the Beach Monitoring and Maintenance Plan with the Board at the July 14 meeting. I recommend
5 adoption of the attached resolution (and the new plan) at that meeting so that the new plan can be active for the bulk of the 2015
6 hurricane season.

7
8 Town Manager Rush noted this was a very important issue for the Town and what the
9 Board would consider was a new beach monitoring and maintenance plan. Mr. Rush
10 noted the plan specified at what intervals the Town would nourish the beach in the
11 future, and outlined funding plans which were consistent with previous discussions
12 about beach nourishment financing. Mr. Rush said this was a new version of a plan the
13 Board adopted originally in 2003, the biggest change was that the triggers for
14 re-nourishment had changed. Instead of the current trigger which was when 50% of the
15 sand was lost from the beach, there were new triggers based on the measurement of
16 the sand in place broken down by different reaches on the beach, very specific. Details
17 were discussed as referenced above in the Town Manager's memo to the Board. Mr.
18 Rush noted the reason he was asking the Board to approve the Resolution tonight was
19 that FEMA when making decisions about providing financial assistance to re-nourish the
20 beach after a federally declared disaster event wanted to make sure that a) the Town
21 had an approved Beach Monitoring and Maintenance Plan, and b) that the Town
22 adhered to that Beach Monitoring and Maintenance Plan.

23
24 ***Motion was made by Commissioner Wootten to adopt the Resolution Adopting***
25 ***Beach Monitoring and Maintenance Plan. The Board voted unanimously 5-0 in***
26 ***favor. Motion carried.***

27
28 **Clerks Note: A copy of Resolution 15-07-14/R1 as referenced above is incorporated herein by reference and**
29 **hereby made a part of these minutes.**

30
31 **12. Resolution Authorizing Purchase of New Yard Debris Collection Truck**
32 **(15-07-14/R2)**

33
34 Artie Dunn, Public Works Director addressed the Board regarding this Agenda item.
35 The following excerpt from the Town Manager's memo to the Board is provided for
36 additional background:

37
38 The Board of Commissioners is asked to approve the attached resolution authorizing the purchase of a new yard debris
39 collection truck for a total purchase price of \$125,878. The resolution authorizes a purchase contract with Carolina
40 Environmental Systems, Kernersville, NC for a 2016 Freightliner / Pac-Mac loader. A copy of the purchase quote and
41 specifications is attached for the Board's review. With the exception of the chassis, the truck is identical to the Town's current
42 yard debris collection truck (International chassis).

43
44 As you know, the Town's yard debris collection program is very popular among our property owners, and service demands have
45 increased significantly in the past few years. The Town collected yard debris from a total of 18,822 collection points in FY 14-
46 15, up from 7,995 in FY 12-13. The Town disposed of a total of 843 loads in FY 14-15, up from 511 in FY 12-13. To put this in
47 perspective, Town staff average 51 collection points per day for every day of the year, or 8 – 9 collection points per hour in an 8

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1 hour day (and this doesn't factor in travel time to and from the disposal site). This equates to one collection point every 6 or 7
2 minutes, on average. Service demands are much higher in the spring, summer, and early fall months, so the task is that much
3 more difficult during that time of year.

4
5 Town staff have worked hard to keep up with demand and attempt to meet our one week collection goal. We have utilized
6 several strategies to remain relatively current over the past year, including staggered employee schedules to keep the current
7 truck on the road 7 days per week, payment of overtime, use of a closer disposal site, and the use of a rental truck. During peak
8 demand times, it has become essential that we utilize two yard debris collection trucks, and over the long term the purchase of a
9 second yard debris collection truck is the most cost-effective strategy. (The cost of the rental truck is \$5,000+ per month.)
10 Additionally, the Town's current truck, purchased in 2012, now has more than 80,000 miles on it, and the addition of a second
11 truck will help to relieve the burden on that truck in the future.

12
13 Under NC law, the Town is required to advertise for formal bids for any vehicles and equipment with a likely purchase price
14 greater than \$90,000. However, NCGS 143-129 (e)(3) includes an exception to the formal bid process when purchases are
15 made through a competitive bidding group purchasing program, which is a formally organized program that offers competitively
16 obtained purchasing services at discount prices to two or more public agencies. Town staff have reviewed two purchase options
17 available through the National Joint Powers Alliance (NJPA), a national purchasing cooperative frequently used by local
18 governments in North Carolina and other states. Town staff have identified an attractive purchase offer through NJPA from
19 Carolina Environmental Systems, Inc. for the 2016 Freightliner / Pac-Mac yard debris collection truck included in the attached
20 resolution (with a purchase price of \$125,878). Although not legally required, Town staff also reviewed a quote for a similarly
21 equipped 2015 Freightliner / Petersen yard debris collection truck, however, the purchase price on that truck was just slightly
22 higher (\$126,431). Additionally, the fact that the 2016 Freightliner / Pac-Mac truck includes a nearly identical loader and body as
23 our current truck makes this option more attractive.

24
25 The 2016 Freightliner / Pac-Mac truck to be purchased includes a Freightliner chassis with a 250 hp Cummins diesel engine, a 3-
26 man cab, and automatic transmission. The chassis includes a 24-month base warranty. The loader is a Pac-Mac loader with a
27 joy-stick control, and a lifting capacity up to 7,000 lbs. The body is also by Pac-Mac, and is 18 ft. long and has a capacity of 24
28 cubic yards. The warranties on the loader and body vary, and range from 12 months to 36 months. As noted above, the loader
29 and body are nearly identical to the Town's current truck.

30
31 The FY 15-16 budget includes \$125,000 for the purchase of the new truck, and is ultimately funded by the recently approved \$18
32 increase in the Town's annual solid waste fee. That fee increase is also funding an additional employee in the Public Works
33 Department to operate the new truck (to be supplemented by inmate labor). If the Board approves the attached resolution, the
34 formal order will be placed on July 15, and the new truck will hopefully be delivered to Emerald Isle by September. The Town is
35 currently recruiting for the new position, and we should have that new employee on board by the time the new yard debris
36 collection truck arrives.

37
38 Public Works Director Artie Dunn discussed and answered questions by the Board
39 about the proposed new yard debris collection truck.

40
41 ***Motion was made by Commissioner Messer to approve the Resolution***
42 ***Authorizing Purchase of New Yard Debris Collection Truck. The Board voted***
43 ***unanimously 5-0 in favor. Motion carried.***

44
45 **Clerks Note:** A copy of Resolution 15-07-14/R2 as referenced above is incorporated herein by reference and
46 hereby made a part of these minutes

47
48 **13. Ordinance Amending Chapter 5 – Beach and Shore Regulations – of the Code**
49 **of Ordinances Regarding Temporary Restrictions or Prohibitions (15-07-14/O3)**
50

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1 Town Manager Frank Rush addressed the Board regarding this Agenda item. The
2 following excerpt from his memo to the Board is provided for additional background:

3
4 The Board of Commissioners is asked to approve the attached amendment to Chapter 5 – Beach and Shore Regulations in
5 order to specify the penalty for a violation of the recently adopted ordinance that provides authority to the Town Manager to
6 temporarily restrict or prohibit certain activities on the public trust beach area and adjacent waters of the Atlantic Ocean to
7 address potential or actual dangers. The attached ordinance amendment specifies a \$100 civil penalty for such offenses.
8

9 As you know, the Board adopted this ordinance at a special meeting on July 6, 2015. The ordinance amendment approved at
10 that meeting did not reference the specific penalty, as I mistakenly believed the penalty was specified elsewhere in Chapter 5.
11 The attached ordinance amendment rectifies this oversight.
12

13 As discussed recently, the intent of this ordinance is simply to provide the appropriate tool to our Police Officers to advise the
14 public that certain activities are temporarily restricted or prohibited and to force cessation of the activity. As discussed
15 extensively in the past week, our enforcement approach to any temporary restrictions or prohibitions implemented under this
16 ordinance will primarily be in the form of public education and verbal warnings. My expectation is that it would be rare for an
17 individual to receive a civil citation. If a violator fails to comply with the Police Officer's directive, they can also be charged with
18 resisting or obstructing a Police Officer.
19

20 Town Manager Rush stated that the proposed ordinance amendment was the same as approved by the
21 Board at their special meeting of July 6 however the ordinance as approved inadvertently didn't include the
22 actual penalty for violations. Mr. Rush said the only change was the addition of paragraph b) as follows:
23

24 b) Violations of this section shall subject the offender to a civil penalty of one hundred dollars (\$100.00).
25

26 Mr. Rush noted as discussed during the special meeting on July 6 they felt it would be a rare occurrence
27 that they would actually issue a civil penalty but they needed to have that specified in the ordinance to be
28 clear.
29

30 ***Motion was made by Commissioner Wright to adopt the Ordinance Amending Chapter 5 – Beach***
31 ***and Shore Regulations – of the Code of Ordinances Regarding Temporary Restrictions or***
32 ***Prohibitions.***

33
34 **Clerks Note: A copy of Ordinance Amendment 15-07-14/O3 as referenced above is incorporated herein by**
35 **reference and hereby made a part of these minutes.**
36

37 **14. Comments from Town Clerk, Town Attorney, and Town Manager**
38

39 There were no comments from the Town Clerk or Town Attorney.
40

41 Town Manager Rush reported in the aftermath of the deck collapse on July 4 that he, Mayor Barber,
42 Commissioner Wright and Messer had met with all of the vacation rental companies in Emerald Isle to talk
43 about ideas to implement to try to prevent this type of thing happening again in the future. Mr. Rush felt it
44 was a good discussion, ultimately deciding to focus their efforts on additional public education efforts. In
45 addition Mr. Rush noticed the Welcome Center was nearing completion and coming together very nicely.
46

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1 The following is an excerpt from the Town Manager Comments memo to the Board
2 providing additional background information for all items of importance:

3
4 **July 4 Deck Collapse**

5 I am now beginning to work with Town staff and others on what actions could be taken by the Town and others in the future to
6 prevent a future deck collapse in Emerald Isle. I have scheduled a meeting with the owners of the vacation rental companies in
7 Emerald Isle for July 14, and will be meeting with Town and County staff on July 15 to discuss ideas. I welcome your ideas and
8 suggestions as we work on this issue. Additionally, I have tasked Josh Edmondson, Town Planner, with the development of a
9 public information flyer that can be distributed to vacation rental companies and homeowners regarding deck safety, and hope to
10 distribute that information in the near future.

11
12 As discussed previously, I don't believe the Town has the authority to implement a periodic deck inspection program. If the
13 community and the Board ultimately determine that such a program is needed and/or beneficial, I believe the Town would need
14 to seek a change in NC law to implement such a program. Ideally, such authorization would also include the ability to charge a
15 fee for such inspections, with a goal to fund any new inspections with fee revenues rather than general tax revenues.

16
17 **2015 Municipal Election**

18 I will be sending out a letter to all candidates for the 2015 election shortly after the filing period closes on July 17. The letter will
19 include an offer to meet with the candidates to assist them in learning more about the Town government, and will also include
20 information on campaign sign regulations and Election Day procedures.

21
22 **Update – New Welcome Center**

23 The new Welcome Center is expected to be complete in the next few weeks. I am awaiting the submission of a landscaping plan
24 from the contractor, and hope to begin that work very soon. The irrigation system for the new Welcome Center is being donated,
25 and we plan to create a nice grass area on the east side of the new Welcome Center that will likely be the location for the Town's
26 Christmas tree in the future. We are also planning to install two fixed concrete "cornhole" courts and benches in that area,
27 hopefully to create a new gathering place. The Tourism Development Authority is not expected to move into the new Welcome
28 Center until after the Labor Day holiday. I am very pleased with the new facility thus far.

29
30 **Carteret County Shore Protection Office**

31 Town and County staff have been working to ready the former Planning and Inspections office space for the Carteret County
32 Shore Protection Office, and we expect them to begin occupying that space in the next few weeks.

33
34 **Yard Debris Rental Truck Contract Extended**

35 The Town has extended the rental period for the additional yard debris collection truck through August 5. Depending on the yard
36 debris demand at that time and the likely delivery date of the new truck, we may extend the contract for another month into
37 September if necessary.

38
39 **New Edger Equipment for Bike Path Maintenance**

40 Town staff have taken delivery of new equipment to more efficiently complete periodic edging of the NC 58 and Coast Guard
41 Road bike paths. We hope to complete edging of the bike path very soon, as time permits.

42
43 **Coast Guard Road Pavement Repairs**

44 Onslow Grading and Paving has completed temporary asphalt repairs on Coast Guard Road, and will return after Labor Day to
45 complete more comprehensive repairs to several areas of the road where the pavement appears to be "sliding" off to one side.

46
47 **Eastern Ocean Regional Access Pavement / Paver Block Repairs**

48 A very small pavement failure and paver block failure has occurred in the southwest corner of the new parking lot, and SunLand
49 Builders is expected to correct this failure any day. We believe that an unknown, abandoned pipe below the parking lot has led
50 to a sub-surface washout, thus causing the asphalt and paver blocks to sink.

51

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1 **Trial Speed Humps**

2 At the Board's direction, Town staff plan to install two trial speed humps along Ocean Drive on either side of 5th Street.
3 Removable speed humps have been ordered, and will be installed as soon as they are received. We are hopeful that the new
4 speed humps will be installed prior to the end of the summer season so that we can begin to evaluate their effectiveness.
5

6 **Government Finance Officers Association Award**

7 The Town has received the GFOA's "Certificate of Achievement for Excellence in Financial Reporting award for the second
8 straight year. This award is the highest form of recognition in the area of governmental accounting and financial reporting.
9

10 **Exterior Deficiencies – 7405 Archers Creek Court**

11 Town staff have been dealing with nuisance concerns at this location for the past 2 years, and to date have utilized an informal
12 process to attempt to have the owner make repairs to siding, windows, and decks, and to clean up the outdoor area. The owner
13 finally secured a building permit in January, with a 6 month period to complete the work. It appears that very little, if anything,
14 has been done to date. Town staff will begin the formal complaint process on this home later this week, and will likely order that
15 all improvements be completed within 30 days. If not completed in that time frame, the Town will have the ability to complete the
16 improvements, and then bill the property owner for the cost of the improvements. In the event that the property owner does not
17 pay, a lien would be placed on the property.
18

19 This has been a very frustrating issue for the residents on Archers Creek Court and for Town staff, and the owner has had more
20 than ample time to address the concerns. We are not optimistic that the property owner will complete the necessary
21 improvements, and we will likely expend minimal Town funds to affect the cleanup of the yard and address the most visible
22 deficiencies.
23

24 **Abandoned Watercraft / Overgrown Vegetation – 7406 Archers Creek Court**

25 The property owner at this location has been advised to take steps to remove what appear to be an abandoned boat / trailer and
26 jet ski / trailer from the front of the property (a portion of each appears to be on the street right of way), and to also clear the
27 overgrown vegetation surrounding these items. Unfortunately, nothing has been done and there has been no communication
28 from the property owner. We are preparing to remove the boat / trailer and jet ski / trailer and clear the overgrown vegetation in
29 the coming days. The property owner would be billed for all costs associated with these efforts, including storage fees for any
30 removed items.
31

32 **Exterior Deficiencies – 6905 Ocean Drive**

33 Several exterior features at this oceanfront home were reported to Town staff as a potential safety hazard in April (including the
34 decks), and Town staff have been working to have the necessary repairs completed since that time. A formal process has been
35 underway since April 23, however, no improvements have been made. The home has been posted accordingly and has not
36 been occupied. We understand that the home is in the process of being sold by the bank that now owns the home, and we hope
37 to work with the bank and/or the new owner to resolve the outstanding concerns.
38

39 **Code Violations - The Rusty Pelican Motel**

40 Town and County staff conducted a hearing with representatives of the owner of The Rusty Pelican on May 29 to review the
41 current Code violations and learn of the owner's plans to rectify these violations. Town and County staff have ordered the
42 electrical power cut off and have prohibited the building from being occupied until various structural and electrical issues are
43 resolved. The owner has a deadline of November 29 to correct the deficiencies, and has recently indicated that she intends to
44 repair the structure to meet applicable codes.
45

46 **Sign Removal – Islander Drive**

47 Town staff have directed the owners of the old go-kart track and the old batting cage properties on Islander Drive to remove
48 existing old signage that is not permitted under the Town's sign ordinance. We hope to secure voluntary compliance from the
49 owners in the coming weeks.
50

51 **Need for Official Policy on Commercial Use of Public Access Facilities**

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1 Alesia Sanderson, Parks and Recreation Director, and I have been discussing the potential need for an official policy on the use
2 of public access facilities by commercial entities. We are experiencing more usage of the Eastern Ocean Regional Access,
3 Western Ocean Regional Access, Public Boating Access Area, and Cedar Street Park by businesses offering water-based
4 experiences and/or rental equipment, and this sometimes creates parking conflicts, raises questions regarding the Town's
5 satellite merchants ordinance, and causes frustration among residential neighbors. We may return to the Board with a
6 recommended policy at some point this offseason.
7

8 **Coyotes**

9 We continue to monitor the coyote population in Emerald Isle, and are consulting with the NC Wildlife Resources Commission on
10 this issue. At this time, we have been advised to simply leave the coyotes alone, however, if the population grows significantly
11 there may be a need for elimination. We are aware of a family of coyote "pups" near The Point and another family near the
12 Public Boating Access Area, and have received other reports of coyotes near Lee Avenue and on the east end. The most
13 serious threat posed by coyotes is their potential to attack small pets, and pet owners should be careful in evening and night
14 hours. I have attached a copy of a helpful information flyer on coyotes.
15

16 **Community Presentation – "The Walking Man"**

17 Jeff Rudisill, a frequent visitor to Emerald Isle from Virginia, will make a community presentation about the walk across the
18 United States that he completed in 2010 – 2011. Jeff began his walk in Dana Point, California, and finished at Bogue Inlet Pier in
19 January 2011. The presentation is sponsored by the Friends of Western Carteret Library, and will be held in the Town Board
20 Meeting Room on Wednesday, August 19 at 7 pm.
21

22 **Ordinance Amendment – Exterior Paint Color of Commercial Buildings**

23 Josh Edmondson, Town Planner, is working with Town Attorney Richard Stanley and the Planning Board on an amendment to
24 the Town's existing ordinance regulating the exterior paint color of commercial buildings. We hope to receive a Planning Board
25 recommendation after their July or August meeting, and present that recommendation to the Board of Commissioners at your
26 August or September meeting.
27

28
29
30 **Website Update**

31 Town Clerk Rhonda Ferebee and I continue to work with VC3 on a redesign of the Town's website. We are very pleased with
32 the direction thus far, and hope to unveil the new site later this summer. The new site will include much of the current content,
33 but it will be organized in a fresh, new format that should be easier to navigate. We are also planning to include electronic
34 applications on the website that can be submitted electronically (for building permit applications, golf cart applications, etc.), and
35 also hope to make it easier to pay for Town services with a credit card on the new website.
36

37 **Summer Intern**

38 Kate Keeter, a rising senior at UNC-Wilmington majoring in Information Technology, began work with the Town on July 6 and will
39 continue through mid-August. Kate will be helping the Town Planner with a migration to new permit software, assisting the
40 Police Department with updated records for the Neighborhood Watch Program, assisting with the development of the new
41 website, and other tasks.
42

43 **15. Comments from Board of Commissioners and Mayor**

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

47 **16. Adjourn**

48
49 ***Motion was made by Commissioner Messer to adjourn the meeting. The Board***
50 ***voted unanimously 5-0 in favor. Motion carried.***

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11

The meeting was adjourned at 7:55 pm.

Respectfully submitted:

Rhonda C. Ferebee, CMC, NCCMC
Town Clerk

DRAFT