

1                                   **MINUTES OF THE REGULAR SCHEDULED MEETING**  
2                                   **OF THE EMERALD ISLE BOARD OF COMMISSIONERS**  
3                                   **TUESDAY, OCTOBER 12, 2010 – 7:00 P.M.**  
4                                   **TOWN BOARD MEETING ROOM**

5  
6  
7    **1. Call To Order**

8  
9    The regular monthly meeting of the Emerald Isle Board of Commissioners was  
10 called to order by Mayor Art Schools at 7:00 PM in the Emerald Isle Town Board  
11 Meeting Room.

12  
13   **2. Roll Call**

14  
15    Present for the meeting: Mayor Art Schools, Commissioners Nita Hedreen, Tom  
16 Hoover, Floyd Messer, John Wootten, and Maripat Wright.

17  
18    Others present during the regular meeting: Town Attorney Richard Stanley,  
19 Town Manager Frank Rush, Asst. Town Manager /Finance Officer Mitsy  
20 Overman, Town Clerk Rhonda Ferebee, Planning Director Kevin Reed, Parks &  
21 Recreation Director Alesia Sanderson, and Police Chief Bill Hargett.

22  
23   **3. Opening Prayer**

24  
25    Mayor Schools offered opening prayer for the meeting.

26  
27   **4. Pledge of Allegiance**

28  
29    All who were present recited the Pledge of Allegiance.

30  
31   **5. Adoption of Agenda**

32  
33    ***Motion was made by Commissioner Hedreen to adopt the Agenda. The***  
34 ***Board voted unanimously 5-0 in favor. Motion carried.***

35  
36   **6. Introduction of New Employees**

- 37  
38       **a. Laurie Morris, Recreation Coordinator**  
39       **b. Tiffany Wood, Administrative Assistant**

40  
41    Parks and Recreation Director Alesia Sanderson introduced new Recreation  
42 Coordinator Laurie Morris. Ms. Sanderson stated that Laurie was originally from  
43 Richmond, Virginia, a 2005 graduate of East Carolina University. Laurie came  
44 on board originally as part-time After-School Coordinator and Summer Camp  
45 Director; and those responsibilities had now been transitioned into her current  
46 position as recreation coordinator. Laurie and her family reside in Peletier.

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1  
2 Asst. Town Manager/Finance Officer Mitsy Overman introduced new  
3 Administrative Assistant Tiffany Wood. Ms. Overman stated that Tiffany was  
4 born in Florida, lived most of her life in northern Virginia, moving to North  
5 Carolina in 2001. Ms. Wood attended University of North Carolina-Wilmington  
6 and continued her education at Coastal Carolina Community College. Tiffany  
7 previously worked for the Town of Swansboro. Tiffany and her family reside in  
8 Emerald Isle.

9  
10 The Board and public welcomed both new employees to Emerald Isle.

11  
12 Mayor Schools and the Board thanked town employees particularly Town  
13 Manager Rush for efforts made removing storm water. Town Manager Rush  
14 noted that the storm was considered a 200 – 500 year storm event.

15  
16 **7. Proclamations / Public Announcements**

17  
18 Mayor Schools announced the following announcements for the public:

- 19  
20 • **7<sup>th</sup> Annual Emerald Isle Triathlon – Saturday, October 16 – 8 am –**  
21 **Eastern Ocean Regional Access**  
22 • **Bike Path Charity Golf Tournament – Saturday, October 16 – 8 am –**  
23 **Silver Creek Resort (rescheduled to Saturday, November 6)**  
24 • **Walking Club – Tuesday, October 19 – 6 pm – Community Center**  
25 • **Gordie McAdams Speckled Trout Surf Fishing Tournament – October**  
26 **23 – December 4**  
27 • **Planning Board Regular Meeting – Monday, October 25 – 6 pm –**  
28 **Town Board Meeting Room**  
29 • **Halloween Carnival – Friday, October 29 – 6 pm – 8 pm – Community**  
30 **Center**  
31 • **Trick or Treat – Sunday, October 31 – 6 pm – 8:30 pm**  
32 • **Election Day – Tuesday, November 3 – Community Center**  
33 • **Board of Commissioners Regular Meeting – Tuesday, November 9 –**  
34 **7 pm – Town Board Meeting Room**  
35 • **Veteran’s Day Holiday – Thursday, November 11 – Town Offices**  
36 **Closed, Community Center Open**  
37 • **“Just Plain Pete” Pete Allen Remembrance – Friday, November 19 –**  
38 **6 pm – 8 pm – Community Center**  
39 • **7<sup>th</sup> Annual Christmas Parade – Saturday, November 27 – 3 pm –**  
40 **NC 58**

41  
42 Mayor Schools pointed out that Louise Rhodes was back in attendance following  
43 some health issues and he was glad to see her back at the Town Board meeting.

44

1  
2 **8. Consent Agenda**  
3

- 4 a. Minutes – September 14, 2010 Regular Meeting  
5 b. Tax Refunds / Releases  
6 c. Resolution Declaring Surplus Items for Public Auction (10-10-12/R1)  
7

8 *Motion was made by Commissioner Hoover to approve the items on the*  
9 *Consent Agenda. The Board voted unanimously 5-0 in favor. Motion*  
10 *carried.*

11  
12 **Clerks Note:** A copy of Resolution 10-10-12/R1 and all Consent Agenda items as noted above are all  
13 incorporated herein by reference and hereby made a part of these minutes.  
14

15 **9. Public Comment**  
16

17 **Brief Summary:** The public has the opportunity to address the Board about any  
18 items of concern not on the agenda.  
19

20 There were no comments from the public.  
21

22 **10. Resolution Requesting Establishment of No Wake Zone – Bogue Sound**  
23 **Near Archers Point (10-10-12/R2)**  
24

- 25 a. Public Hearing  
26 b. Consideration of Resolution  
27

28 Town Manager Frank Rush addressed the Board regarding this agenda item.  
29 The following excerpt from his memo to the Board is provided for additional  
30 background:  
31

32 The Board of Commissioners is asked to consider the attached resolution requesting the establishment of a formal No  
33 Wake Zone in Bogue Sound near Archers Point. The authority to establish a formal No Wake Zone rests with the NC  
34 Wildlife Resources Commission (NC WRC), and the attached resolution would be forwarded to NC WRC for review  
35 and potential action. A public hearing is required before Board consideration of the attached resolution, and has been  
36 scheduled for the October 12 meeting.  
37

38 The attached map indicates the proposed boundaries of the No Wake Zone. The proposed No Wake Zone occupies  
39 approximately 1,200 linear feet of the new marked navigation channel leading from the new public boat launching  
40 facility to the Atlantic Intracoastal Waterway. This segment of the new marked navigation channel is located within 200  
41 feet of existing docks in the Archers Point neighborhood, and the No Wake Zone is intended to improve safety and  
42 prevent damage to personal vessels and property in this area.  
43

44 This No Wake Zone was envisioned from the inception of the new public boat launch facility project, and is supported  
45 by residents in the Archers Point area. NC WRC staff also supports the establishment of the No Wake Zone. As such,  
46 we are optimistic that the NC WRC commission members will ultimately approve the establishment of the No Wake  
47 Zone.  
48  
49

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1  
2 If the Board approves the attached resolution, a formal application will be submitted to the NC WRC within a few days  
3 of the October 12 meeting. The NC WRC would likely take formal action in early 2011, prior to the opening of the new  
4 public boat launch facility.

5  
6 We are not certain at this point if the No Wake Zone signs will be mounted on fixed pilings, or will be incorporated into  
7 the planned buoys along the new marked navigation channel. We expect that the NC WRC staff will install the  
8 appropriate signage / buoys as a part of the other work associated with the construction of the new public boat  
9 launching facility.

10  
11 **Motion was made by Commission Hedreen to open the Public Hearing. The**  
12 **Board voted unanimously 5-0 in favor. Motion carried.**

13  
14 There were no comments from the public.

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

18  
19 **Motion was made by Commissioner Hoover to adopt the Resolution**  
20 **Requesting Establishment of No Wake Zone – Bogue Sound at Archers**  
21 **Point. The Board voted unanimously 5-0 in favor. Motion carried.**

22  
23 **Clerks Note: A copy of Resolution 10-10-12/R2 is incorporated herein by reference and hereby made**  
24 **a part of these minutes.**

25  
26 **11. Ordinance Amending Chapter 4 – Use Regulations – of the Unified**  
27 **Development Ordinance Regarding Mobile Home Standards (10-10-12/01)**

- 28  
29 **a. Public Hearing**  
30 **b. Consideration of Ordinance**

31  
32 Planning Director Kevin Reed addressed the Board regarding this agenda item.  
33 The following excerpt from his memo to Town Manager Frank Rush is provided  
34 for additional background:

35  
36 Currently, the Town's Unified Development Ordinance (UDO) restricts the age of mobile homes that may be set-up in  
37 the Town. This provision applies to homes that are being set-up for the first time as well as existing homes that are  
38 being relocated within the Town. Specifically, Section 4.2.6 of the UDO contains the following:

39  
40 "In no case shall there be more than one (1) mobile home be allowed per lot. The mobile home shall be no  
41 more than five (5) years old at the time the mobile home is placed or installed on the lot."

42  
43 There have been considerable discussions among my colleagues in the planning and zoning field that any age  
44 restriction on mobile homes would be held to be invalid if challenged in court. This same opinion had been shared with  
45 planning and zoning professionals by the staff at the Institute of Government in Chapel Hill. Last year these  
46 discussions were reinforced by a court case from Pasquotank County, NC. In 2001, Pasquotank County adopted an  
47 ordinance that restricted the age of a mobile homes that could be set up in its jurisdiction. Specifically, the Pasquotank  
48 ordinance did not allow for a home to be placed in the County that was older than 10 years. An applicant who was  
49 denied a permit to set-up a home older than 10 years subsequently sued the County. In February of 2009, the N.C.  
50 Court of Appeals ruled that the County's ordinance was invalid and that the placement of an age restriction was

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1  
2 beyond the statutory authority of the County. In addition, Town staff has received feedback from at least one mobile  
3 home dealer who was concerned about the Town's age restriction in light of the aforementioned court case.

4 The existing language in the UDO was recently discussed with Town Attorney Richard Stanley and he agreed that the  
5 Towns' current restriction limiting the age of homes was problematic in light of the court's decision relative to  
6 Pasquotank County's regulations.

7  
8 The U.S. Department of Housing and Urban Development (HUD) establishes the guidelines and construction  
9 standards for mobile homes/manufactured homes which is known as the HUD code. In July of 1994, HUD designated  
10 three categories for mobile homes according to zones and those are Zones 1, 2 and 3. These zones corresponded to  
11 the homes potential exposure to high winds. Zone 3 homes are potentially subjected to the highest winds and have  
12 the most stringent wind requirements. The NC Building Code incorporates these wind zone standards and requires all  
13 mobile homes set-up in the Town of Emerald Isle to be Zone 3 homes. Based on the discussion with Richard Stanley,  
14 and with his guidance, staff developed alternative language for Section 4.2.6 of the UDO that should insure that Town  
15 is not subject to a successful legal challenge over its age restriction on mobile homes.

16  
17 This issue was discussed with the Planning Board at its meeting held on September 27, 2010. The proposed  
18 amendment would make the requirements of the Town's UDO consistent with the N.C. Building Code for homes that  
19 can be placed in Emerald Isle. One result of the amendment is that no mobile home constructed prior to July of 1994  
20 could potentially be set up in the Town. Following its discussion of the proposed amendment to the UDO, the Planning  
21 Board voted unanimously (6 to 0) to recommend to the Board of Commissioners that the amendment to the UDO be  
22 approved. Attached to this memorandum is a copy of the proposed amendment in ordinance format. In the ordinance,  
23 text being deleted is shown in a strikethrough format and text being added is shown in an underlined format.

24  
25 ***Motion was made by Commissioner Wright to open the Public Hearing.***  
26 ***The Board voted unanimously 5-0 in favor. Motion carried.***

27  
28 There were no comments from the public.

29  
30 ***Motion was made by Commissioner Hoover to close the Public Hearing.***  
31 ***The Board voted unanimously 5-0 in favor. Motion carried.***

32  
33 Planning Director Reed responded to a question from Commissioner Hedreen  
34 about mobile homes that were built in 1990 or 1991 with Wind Zone 3, that based  
35 on conversations he had with mobile home dealers he hadn't been aware that  
36 there were any Zone 3 homes built before 1994 but that certainly any home that  
37 had the HUD seal indicating it was a Zone 3 home would be permissible in the  
38 Town of Emerald Isle and could be set up or relocated.

39  
40 ***Motion was made by Commissioner Wootten to adopt the Ordinance***  
41 ***Amending Chapter 4 – Use Regulations – of the Unified Development***  
42 ***Ordinance Regarding Mobile Home Standards. The Board voted***  
43 ***unanimously 5-0 in favor. Motion carried.***

44  
45 **Clerks Note: A copy of Ordinance 10-10-12/O1 is incorporated herein by reference and hereby made**  
46 **a part of these minutes.**

47  
48  
49

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**12. Local Golf Cart Program (10-10-12/02)**

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

The Board of Commissioners is scheduled to consider the attached ordinance to formally establish a local golf cart program at the October 12 regular meeting. The attached ordinance would permit the operation of "non-street legal" golf carts on most public streets in Emerald Isle, provide they are registered with the Town and adhere to certain requirements. The Board is also scheduled to consider the attached amendment to the Town's fee schedule to formally establish an annual registration fee for the program.

The attached ordinance is nearly identical to the version reviewed by the Board at the September 14 regular meeting. However, in response to Board comments during the September 14 meeting, three changes have been made to the September 14 version:

- the minimum age to register and operate a golf cart has been increased to 18 years of age (compared to 16 years of age in the previous version),
- registered golf carts would be issued a Town license plate and registration decal, which should make it easier to identify permitted golf carts (compared to only a decal in the previous version), and
- the ordinance stipulates that a golf cart must be registered to a physical address in Emerald Isle in order to be eligible for a permit.

Background

North Carolina law prohibits the use of golf carts on public streets unless the golf cart is registered with the NC Division of Motor Vehicles (NC DMV) as "street-legal". In order to be registered with the NC DMV, the golf cart must be manufactured to certain specifications, including a specified vehicle identification number similar to that issued for a traditional motor vehicle. A "street-legal" golf cart must also be equipped with a more powerful motor that enables the golf cart to travel at approximately 25 miles per hour, and the golf cart must be equipped with a speedometer. In addition, "street-legal" golf carts must also be equipped with headlights, stoplights, turn signals, taillights, reflectors, parking brakes, rearview mirrors, windshields, windshield wipers, and seat belts. It is difficult and expensive (approximately \$2,000 or more) to modify a typical golf cart to make it "street-legal", and this can only be completed by a certified manufacturer on certain newer golf carts.

Although "non-street legal" golf carts are not permitted on public streets, North Carolina law does allow a municipality to adopt a local golf cart program and regulate the use of golf carts on public streets within the municipality. Emerald Isle was one of a handful of municipalities granted this authority several years ago, and this authority was eventually extended to all NC municipalities in 2009. As you know, the Town has received various requests over the past few years to establish a local program whereby golf carts could legally be operated on public streets. In response to a request at the Board's July 13 meeting, the Board directed Town staff to draft an ordinance to establish a local golf cart program, and to place appropriate emphasis on safety concerns.

I drafted the attached ordinance after reviewing numerous ordinances adopted by other NC municipalities and regulations adopted by private property owner associations. Most of the ordinances reviewed included similar provisions, but the attached draft was based primarily on ordinances adopted by the City of Morganton and the Town of Blowing Rock. I also solicited input from the Town Attorney, Police Chief, the owners of two local golf cart dealerships, and Mr. Floyd Mitchell, the property owner who made the request to the Town at the July 13 Board meeting. A draft version of the ordinance was presented to the Board and the community at the September 14 regular meeting, and the attached ordinance incorporates three changes based on Board comments at the September 14 regular meeting (as noted at the beginning of this memo).

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1  
2 Registration Requirements

3 The attached ordinance establishes a local golf cart program and allows the use of golf carts on all public streets (with  
4 two important exceptions) and land owned or leased by the Town, provided the golf cart is registered with the Town  
5 and the golf cart and driver adhere to the provisions of the attached ordinance. In order to register a golf cart with the  
6 Town, the owner must be at least 18 years old and possess a valid drivers license, and must maintain liability  
7 insurance. The registered golf cart must not have been modified to exceed a speed of 20 mph and must have an  
8 identifiable identification number (different from a vehicle identification number). Additionally, the golf cart must be  
9 registered to a physical address in Emerald Isle.

10  
11 The registered golf cart must also include the following safety features:

- 12
- 13 • headlights,
  - 14
  - 15 • tail lights,
  - 16
  - 17 • brake signals,
  - 18
  - 19 • turn signals,
  - 20
  - 21 • a rearview mirror,
  - 22
  - 23 • side reflectors,
  - 24
  - 25 • a parking brake,
  - 26
  - 27 • a windshield, and
  - 28
  - 29 • seatbelts.
  - 30

31 In addition, the golf cart may have no more than 3 rows of seats. The attached ordinance incorporates all of the same  
32 requirements that NC DMV specifies for "street-legal" golf carts, with the exception of the need for a traditional vehicle  
33 identification number, a 25 mph motor, a speedometer, windshield wiper, and rear reflectors. The local golf cart  
34 dealerships have indicated that many typical golf carts already include many of the safety features required in the  
35 attached ordinance, and that the cost to add seat belts and turn signals is approximately \$300 - \$400. Town staff  
36 would complete an inspection of each golf cart to insure that it meets these requirements prior to the issuance of a  
37 Town golf cart license plate and registration decal.

38  
39 Operating Requirements

40 The attached ordinance also outlines the regulations that pertain to the operation of golf carts on public streets in  
41 Emerald Isle. The most significant provisions are as follows:

- 42
- 43 • golf carts can not be operated on any portion of NC 58 (Emerald Drive) or any portion of Coast Guard  
44 Road, so as not to create traffic backups and/or create safety concerns when traditional motor vehicle  
45 drivers attempt to pass a golf cart,
  - 46
  - 47 • golf carts are permitted to cross NC 58 and Coast Guard Road, but must do so in a straight line and  
48 not travel along NC 58 or Coast Guard Road,
  - 49
  - 50 • the driver of the golf cart must be at least 18 years of age and have a valid drivers license in his / her  
51 possession (an adult who knowingly allows an underage driver to operate a golf cart will be charged  
52 with contributing to the delinquency of a minor),
  - 53
  - 54 • seat belts must be used by all drivers and passengers in the golf cart,

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- golf carts must be operated in accordance with all applicable State and local traffic laws and ordinances, including those pertaining to alcoholic beverages,
- golf carts are subject to the same parking regulations as traditional motor vehicles, and can not park in areas with No Parking signs, but would be permitted to park in specially designated "golf-cart-only" parking spaces to be created by the Town in the future,
- golf carts may not be operated on any sidewalks, multi-use paths, or bicycle paths,
- golf carts could not be driven at night (not allowed from one half hour after sunset to one half hour before sunrise), and
- all golf carts will be required to yield the right of way to traditional motor vehicles.

The ordinance also stipulates that NC motor vehicle laws will also apply to the operation of golf carts under this ordinance, and our intention is that the majority of violations (including the operation of an unregistered golf cart) will be issued as violations of NC motor vehicle laws, although Police Officers will also have the ability to issue a civil citation for violating the Town's ordinance. The ordinance also stipulates that a golf cart permit can be revoked or the Town may refuse to issue a permit if the owner and/or the golf cart have been involved in 3 or more violations over a 3-year period.

Geographical Limitations

The Board should note that the prohibition on operating a golf cart on NC 58 and Coast Guard Road, along with the unique geography of Emerald Isle, will limit the locations that some golf cart operators may visit and will restrict their operation to certain areas of Emerald Isle. For example, everyone with a golf cart who lives off of Coast Guard Road will not be able to travel very far from their own neighborhood due to the fact that some communities can only be accessed from Coast Guard Road. As a case in point, golf carts could not leave Lands End, Dolphin Ridge, Royall Oaks, or Spinnakers Reach because they'd have no option but to travel on Coast Guard Road. Likewise, the owner of a golf cart in Cape Emerald could travel across Coast Guard Road and drive to the beach or to Deer Horn Dunes or Sea Dunes, but could not drive the golf cart to Emerald Plantation because such a trip requires the use of Coast Guard Road. Similarly, residents who live east of East Landing Drive will not be able to travel west of that point because of the break in Ocean Drive and the prohibition on the use of golf carts on bicycle paths. Residents in the Summer Place, Sea Crest, and Shell Cove subdivisions will also be limited because of the break in Ocean Drive and the prohibition on the use of golf carts on bicycle paths.

Golf cart operators in and east of Shell Cove and west of Coast Guard Road will be allowed to travel in many areas, including to and along the beach strand, but will be prevented from traveling beyond those points. Additionally, property owners who live on NC 58 and Coast Guard Road will not be able to operate a golf cart anywhere other than on their own property. Golf cart operators between Coast Guard Road and Shell Cove will have many more travel options due to the presence of low-speed side streets that will enable legal travel to Emerald Plantation, Bogue Inlet Pier, the Western Ocean Regional Access, other neighborhood public beach accesses, and other commercial locations.

Parking Issues

The Board should also note that golf carts would be subject to the same parking regulations as traditional motor vehicles, and as such would generally not be allowed to park near neighborhood public beach accesses. The attached ordinance does permit golf carts to park in special "golf-cart-only" parking spaces that could be specifically created by the Town in the future in areas where they would not impact adjacent property owners in any significant way. For example, the Ocean Oaks public beach access has a paved area that could easily be identified as "golf-cart-only" parking. It may also be easy to create "golf-cart-only" parking spaces at the Channel Drive walkway, and perhaps others over time. I envision that these "golf-cart-only" parking spaces would be created on a case by case basis in the future.

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1  
2 Certain Golf Carts Not Subject to Attached Ordinance

3 The Board should also note that the attached ordinance would not apply to "street-legal" golf carts registered with NC  
4 DMV, and any such vehicles with NC license plates would not be required to register with the Town nor would be  
5 subject to the regulations in the attached ordinance. These vehicles will continue to operate under NC motor vehicle  
6 laws. For example, "street-legal" golf carts may continue to utilize Coast Guard Road and the 35 mph zone of NC 58,  
7 as they always have. Additionally, the attached ordinance will not apply to golf carts operated exclusively within private  
8 subdivisions. For example, a golf cart that never leaves the Lands End community would have no need or reason to  
9 register with the Town. Additionally, the attached ordinance would not apply to golf carts operated as handicapped-  
10 mobility devices by a person with an official handicapped placard. In these instances, the handicapped driver of a golf  
11 cart is treated in the same manner as a pedestrian and would not be subject to the requirements of the Town's  
12 ordinance.  
13

14 The attached ordinance would not be effective until January 1, 2011. This delay would provide ample time to establish  
15 the program, order license plates and decals, and would set us up nicely for an annual registration process. The  
16 attached ordinance provides for an annual registration process and fee.  
17

18 The attached fee schedule amendment establishes a \$75 annual registration fee for golf carts in Emerald Isle. These  
19 fees would enable the Town to recover the costs associated with administering this program, and excess revenues  
20 could be earmarked for the future creation of "golf-cart-only" parking spaces.  
21

22 Town Manager Rush noted that based on input received from the Board and the  
23 public at the September meeting they had made a few changes. There was now  
24 a provision in the ordinance establishing a minimum age to drive a golf cart at 18  
25 years of age, and the requirement to possess a valid driver's license. Also, in  
26 addition the ordinance called for the issuance of a specific Town of Emerald Isle  
27 golf cart license plate that would be easier for the police officers and the public to  
28 view an identification number; and they envisioned affixing a decal each year  
29 when someone registered a golf cart. Mr. Rush said they had also stipulated in  
30 the ordinance that in order to be registered in the Town's program a golf cart had  
31 to be registered to an address in Emerald Isle. Mr. Rush indicated a revision he  
32 had provided the Board tonight added one more requirement for the operator;  
33 that the operator of the golf cart had to be a resident, property owner, authorized  
34 guest, or tenant of property with a physical address in Emerald Isle.  
35

36 Mr. Rush stated they had incorporated a lot of good safety components into the  
37 ordinance. There were requirements for the golf carts to have headlights,  
38 taillights, turn signals, seat belts, among other things. Golf carts would be  
39 allowed on all Town streets except for Highway 58 and Coast Guard Road for  
40 safety reasons.  
41

42 Town Manager Rush also pointed out based on questions received following the  
43 September meeting that if someone had a street legal golf cart currently  
44 registered with the North Carolina Division of Motor Vehicles this ordinance did  
45 not apply to them, they would continue to register with the State and operate  
46 according to the typical motor vehicle laws. Similarly, if someone was using a  
47 regular golf cart (non street legal) as a handicap mobility device, this ordinance  
48

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1  
2 did not apply to them either; golf carts used as handicap mobility devices were  
3 essentially treated like a pedestrian.  
4

5 Commissioner Hedreen asked for a definition of authorized guest. Mr. Rush said  
6 that could be if you had friends or family staying with you at your home. If  
7 someone owned a vacation rental home and provided a golf cart as part of the  
8 package then they would also be an authorized guest or more properly a tenant  
9 of property. Nothing in this ordinance would prevent a guest from using a golf  
10 cart provided the owner had registered the golf cart with the Town, and provided  
11 that all operating requirements were followed.  
12

13 Commissioner Wootten asked Police Chief Hargett if the golf carts would have  
14 regular sized license plates or stickers with month and year. Chief Hargett said  
15 they were looking at plates the same size as a traditional vehicle, and to add a  
16 validation sticker to be placed on the golf cart annually or possibly on the  
17 windshield as proof of renewal each year. Mr. Rush said the intention was to  
18 make it effective January 1 of each year so the Town doesn't have to keep track  
19 of the rolling registration throughout the year like DMV would and that there was  
20 no plan to prorate fees.  
21

22 Mayor Schools asked for any public comment.  
23

24 Carl Abee, Sound Drive, asked whether operators of licensed (street-legal) golf  
25 carts were required to have their driver's license to drive. Mr. Rush said he  
26 believed they were. Mr. Abee asked whether the new age 18 requirement would  
27 apply to the street legal golf carts. Mr. Rush said none of these requirements  
28 would apply to street legal golf carts. Mr. Abee asked if the cart was already  
29 licensed whether they could drive at 16. Mayor Schools added that if they had a  
30 street legal golf cart they wouldn't need a Town tag but would have a State tag  
31 and they would fall under the State requirements.  
32

33 ***Motion was made by Commissioner Messer to adopt the Ordinance***  
34 ***Amending Chapter 11 – Motor Vehicles and Traffic – of the Code of***  
35 ***Ordinances to Permit and Regulate the Operation of Golf Carts on Public***  
36 ***Streets. The Board voted unanimously 5-0 in favor. Motion carried.***  
37

38 **Clerks Note: A copy of Ordinance 10-10-12/O2 is incorporated herein by reference and hereby made**  
39 **a part of these minutes.**  
40  
41  
42  
43  
44  
45  
46  
47  
48

1  
2  
3 **13. Resolution Requesting Water Resources Development Project Grant**  
4 **Funding for Eastern Emerald Isle Beach Nourishment Project (10-10-12/R3)**  
5

6 Town Manager Frank Rush addressed the Board regarding this agenda item.  
7 The following excerpt from his memo to the Board is provided for additional  
8 background:  
9

10 The Board of Commissioners is scheduled to consider the attached resolution authorizing a State funding request for  
11 the Eastern Emerald Isle Beach Nourishment Project that is being pursued for early 2012. If approved, the Town will  
12 request a grant from the NC Water Resources Development Project Grant Program in the amount of \$2,250,000.  
13

14 As you know, the Board approved a contract with Moffatt & Nichol Engineers in August 2010 to pursue permits for the  
15 placement of approximately 300,000 cubic yards of sand in eastern Emerald Isle. The proposed project envisions a  
16 partnership with the US Army Corps of Engineers to place sand dredged from the Morehead City Harbor Federal  
17 Navigation Project (that would otherwise be deposited offshore) on the ocean beach in eastern Emerald Isle in early  
18 2012. This sand would be transported via hopper dredge from the Morehead City Harbor to eastern Emerald Isle, and  
19 pumped onshore in a still yet-to-be-determined reach between the Indian Beach town line and the Eastern Ocean  
20 Regional Access (likely to be centered on the area between 10<sup>th</sup> and 20<sup>th</sup> Streets). As reported in August, this area of  
21 Emerald Isle has experienced the greatest erosion in recent years, and is most in need of additional nourishment at  
22 this time.  
23

24 The total estimated cost of the project is \$8.5 million, including harbor dredging costs. The US Army Corps of  
25 Engineers is expected to provide at least \$4 million to cover harbor dredging costs, leaving a balance of \$4.5 million for  
26 the transport and placement of sand on the beach. The attached resolution requests \$2,250,000, or 50% of this  
27 amount, from the NC Water Resources Development Project Grant Program in FY 11-12. The Town and the Carteret  
28 County Beach Commission would provide the remaining \$2,250,000 necessary for the project, with each providing  
29 \$1,125,000. The Beach Commission would utilize room occupancy tax funds for its share, and the Town's proposed  
30 new beach nourishment special district taxes are expected to generate sufficient revenues to cover the Town's cost.  
31

32 The Town's funding request will be considered by the NC General Assembly during FY 11-12 budget deliberations,  
33 and it will be important to secure support from our legislative delegation. As you know, the State will be facing  
34 significant budget challenges in FY 11-12, and the appropriation of \$2,250,000 by the State for this project will require  
35 diligence on the part of the Town, the County, and our legislative delegation. Because of the Federal component to  
36 this project and the State's consistent track record of providing matching State funds for Federal – State – Local  
37 projects, we believe that we have a reasonable chance of securing the necessary State funding in FY 11-12. If the  
38 Board approves the attached resolution, we will submit a formal grant application in the coming weeks and immediately  
39 begin working with our legislative delegation on this issue.  
40

41 The completion of this project will result in additional beach width in eastern Emerald Isle, and will maintain the storm  
42 protection value of the beach in this area. The completion of this project will restore the beach profile volume in  
43 eastern Emerald Isle to a level nearly consistent with other areas of the beach in Emerald Isle and other areas of  
44 Bogue Banks, and should delay the need for a more comprehensive beach nourishment project. The completion of  
45 this project will also insure that Emerald Isle adheres to its Beach Monitoring and Maintenance Plan and retains  
46 eligibility for FEMA assistance to replace sand lost during declared disaster events in the future.  
47

48 The construction of the Eastern Emerald Isle Beach Nourishment Project is heavily dependent on our ability to secure  
49 the State funding included in the attached resolution in the time frame indicated. If we are unable to secure the  
50 necessary State funds, it is almost certain that this project will not occur, and will be delayed until such time that a  
51 meaningful State contribution can be secured. The timing of any subsequent effort to nourish eastern Emerald Isle  
52 would then depend on the Federal navigation dredging schedule, other planned sand placement activities, and other  
53 more comprehensive beach nourishment project plans that may evolve over time if this project does not occur in 2012.

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1  
2 Town Manager Rush in response to a question from Commissioner Wootten to  
3 clarify the permit process, stated that the recent news article he referenced  
4 referred to part of the whole 30 year EIS permitting process for all of Bogue  
5 Banks that hopefully would result in a 30 – 50 year permit where each time they  
6 want to nourish the beach it was a very simple process. It would probably take  
7 the next 2-3 years to go through that process. The permit process for this project  
8 was basically such a small project, using a known quantity sand source, very  
9 good quality sand, and what they were trying to do was amend the previous  
10 permits issued for beach nourishment projects, most recently the Hurricane  
11 Ophelia touch up project done in 2007. Technically that permit was still active,  
12 and because this was such a small project the guidance from the Division of  
13 Coastal Management was to just go ahead and amend.

14  
15 ***Motion was made by Commissioner Wright to adopt the Resolution***  
16 ***Requesting Water Resources Development Project Grant Funding for***  
17 ***Eastern Emerald Isle Beach Nourishment Project. The Board voted***  
18 ***unanimously 5-0 in favor. Motion carried.***

19  
20 Clerks Note: A copy of Resolution 10-10-12/R3 is incorporated herein by reference and hereby made  
21 a part of these minutes.

22  
23 **14. REVISED Formal Agreement With NC Wildlife Resources Commission**  
24 **for Construction, Operation, and Maintenance of New Public Boat Launch**  
25 **Facility**

26  
27 Town Manager Frank Rush addressed the Board regarding this agenda item.  
28 The following excerpt from his memo to the Board is provided for additional  
29 background:

30  
31 The Board of Commissioners is scheduled to consider a slightly REVISED formal agreement with the NC Wildlife  
32 Resources Commission (NC WRC) for the new public boat launching facility at the October 12 meeting. As you may  
33 recall, the Board approved an earlier version of this agreement at the Board's September 14 meeting, however, the  
34 attached REVISED agreement includes amendments based on additional comments received from the NC Attorney  
35 General's Office since the Board's September 14 meeting. These amendments do not alter the main provisions of the  
36 previously approved agreement.

37  
38 As you know, the Town and NC WRC have developed an excellent partnership on this project, and the attached  
39 agreement formalizes this partnership for the construction, operation, and maintenance of the new public boat launch  
40 facility. The key provisions of the attached agreement are as follows:

- 41  
42
- 43 • The Town will lease the combined site (23 acres - 7 lots in Shell Cove North plus McLean Park site) to the NC  
44 WRC for 97 years and 4 months (to coincide with the separate lease arrangement between the Town and EI  
45 Parks and Recreation Association, Inc. for McLean Park), with 3 automatic 50-year renewals.
  - 46 • The annual rent payment from WRC to the Town is \$1.
- 47  
48  
49

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- NC WRC will design, permit, construct, operate, and maintain (major maintenance only) the new public boat launching facility on the site at its expense.
- The facility will be an official NC WRC public boat launching facility, and will be operated according to standard NC WRC rules and regulations. The facility will allow free public boat access at the site, including vehicle and trailer parking, and will be open 24 hours a day 7 days a week with no closure of the site, except for repair and improvements or emergency situations.
- NC WRC will be responsible for major maintenance items, including boat ramps, bulkheads, docks, canal dredging, parking lot, storm water features, lights, buildings, and other major improvements, unless otherwise agreed to or developed by the Town.
- NC WRC will be responsible for utility costs associated with the new public boat launch facility.
- The Town will be responsible for daily and routine maintenance, including landscaping, mowing, cleaning of restrooms, trash collection, and any major improvements agreed to or developed by the Town.
- The Town will have the ability to develop other soundfront park features as funds permit over time on those areas of the overall site not used by the NC WRC.
- NC WRC will assume liability for any claims arising on or about the premises, within the coverage of the Tort Claims Act. The Town will be liable for any loss or damages which are a direct result of the Town's actions under this agreement.

The Board should note that the additional comments from the NC Attorney General's Office are primarily associated with their additional review of the lease agreement between the Town and the Emerald Isle Parks and Recreation Association, Inc. As you know, technically, the Town is leasing the "McLean Park" site behind Chapel By The Sea from the Emerald Isle Parks and Recreation Association, Inc., and will now sublease that site to the State for inclusion in the overall public boat launching facility. The most significant revisions are included in paragraph 10 ("Master Lease") of the lease agreement between the Town and the State, and address potential inconsistencies between the Town's lease with Emerald Isle Parks and Recreation Association, Inc. and the Town's lease agreement with the State.

NC WRC expects to begin construction of the water-based improvements with its own staff this week. The State opened bids for construction of the parking area and storm water system on September 30, and SunLand Development and Construction, Cape Carteret, NC, was the apparent low bidder. Barring any irregularities, the State expects to formally award the construction contract to SunLand in the next couple of weeks, with work beginning soon thereafter.

***Motion was made by Commissioner Hoover to approve the REVISED Formal Agreement with the NC Wildlife Resources Commission for the Construction, Operation, and Maintenance of the New Public Boat Launch Facility, and to authorize the Mayor to execute such agreement. The Board voted unanimously 5-0 in favor. Motion carried.***

Town Manager Rush added that Wildlife Resources Commission staff had arrived and started work on the site placing pilings for the dock in the boat basin area. They had also completed the bid process for the parking lot and the storm water features; Sunland Development & Construction was the low bidder of the contract. Mr. Rush said he expected they would formally award that

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1  
2 contract within the next few weeks with Sunland hopefully starting within the next  
3 30-60 days.

4  
5 Mr. Rush noted on a related matter he received word from the Department of  
6 Transportation that they were opening bids for the resurfacing contract of  
7 Highway 58 and also the turn lane associated with the boat launch facility, and  
8 had specified a contract completion date of December 1 though April 1, 2011.  
9 The turn lane should be constructed and match up well with the construction of  
10 the new facility as well as the no wake zone.

11  
12 Carl Abee, Sound Drive asked whether the No-Wake zone would be enforced by  
13 the Wildlife Resources Commission or strictly by the Town. Mayor Schools  
14 stated it would not be the Town. Mr. Abee said the reason he asked was that a  
15 friend of his was the officer for this county and just like in Cedar Point they  
16 decided not to enforce that no wake zone so the Town itself was responsible.

17  
18 Commissioner Hoover said that the no wake zone in Cedar Point was not an  
19 official no wake zone designated by the State of North Carolina. Any blue light  
20 can enforce a no speed – Coast Guard, Wildlife, or anyone licensed to do that  
21 and not just wildlife. Mr. Rush said the Town certainly didn't have water  
22 enforcement capabilities and didn't envision the Town being involved. Mr. Abee  
23 said he was told that if Wildlife Resources decided they were not going to enforce  
24 then it would be up to the Town.

25  
26 Mr. Rush said that when the full commission considered the No Wake Zone, their  
27 expectation was that they would enforce it. Mr. Rush said when this got to the  
28 full wildlife resources commission it would come with a full recommendation by  
29 the WRC staff.

30  
31 **Clerks Note: A copy of the Revised Formal Agreement with NC Wildlife Resources commission as**  
32 **referenced above is incorporated herein by reference and hereby made a part of these minutes.**

33  
34 **15. Comments from Town Clerk, Town Attorney, and Town Manager**

35  
36 There were no comments from the Town Clerk or the Town Attorney.

37  
38 Town Manager Rush updated the Board on several issues of importance. Mr.  
39 Rush first noted that the Town had not received the potential grant for a portable  
40 electronic sign that he had planned to mention tonight.

41  
42 Mr. Rush noted the Aquarium Pier Advisory Committee would be meeting the  
43 following Wednesday, and they were getting closer on the completion of design  
44 work and hope to be able to schedule a public meeting sometime later this year.

45  
46

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1  
2 Mr. Rush said they were working on a smooth transition for the E-911 Center  
3 which was on schedule. The target conversion date was early January and they  
4 were making plans to be sure that goes as smoothly as possible.

5  
6 Lastly, Mr. Rush mentioned that he would like to initiate the process in January or  
7 February for the new beach nourishment special tax districts that had been  
8 discussed by the Board so that hopefully the new districts could be established in  
9 the March or April timeframe before the Board considers the budget in June  
10 2011.

11  
12 The following is an excerpt from the Town Manager Comments memo to the  
13 Board for additional background information provided for items of importance:

14  
15 **Potential Commercial Solid Waste Service / Potential Solid Waste Fee – Property Tax Conversion**

16 We have placed the appropriate advertisements and scheduled a public hearing on the potential provision of  
17 commercial solid waste services for the Board's November 9 regular meeting. If the Board decides to pursue the  
18 provision of commercial solid waste service at that meeting, the earliest that the Town could implement that service is  
19 January 1, 2012. I am also planning to schedule a continuation of the Board's discussion about the potential solid  
20 waste fee – property tax conversion for the November 9 meeting. Additionally, I continue to explore the potential for a  
21 solid waste special tax district, and may include that information in your November 9 meeting agenda packets.  
22

23 **Potential Grant for Portable Electronic Sign**

24 I authorized the Town to sign on to a joint grant application with the Town of Atlantic Beach and Carteret County  
25 Emergency Services for the purchase of three portable electronic signs that could be used to convey emergency  
26 conditions to the public and also be used to educate the public about community events. The total cost of the sign is  
27 approximately \$15,000, and the Town's contribution would be approximately \$3,750. If grant funds are awarded, one  
28 sign would be permanently assigned to the Town of Emerald Isle, however, we would be required to deploy the sign if  
29 needed for use by the NC Ports Authority and/or Carteret County Emergency Services.  
30

31 **Farmers Market Ordinance**

32 The Planning Board is considering amendments to the Unified Development Ordinance to specifically allow farmers  
33 markets in Emerald Isle, and is discussing the appropriate development standards. Their feedback to Planning  
34 Director Kevin Reed thus far is that such uses should be allowed in the Business, Village East, and Village West  
35 zoning districts, and that items sold should be limited to produce, plants, Christmas trees, prepared foods and other  
36 similar items. The Planning Board will consider this issue again at their October meeting, and an ordinance  
37 amendment will likely be presented to the Town Board in November or December.  
38

39 **Potential Coast Guard Road Bicycle Path Extension**

40 The recent Beach House Raffle generated approximately \$18,000 toward the future construction of additional bike path  
41 along Coast Guard Road. Additional fundraising efforts this fall could potentially yield an additional \$5,000 - \$7,000.  
42 We recently secured quotes for the extension of the bicycle path from Sea Dunes Drive to Emerald Isle Woods Park,  
43 and the lowest quote was for \$32,700, not including the actual laying of asphalt, which is estimated at an additional  
44 \$15,000. If the Board concurs, I'd like to work toward completing this work prior to Easter 2011 using a combination of  
45 fundraising proceeds, a small amount of General Fund money (perhaps on the order of \$10,000 +/-), and then include  
46 the actual laying of asphalt in the 2011 street resurfacing contract (funded by Powell Bill revenues). Please let me  
47 know your thoughts on this issue.  
48

49 **Potential NC 58 Bicycle Path Extension**

50 The Town was recently notified that NCDOT will provide an additional \$50,000 to extend the NC 58 bicycle path if the  
51 Town will provide a \$12,500 local match. We have estimated the cost to extend the NC 58 bicycle path from Ocean

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1  
2 Drive (at the dog-leg in the 3000 block) to the Eastern Ocean Regional Access at approximately \$64,000. I expect to  
3 present a formal NCDOT grant agreement to the Board at the November Board meeting. If the Board approves this  
4 grant agreement, we will work toward completing this approximately 1,000 linear ft. segment prior to Easter 2011.  
5

6 **Aquarium Pier Update**

7 The Aquarium Pier Advisory Committee will meet again on Wednesday, October 20 to review design progress, receive  
8 an update on the potential acquisition of the property adjacent to Flip-Flops, and discuss a future public informational  
9 meeting.  
10

11 The NC Council of State recently approved the State's acquisition of the Flip-Flops property, and the State Property  
12 Office continues to negotiate this acquisition.  
13

14 **New Public Boat Launch Facility Update**

15 NC Wildlife Resources Commission staff plan to begin water-based improvements at the site this week. SunLand  
16 Development and Construction was the low bidder for the parking lot and storm water work at the site, and should  
17 begin work within the next several weeks.  
18

19 I have had recent discussions with Chris Gibson, Gahagan & Bryant (a coastal consulting firm), about permitting issues  
20 associated with the proposed new dredged channel in Bogue Sound. I am hoping to arrange a meeting in the near  
21 future with Chris Gibson, interested elected officials, and some of the project proponents to discuss these issues.  
22

23 **Deer Management**

24 We had scheduled an updated deer population count for September 30 – October 1, however, the significant rain  
25 resulted in the postponement of this activity. We expect to complete an updated deer population count in the next  
26 week or so. I expect to present deer management recommendations to the Board at the December Board meeting.  
27

28 **NCDOT Dynamic Messaging Sign**

29 NCDOT's contractor has begun work on the planned electronic dynamic messaging signs on each side of the Emerald  
30 Isle bridge. They expect to complete work by December 1.  
31

32 **Hurricane Earl FEMA Reimbursement**

33 We expect to receive full reimbursement of emergency preparedness expenses associated with Hurricane Earl. FEMA  
34 is expected to reimburse the Town approximately \$20,000 for overtime, equipment, and documentation expenses  
35 associated with Earl.  
36

37 **Still Waiting for a Determination on FEMA Reimbursement for Significant Rainfall and Storm Water Pumping  
38 Expenses**

39 Town staff met with FEMA representatives on October 6 to discuss potential reimbursement, and we are expecting a  
40 decision on this issue in the next week or two. The Town incurred significant overtime, pump rental, and fuel expenses  
41 to respond to the flooding issues.  
42

43 **Bogue Inlet AIWW Crossing Dredging**

44 The US Army Corps of Engineers has awarded the 2010-2011 dredging contract for the AIWW, and the Bogue Inlet  
45 Crossing is included for dredging. The Corps expects to dredge approximately 20,000 cy this year, with that material  
46 to be placed on the beach at The Point. We will be working to secure the necessary permit for sand placement in this  
47 area.  
48

49 **NC 58 Resurfacing / Turn Lane Construction**

50 To the best of my knowledge, this work is still scheduled for this fall / winter / spring. I hope to have a better update at  
51 the October 12 meeting.  
52  
53  
54

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1  
2 **Potential Dog Park at Emerald Isle Woods**

3 We will be meeting with Karen Musco, owner of The Sweet Spot, about potential fundraising activities for a potential  
4 dog park this week. We are also reviewing previous grant agreements to be certain that the proposed Emerald Isle  
5 Woods site will not conflict with previous grant agreements.  
6

7 **E911 Conversion**

8 Carteret County's new E911 center remains on schedule, and we expect to transition from the Town's E911 center to  
9 the new County center in early or mid-January. We expect two of our existing telecommunicators to become County  
10 employees, and expect to retain our other two to serve as customer service assistants at the Police Station during  
11 evening and weekend hours. Chief Walker and Chief Hargett will be working to insure the smoothest possible  
12 transition over the coming months.  
13

14 **New Beach Nourishment Special Tax Districts**

15 We expect to begin the process to create new special tax districts for beach nourishment in January or February 2011,  
16 and will schedule the required public hearing for March or April 2011. The process to create the new special tax  
17 districts is rather straightforward, and involves mailing notices to the affected property owners, posting advertisements,  
18 conducting a public hearing, and considering a formal resolution. Ideally, these new districts should be in place before  
19 June when the FY 11-12 budget is adopted. As you know, the Board has expressed preliminary support for a new 3-  
20 cent rate for oceanfront properties and a new 1-cent rate for non-oceanfront properties.  
21

22 **Archers Creek Stormwater Study**

23 We hope to begin work to select an engineering consultant for this study within the next couple of months. Our Clean  
24 Water Management Trust Fund grant agreement requires this study to be completed in the next 18 months.  
25

26 **Eastern Emerald Isle Storm Water Outfall Removal**

27 With the busy summer season behind us, I hope to have Public Works begin work on a few soundside locations on the  
28 east end this fall and winter. Our Clean Water Management Trust Fund grant agreement requires us to address 17  
29 locations over the next 18 months. One location, at 14<sup>th</sup> Street, has already been completed by a contractor.  
30

31 **NC League of Municipalities' Annual Conference**

32 Mayor Schools and I will attend the annual NCLM conference in Winston-Salem from October 24 – 26. Mayor Schools  
33 is being considered for 2<sup>nd</sup> Vice President of the NCLM.  
34

35 **Privilege License Fees**

36 I hope to have staff complete a review of our privilege license fee schedule by February so that potential fee schedule  
37 adjustments can be considered as part of the FY 11-12 budget process.  
38

39 **Implementation of Parking Fees at Public Beach Access Parking Areas**

40 We continue to investigate the potential to charge parking fees for the 2011 season, and have had preliminary  
41 discussions with Lanier Parking Systems, a regional parking management company that provides service for other NC  
42 beach towns. The other towns on Bogue Banks are also considering a potential arrangement with Lanier. I hope to  
43 present more information to the Board in the winter or spring. We also need to secure additional clarification from the  
44 NC Division of Coastal Management on this issue.  
45

46 **16. Comments from Board of Commissioners and Mayors**

47  
48 There were no further comments from the Board of Commissioners.  
49

50 Mayor Schools reminded everyone about the event to remember Pete on Friday,  
51 November 19 at the Emerald Isle Community Center. Pete Allen had requested  
52 his family have no funeral, flowers, or contributions but there was interest in  
53

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doing something and they decided to have a night for friends and family to gather and remember the good times everyone had with Pete. Mayor Schools encouraged everyone to get the word out.

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

***The meeting was adjourned at 7:35 pm.***

Respectfully submitted:

Rhonda C. Ferebee, CMC  
Town Clerk