

1 MINUTES OF THE SPECIAL MEETING OF
2 THE EMERALD ISLE BOARD OF COMMISSIONERS
3 AND THE EMERALD ISLE PLANNING BOARD
4 MONDAY, JANUARY 30, 2006 5:00 PM – TOWN HALL
5
6

7 The special meeting of the Emerald Isle Board of Commissioners and the
8 Emerald Isle Planning Board was called to order by Mayor Pro-Tem Floyd
9 Messer at 5:05 pm.

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

13
14 Also present Planning Board Chair Ceil Saunders, Planning Board members
15 Eddie Barber, Bob Conrad, Jerry Huml, Bob Smith, and Ken Sullivan.

16
17 Absent for the meeting: Mayor Art Schools, Commissioner Nita Hedreen, and
18 Planning Board member Jim Craig.

19
20 Mayor Pro-Tem Messer noted for the public that Mayor Schools was absent due
21 to a TDA meeting, Commissioner Hedreen was out of town on business in
22 Washington, DC, and Planning Board member Jim Craig was out of town and
23 unable to attend.

24
25 (Mayor Schools absent due to a TDA meeting arrived at the meeting at 5:35 pm).

26
27 Also present: Town Manager Frank Rush, Town Clerk Rhonda Ferebee,
28 Planning Director Kevin Reed, and Parks & Recreation Director Alesia
29 Sanderson.

30
31 After roll call all who were present recited the Pledge of Allegiance.

32
33 **ADOPTION OF AGENDA**

34
35 *Motion was made by Commissioner Wootten to adopt the Agenda. The*
36 *Board voted 4-0 in favor. Motion carried.*

37
38 **BOARD OF COMMISSIONERS ONLY**

39
40 **NC 58 BICYCLE PATH – PHASE II**

- 41
42 a. Capital Project Ordinance Amendment
43 b. General Fund Budget Amendment
44 c. Resolution Authorizing Construction Contract with David N. Johnson
45 Construction Company – (06-01-30/R1)
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3 Town Manager Frank Rush presented 3 items to the Board for the Phase II
4 Bicycle Path. This is the .6 mile stretch of the bike path which will connect from
5 Merchants Park to Black Skimmer Drive on the south side of Highway 58. Mr.
6 Rush said during the recent bid process 3 bids were received for the project, the
7 low bid being submitted by David N. Johnson Construction Company in the
8 amount of \$170,942.99. The other bids were in the \$174,000 range with the
9 highest bid being \$229,000. Mr. Rush was pleased that David N. Johnson
10 Construction Company provided a bid that was reasonable and doable with our
11 budget, pointing out that David N. Johnson Construction Company constructed
12 the Phase I bicycle path back in 2005 as well as several segments of the
13 sidewalk on the north side of Highway 58.
14

15 Mr. Rush stated that the Town received a grant from the NC Department of
16 Transportation for \$140,000 for this project. The Board had previously
17 appropriated a \$35,000 local match for this project, and considering all of the
18 other budget items associated with both phases of the bicycle path the Town is
19 \$22,000 short to execute the contract. Mr. Rush said presented to the Board in
20 conjunction with the resolution authorizing construction contract, is a capital
21 project ordinance amendment appropriating \$22,000 to award the contract and
22 also complete some of the necessary amenities. Mr. Rush said the
23 recommendation is to use \$4,000 contributed from the Emerald Isle Business
24 Association Triathlon proceeds, and \$18,000 appropriated from the General
25 Fund.
26

27 ***Motion was made by Commissioner Wright to approve the Capital Project***
28 ***Ordinance Amendment. The Board voted 4-0 in favor. Motion carried.***
29

30 ***Motion was made by Commissioner Allen to approve the General Fund***
31 ***Budget Amendment. The Board voted 4-0 in favor. Motion carried.***
32

33 ***Motion was made by Commissioner Wootten to approve the Resolution***
34 ***Authorizing Construction Contract with David N. Johnson Construction***
35 ***Company. The Board voted 4-0 in favor. Motion carried.***
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37 **Note: A copy of Resolution 06-01-30/R1 is incorporated herein by reference and hereby made a part**
38 **of these minutes.)**
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6 **BOARD OF COMMISSIONERS AND PLANNING BOARD**

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8 **DISCUSSION – POTENTIAL ORDINANCE AMENDMENT REGARDING**
9 **WATERFRONT ACCESS AND PARKING FOR NEW SUBDIVISIONS**

10
11 (A copy of attachments:

- 12 • **Comparison of Current Ordinance, Potential New Ordinance –**
13 **Alternative 1, and Potential New Ordinance – Alternative 2, and**
14 • **Maps indicating Town’s Current Oceanfront Parking Deficiencies As**
15 **Per Corps Of Engineers Regulations Pertaining to Full Beach**
16 **Nourishment Funding *are attached to and made a part of these***
17 ***minutes***
18

19 Town Manager Frank Rush briefly summarized this information, noting that the
20 Town Board discussed this item at their January board meeting, and the
21 Planning Board discussed at their January board meeting. Mr. Rush and
22 Planning Director Kevin Reed put together draft ordinance language based on
23 guidance received from the Board of Commissioners at the January 10th meeting,
24 and also based on earlier conversations from the Planning Board over the past
25 months. Mr. Rush said there are two potential ordinances for discussion
26 purposes only tonight for both Boards to consider. Both would require the
27 dedication of public access and parking in any new waterfront subdivisions
28 whether they are on the Atlantic Ocean or on Bogue Sound, they would apply to
29 both types of new subdivisions only. Mr. Rush said these are requirements that
30 would essentially replace existing requirements which call for the dedication of 3
31 ten foot access easements per 1,100 foot block.
32

33 Mr. Rush pointed out that in the future the Town is facing different circumstances,
34 most notably the Town is in line for a Federal 50-Year Beach Nourishment
35 Project. Mr. Rush said they have been working on that project since 1999, and
36 the feasibility study should be completed later this year. To qualify for federal
37 and state funding for that project the Town will be required to provide 10 parking
38 spaces for every half mile along the oceanfront in order to secure as much as
39 91% of the total project cost of beach nourishment over the next 50 years. Mr.
40 Rush said there are potentially millions of dollars resting on the Town’s ability to
41 provide this access over time. Mr. Rush noted that with the remaining 6 or 7
42 tracts on the oceanfront he wanted to bring to both Boards attention that as any
43 new subdivisions come along it would be wise to consider securing suitable land
44

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2 for that parking at the time of the development of the subdivision; particularly in
3 cases where private subdivisions are planned.
4

5 Mr. Rush said he had gathered up to this point that there was support for this
6 concept with an eye to the future, to make sure that our community qualifies for
7 funding as well as preserving public access in Emerald Isle. Mr. Rush stated
8 that they have made the case that the Town has these large regional public
9 facilities where they can park 200 -250 cars but the contention is that if the Town
10 wants federal or state money to nourish the beach then the beach has to be
11 easily accessible by half mile intervals with parking access. Mr. Rush noted that
12 the guidance given by the Corps of Engineers is that the parking would need to
13 be in place prior to the first construction project.
14

15 Commissioner Wootten felt it was important to recognize that 3-6 years from now
16 the Town would have a challenge meeting the requirements for public access on
17 the beach, but that is not what is being addressed tonight. He said what is being
18 addressed now is to not make the current situation any worse than it is right now,
19 and that the discussion is about undeveloped pieces of property.
20

21 Mr. Rush pointed out that staff is aware of the challenges particularly in the area
22 of Coast Guard Road and the gated subdivisions. The intention of staff bringing
23 this up for discussion was to make sure there was some mechanism in place so
24 that we didn't make the problem worse in the future.
25

26 Mayor Pro-Tem Messer stated that even if the Town had right-of-way parking all
27 along Ocean Drive, visitors are not going to go to those places, they will go to the
28 east and west accesses where there are bathhouse facilities.
29

30 Commissioner Allen asked if the Town provided all of the parking spaces
31 required if there is a guarantee that the federal government would nourish the
32 beach. Mr. Rush said there are no guarantees but they have been working hard
33 to secure that and would continue to work hard assuming that is the will of the
34 Board. Mr. Rush added that he and Ms. Sanderson had done a lot of work
35 coming up with a specific parking plan but they have intentionally not brought that
36 parking plan forward yet because it has not been the right time. This ordinance
37 tonight is geared toward not falling more behind with private subdivisions.
38

39 Alesia Sanderson, Parks & Recreation Director, stated in response to
40 Commissioner Allen's comments about the number of spaces already provided
41 by the Town, that the argument from the Corps was that the Town is only
42 providing access in two locations and by doing that they have privatized the rest
43 of the beach by not providing parking.
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Mayor Pro-Tem Messer stated that he would have a problem passing an ordinance amendment that would deter from property rights for something they are not sure will happen, and if it will happen when it will happen. He added though that if it is crunch time and something must be done to get the beach nourished he would do whatever is necessary, but he didn't feel comfortable at this point.

Commissioner Allen pointed out that the Town has 13 miles of beach, and there are 10 spaces required every half mile. The Town already has 565 parking spaces and the requirements are that we have 240. Commissioner Allen said it makes no sense that we have twice as many as we are required to have we just don't have them where they want them.

Bob Smith expressed his concerns about changing anything and spending tons of money in order to accommodate people nine months out of the year when the parking is not needed.

Mr. Rush clarified that we are not talking about spending any money right now, or building any parking spaces right now, but we are talking about an ordinance amendment which just preserves some opportunity in the future for public parking.

Commissioner Allen asked if the older subdivisions that are private now would be grandfathered or would there be a requirement that they provide parking. Mr. Rush said there would be no grandfathering, there would have to be some sort of plan for Lands End, Spinnakers, and Dolphin Ridge. The other issue is that there are many of these access points along the entire Town that look like public accesses, they're used by the public everyday, but they are actually owned privately by the owners in those subdivisions. That is just a whole other issue that down the road the Town will be dealing with.

Mr. Rush stated that the federal government is not saying the Town has to do this but what they are saying is that if the Town wants to secure federal beach nourishment money the requirements must be met and be in place before the first grains of sand go on the beach which is anywhere from 3-6 years away. Mr. Rush wanted the Boards to be aware that if the remaining 6 or 7 tracts become private subdivisions with no publicly dedicated roads or areas it will be a

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2 challenge to get parking in those subdivisions that will qualify for the federal and
3 state nourishment money. Mr. Rush said that it may be the policy decision not to
4 worry about that right now, or it may be the policy decision to do an ordinance
5 like this, or there may be some other decision.
6

7 Jerry Huml added that Emerald Isle is way ahead of most towns because the
8 Town has been working on this but there are still problems. He said there is a
9 good master plan already developed. There are options and hard decisions to
10 make. Mr. Huml said that we know where the problems areas are based on the
11 maps but the reason for the meeting tonight is to discuss whether the new
12 ordinances to affect new undeveloped subdivisions is a good idea or not. If it
13 isn't then we wouldn't want to do it, but if it is a good idea maybe we ought to be
14 doing it now and not waiting for 3 years from now.
15

16 The Boards discussed in further detail the potential ordinance amendments, the
17 pros and cons of the existing ordinance versus either Alternate 1 or 2, and
18 concerns regarding parking requirements and associated issues.
19

20 Mayor Pro-Tem Messer then opened the meeting to public comment.
21

22 John Hayes, 204 Windjammer South, had questions about the language in the
23 ordinance amendments concerning the effect on existing subdivisions and was
24 advised by Mr. Rush that both of the ordinances being discussed tonight, if
25 approved, would only apply to new subdivisions.
26

27 Dennis Delmauro, felt this legislation would ultimately do away with private
28 development, gated communities, expressing his concerns about the effect on
29 property values of those who now live in gated communities.
30

31 Rhett Ricks, 408 Emerald Landing, asked if there were any other communities
32 that are 100% compliant with these requirements and questioned the status of
33 other beach communities in meeting these requirements. Mr. Rush addressed
34 this question and noted that Indian Beach is 100% compliant.
35

36 Georgia Murray, 8738 Emerald Plantation Rd, stated that for years people using
37 the Merchants Park parking area had been marching through their campground
38 and trailer park, she questioned who would pay for the insurance when someone
39 was injured. Ms. Murray said for all of these years people at Merchants Park
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2 were using her property and others to get to the beach. Mr. Rush said there are
3 signs at Merchants Park that indicate it is not a public access, adding that this is
4 a challenge that will have to be addressed because there are many accesses up
5 and down the beach that people think are public but are private. The liability for
6 a public access would not be any different now than it has been for the past 50
7 years.

8
9 Rick Farrington, Emerald Landing, speaking as a developer and resident talked
10 about the possible parking available at McLean Park on the sound side and also
11 voiced concerns he had with the wording of the proposed ordinances relating to
12 proposed subdivisions. Mr. Farrington felt the whole town needed to be involved
13 in this and that it should be very fair and equitable.

14
15 David Barefield, felt that the Town is tagging new developments with this parking
16 issue, forcing them to open their doors to public parking, noting that if all the
17 other major problems cannot be dealt with or beach nourishment federal funding
18 goes away then when they do away with this concept, all that is left is that they
19 have tagged these new subdivisions with open access and public parking, and
20 felt they are being unfairly treated.

21
22 Billy Farrington, 8108 Sound Dr, stated that it seems like the Town wants 10
23 parking spaces for a 600 linear foot subdivision. He suggested that to be fair to
24 everyone concerned there would be one parking space for every 220 linear feet
25 of oceanfront. He felt they were trying to fix the problem for the whole half mile
26 with one subdivision and it didn't seem fair.

27
28 Ronnie Watson asked about the large tracts that were being mentioned. Mr.
29 Rush noted that that the properties being discussed are technically properties
30 that are either undeveloped or have the potential of being redeveloped.

31
32 Billy Farrington mentioned the possibility of negotiation with Representative Jean
33 Preston or others with the state to negotiate with the Corps of Engineers.

34
35 Kym Eckard, asked what the estimate of actual dollars would be for all of the
36 costs being discussed. Mr. Rush said the ballpark estimate is that the Town is
37 looking at the magnitude of hundreds of millions of dollars. Mr. Rush said the
38 program as it is currently structured 91% of the cost for beach nourishment for a
39 50 year period would be paid for by the federal and state government. If the
40 beach is nourished every 5-7 years over the 50 year period, maybe 7-10
41 nourishment cycles at \$25 million apiece, that's \$175 million and that is at today's
42 cost.

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2 Roy Parker, 103 Wiley Ct, spoke of his concerns for children and families with
3 public parking and privacy issues. He expressed concerns with problems such
4 as trash on the beach and felt the whole complex of Emerald Isle would change
5 drastically. Mr. Parker felt Emerald Isle was a wealthy beach and could pay its
6 own bill, noting that they have to this point. Mr. Rush said these were valid
7 issues for the Board to consider and it may be that the community decides that
8 they don't need beach nourishment or they will pay for themselves.

9

10 Doug Fleming, Lands End, said he had spoken to the Lands End insurance
11 agent and as they are now insured as a private subdivision there were concerns
12 about their insurance rating and coverage if changed to public.

13

14 Mayor Pro-Tem Messer thanked the public for their input.

15

16 Both Boards felt more time was needed to study this issue and at the outcome of
17 the meeting it was determined that the Planning Board would have this on their
18 next agenda for discussion.

19

20 ***Motion was made by Commissioner Wootten to adjourn the meeting. The***
21 ***Board voted 4-0 in favor. Motion carried.***

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23 ***The meeting adjourned at 7:45 pm.***

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25 Respectfully submitted:

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28

29 Rhonda C. Ferebee

30 Town Clerk

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