

**Summary of December 12, 2000 Commissioner's meeting****The actual minutes follow this summary**

**At its December 12 meeting, the Board heard a report on the condemnation and demolition of the two long time unsightly houses at 212 and 214 Emerald Drive. The houses have now been demolished and lots cleared.**

**In other action, the Board appointed members to serve on a Town Reforestation Committee, watched and heard a presentation from the Bogue Field Committee and appointed Mayor Harris and Commissioner Trainham to serve on the Policy Committee for the Joint Land Use Study Commission addressing civilian and military affairs in this area of North Carolina.**

**Bogue Field Committee Chairman, Vinnie Bonnano, made a presentation. The summary included the activities of the Bogue Field Committee; including its dialogue with the USMC to address problems concerning safety, noise and professionalism that impact the safety and quality of life of Emerald Isle citizens, balanced with the needs and safety of the military. The Board authorized Public Works Director Bob Conrad to proceed with letting bids for street resurfacing and improvements with funding allocated by State Powell Bill monies. It further held a lengthy discussion relative to potential development in the Coast Guard Road/Emerald Drive area of Town and asked for additional engineering information and Planning Board Review before deciding how to proceed with development and street improvements in that area. A 90 day moratorium on Zone B-3 development was also permitted to expire on its original expiration date which would occur on Christmas Day, December 25.**

**The Board authorized Preliminary Plat approval for Osprey Bluff Subdivision, it gave Final Plat approval for Lot 2 and Sunset Harbor and granted an Appurtenant Special Use to Emerald Plantation Homeowners Association to use common area for boat storage.**

**In further action, the Board discussed possible action on beach nourishment and agreed to form a Committee after the first of the year to help put together a questionnaire to send to property owners in various sections of Town to determine their interest in a self-funded beach nourishment program.**

**Final actions by the Board included a presentation on Storm Water by local resident Ron Marks. The Board, after discussing litigation in Closed Session, returned to Open Session and voted unanimously to proceed with settlement of the Cline vs. Emerald Isle on-going litigation.**

**MINUTES OF THE REGULAR SCHEDULED MEETING****OF THE EMERALD ISLE BOARD OF COMMISSIONERS****TUESDAY, DECEMBER 12, 2000 – 7:00 P.M. – TOWN HALL**

**Mayor Barbara Harris** called the meeting to order at 7:00 P.M. She commented that she was glad to see everyone at the meeting because it was very important that they attend. Mayor Harris also commented she wanted to make sure that everyone who wished to make comments got a chance to do so. She asked that they keep comments short because of the extremely long Agenda.

Present for the meeting were Mayor Barbara Harris, Commissioner Emily Farmer, Commissioner John Wootten, Commissioner Patricia McElraft, Commissioner Emory Trainham, Town Manager Pete Allen, Town Attorney Derek Taylor, Town Clerk Carolyn Custy, Planning Board Chairman Cary Harrison, Police Chief Mark Wilson, Fire Chief William Walker, Mark Penry representing Parks and Recreation, Building Inspections Department Head Carol Angus and Public Works Director Robert Conrad. Absent was Commissioner Jay Murphy due to illness.

**Mayor Harris** asked for a motion to excuse Commissioner Murphy.

*Commissioner Trainham moved, Commissioner Farmer seconded, and the Board voted unanimously to excuse Commissioner Murphy due to illness. Motion carried.*

### **MAYOR'S COMMENTS**

**Mayor Harris** commented that on the table in the back of the room there were some forms for committee volunteers. There are no applications on file for the Planning Board or Board of Adjustment. She encouraged residents to please think about serving on a committee or board and turn in an application.

On the agenda, item 7b, Preliminary and Final Plat approval for a commercial subdivision for JTW, Inc. located next to the Emerald Isle Mini-Mart in block 15, did not take place since it is under the B3 Moratorium until December 25<sup>th</sup>. An addition to the agenda, numbered 6g Discussion and possible final plat approval for Sunset Harbor, Lot 2 , Block 38, should be made.

### **ADOPTION OF AGENDA.**

*Commissioner Wootten moved that the Board accept the changes in the agenda as outlined by Mayor Harris. Commissioner Trainham seconded, and the Board voted unanimously to adopt the agenda. Motion carried.*

### **APPROVAL OF CONSENT AGENDA**

*Commissioner Trainham moved, Commissioner Wootten seconded and the Board approved all of the Minutes listed from a to e including the Tax refunds and Releases. The Board voted unanimously to approve. Motion carried.*

### **OLD BUSINESS**

#### **a. REPORT ON STATUS OF CONDEMNATION OF PROPERTIES LOCATED AT 212 AND 214 EMERALD DRIVE.**

**Mrs. Carol Angus** of the Inspections Department reported that the two houses at 212 and 214 Emerald Drive have been completely removed. The lots have been cleared. There is a little debris yet on the lots but Jim Taylor, Inspections Director, is going to insist that this be cleaned up. The lots are being sold, and there should be brand new homes there in the near future.

**b. OFFICIAL APPOINTMENT OF MEMBERS TO THE TOWN'S REFORESTATION COMMITTEE.**

Note was made that a few months ago approximately 1,000 trees were given for replanting. Commissioner McElraft was asked to head up the committee to get as many people as she could to continue replanting. The names of the committee members are Tom Ross, Bernie Zucker, Julia Wax, Bill Reist, Sophie Martin, Sandy Scherer, Jane Diloreto, Doje Marks, Tom Ramsey, Peggy Brown, Ed Dowling, Brian Watson, Joan Simmons, Alesia Sanderson and Mark Penry from the Parks & Recreation Department. **Mayor Harris** made a note that it was going to take more than these people and encouraged residents to get involved.

*Commissioner Wootten moved, Commissioner Trainham seconded, and the Board voted unanimously to accept this list for the Reforestation Committee members. Motion carried.*

**Commissioner McElraft** thanked those who have volunteered. They are working with all the various housing areas, and a lot of them are not represented in the committee group. She asked if any housing subdivision is not represented and residents would like to join the group, to please do so. The plan is to plant as many trees as can be planted this winter and next spring.

**Commissioner McElraft** ask that everyone plant at least 5 to 10 trees this fall and again in the spring to help get Emerald Isle back into the green again. The next meeting will be held after the holidays and will be posted at Town Hall.

**c. PRESENTATION AND REPORT FROM THE BOGUE FIELD COMMITTEE.**

**Commissioner Trainham** commented that in all the years he has worked with committees, the one he has been working with for the last 8 weeks is one of the finest he has every had the opportunity to work with. He introduced Vincent Bonanno and Mark Brennesholtz to make the presentation.

**Mr. Bonanno** began by saying he is here tonight to bring the public up to speed on what the Bogue Field Committee has been doing. He talked about why there is a Bogue Field Committee. The Administration made a decision that in the year 2000 that citizens of Emerald Isle should become more involved in helping to resolve issues that confront the town and the way they chose to do that is the committee. Safety is a major concern of the committee. Noise nuisance is the secondary concern. In the safety regard, concerns are that as recently as 1997 there was a crash of a Harrier jet over Bogue Field, and just recently out in the western part of the United States another Harrier went down and caused considerable damage when it did fall. There are concerns about lack of disaster response plans. Conversations have been had with Bill Walker, Fire Chief, and Mr. Bonanno is confident that the fire department knows what is going on; but he feels that an agreement between Bogue Field and the Town needs to be finalized. The town did a survey. 564 of 960 responses cited regular or occasional offensive noise. There have been citizen and visitor complaints directly to the Emerald Isle Police Department and to the Marine Corps. Noise is having a real impact on the tourist industry. The committee has uncovered that the Department of the Navy gives special consideration to resort areas in terms of how they operate airplanes. It has to do with maintaining minimum distances, minimum altitudes. Emerald Isle is not considered a resort area by the Department of the Navy, therefore it is not on the list of resort areas. He hopes that whatever dialog needs to be opened up with the Department of the Navy to get Emerald Isle classified as a resort area will be done.

Mr. Bonanno related that since the month of June, Harrier groundings have greatly reduced

Emerald Isle overflights; but activity will increase to make up for lost flying time the pilots must obtain. Since September, improvement has been observed in adherence to pattern altitudes.

The Bogue Field Committee Mission is to develop open and candid dialogue with the U.S. Marine Corps to resolve problems concerning safety, noise, and professionalism that impact the safety and quality of life of Emerald Isle's citizens.

The Agenda for the Bogue Field Committee is to ensure and report noise threshold violations, disaster response, USMC procedure changes (SOP), ongoing dialogue recommendations, response to complaints and installation modifications.

There is a lack of concrete data in noise measurement. Research needs to be made on noise thresholds for safety and annoyance. There is a need for research and recommendation of a monitoring system.

Emerald Isle Fire Department and EMS training by Marine Corps, coordinated disaster response and appropriate emergency equipment should be reviewed. USMC Standard Operating Procedures should be reviewed for field operating hours, flight patterns, minimum altitudes, hovering over land, carrying of ordnance and briefing of first-time Bogue Field pilots. Other suggestions are a continuing dialogue to create a mechanism for ongoing, regular, structured communications between Emerald Isle and USMC about Bogue Field operations, establish a user friendly and a well publicized mechanism to capture citizen complaints. USMC should respond "real time" – Contact Bogue Field to resolve SOP violation if it exists, respond to the citizen, collect, analyze and share data on complaints.

The committee is not suggesting at this time to recommend any significant physical changes to Bogue Field. The committee strongly supports Emerald Isle's formal participation in JLUS with Commissioner Trainham as representative.

**Mr. Phil Almeida** of Barracuda Court asked what the average noise level is. **Mr. Bonanno** replied there has never been a recorded decimal level but by empirical data, we have been told that what we are exposed to is 64 to 65 decibels.

Also discussed briefly were the risk assessment documents which are basically outside the parameters where they can fly. A question was also asked as to why Bogue Field does not have a radar system. The reason given for that is that Bogue Field is considered an auxiliary field that is supposed to be mobile.

**Commissioner Wootten** asked how many complaints the town has registered with the Marines. **Mr. Bonanno** replied the committee has asked the Marines to give them how many complaints they have received back over the last couple of years, and this is in the process of being put together. It is also his understanding that over the last two months the Marines have received somewhere in the neighborhood of 40 complaints from Emerald Isle, Cape Carteret, and Bogue combined.

**Commissioner Wootten** expressed he is having real difficulty in trying to judge the severity of the problem as it relates to most of the people in town and to the Marine Corps. Aircraft are a problem and there is no question about that. He is not sure that people of the town are seeing the severity of the problem the same way the committee may be seeing the severity of the problem. Commissioner Wootten continued that when he asked the question about how many complaints

were registered by the town, he received a verbal response that they has received 42 complaints from Emerald Isle citizens over the last two years and 29 of the complaints were from four people. There were two questions asked on the survey that was mailed out to all property owners relating to the noise of the aircraft and its effect on people. Of 960 who answered, 60 % said yes, 17% were neutral and 24% said they were not bothered at all. The next part of the question asked if you are bothered by the aircraft, please answer the following. Of the 319 who answered that question, 16% said not offensive, 23% said rarely offensive, 5% said regularly offensive, and 9% highly disruptive. **Commissioner Wootten** stated with these results he is leery of getting into an adversarial mode with the Marine Corps and Bogue Field. He supports the idea of dialogue but he does not want to get into an adversarial mode because he does not think the citizens of the town are saying that. Of the 35 or 40 comments made in the survey, about 4 of them were negative and the rest were "leave them alone, they were here before we were" and that kind of tone. He cautioned the committee to go a little slow because he is not sure of the significance of the problem.

**Commissioner Wootten** commented on the Joint Land Use Study (JLUS), which is an initiative the Marine Corps introduced to the Board after the Bogue Field Committee was formed. This basically has the same agenda, the same mission statement that the Bogue Field committee has. The JLUS has other towns involved, and the Commanding General on the base on the Policy Committee, working committee and technical committee. He commented that what the committee has done so far is great but for instance, the idea of taking noise samples and verifying noise samples may be the greatest idea in the world but needs to be done in the whole community, not just Emerald Isle. His recommendation was to fold up the efforts of the Bogue Field Committee under the JLUS and funnel this information on up to the representatives on the JLUS.

**Mr. Bonanno** replied that the Bogue Field Committee is not trying to antagonize the Marine Corps in any way, shape, or form. What they are addressing is a potential safety issue. The town has been blessed that no plane has ever crashed on Emerald Isle, and for that reason there has been a lot of complacency about this while thing; but he assured that this is an aging aircraft that has been grounded several times in the last two years; and everyone should be concerned about the fact that the plane flies over Emerald Isle. There may be only a few people who have a problem, but the Commissioners represent all of Emerald Isle and they should be concerned about anyone who has any kind of problem. This is not an issue that only a few people have the problem, let's sweep it under the rug and not worry about it.

**Commissioner Wootten** commented he is not and did not suggest that. He is trying to address the level of emphasis and the avenue for which the problem needs to be taken and he is suggesting that the problem is not severe enough to take it on as an Emerald Isle only mission. The best course of action is to deal with it through a Marine Corps Program.

**Commissioner Farmer** said she would certainly hope that Emerald Isle would be putting recommendations and comments in to the Policy Committee, who are appointees, and certainly where that information is coming from would be the Bogue Field Committee. **Commissioner Wootten** agreed with that and said that is exactly his point. He wants the information to flow through the JLUS process. **Commissioner Farmer** stated she does not feel that anyone would disagree with that. **Commissioner Wootten** agreed that if this was the way it would be handled that was OK but he does not feel it is best for this Committee to work independently and as an Ad Hoc Committee deal directly with the Marine Corps. **Commissioner Farmer** said she agreed, and she feels this is why a Commissioner is on the Committee.

**Commissioner McElraft** agreed with Commissioner Wootten, that this needs to be done through

the JLUS Committee; and she agreed that Commissioner Trainham needs to be on that Committee and bring these thoughts to the Marine Corps. She continued she has heard that there is contention between the Marine Corps and this Committee. She knows that it has been said there isn't but she has heard otherwise. As an Emerald Isle citizen, she does not want the Marine Corps to think the residents are isolationists over here not doing their part toward patriotism. She related that pilots are now going straight up to 1,000 feet, putting the pilots in harm's way in order to protect Emerald Isle. They are doing their part. She also brought to the attention of the Board that maybe something could be done with other real estate companies that Emerald Isle Realty is done. They have a statement that says "Read This Property Report Before Signing Anything." In this Property Report, it talks about being in a fly-over zone for the Marine Corps. It talks about the noise levels and the hazard of being within 2 miles of Bogue Field. This is something that all the real estate people know. Bogue Field was here before we were here. We need to work with them and not try to be contentious to change their SOPs or to change the physical appearance of Bogue Field. Commissioner McElraft totally disagreed that this Committee is not in a contentious mode with the Marine Corps.

**Commissioner Farmer** stated she thinks it is unfortunate that Commissioner McElraft has not attended any of the meetings. Lt. Col. Fetzer is almost always at these meetings, and they are not contentious at all. She thinks they have been very helpful for both the Marine Corps and the Bogue Field Committee. Commissioner Farmer continued she does not think it is unpatriotic to consider noise and safety issues for Emerald Isle residents, and as was stressed early on in the presentation, we all support the job the military does. We appreciate everything they do. We do not want the pilots put in harm's way. Conversely, we do not want Emerald Isle residents put in harm's way either. The standard operating procedures that have been created by the military are not putting their pilots in jeopardy in any way, shape, or form because she happens to know that the military would not do that to their pilots. The concern is that there are numerous times when the orders are not being flown, which result in airplanes flying very low and that creates more noise and that is a safety issue.

**Commissioner Trainham** asked to respond to Commissioner McElraft's statement about there being a problem. He said this was a total misunderstanding on her part and he perceives such information as gossip. He does not believe in gossip. Pertaining to the relationship she referred to, he was present the whole time among the persons who were discussing various matters at Bogue Field, as was Commissioner Farmer. **Commissioner Trainham** continued, "The notion you got that there was impropriety between the military and us is totally false and I would appreciate it if you do not mention this again."

**Commissioner McElraft** said it was first hand knowledge and "I will not mention it again."

*Commissioner Wootten moved that this Committee proceed and give the Board a final report in 30 days and prioritize the actions that this Committee sees that needs to be done with some explanation. This will be fed as rapidly as can be done into the JLUS process through Commissioner Trainham, whom he assumes will be approved shortly, and proceed to take the problems and dialogue to the Marine Corps in that fashion.*

**Commissioner Farmer** said she supports this, if at the end of that time Commissioner Trainham feels this Committee needs to continue that it will.

**Mayor Harris** said she has a motion for a report to be filed in 30 days.

*Commissioner McElraft seconded the motion.*

*Commissioner Wootten amended his motion from 30 days to 60 days.*

**Commissioner Farmer** asked Commissioner Wootten if he would leave it up to Commissioner Trainham at the end of the 60 days if he feels there is a need for the Committee to continue.

**Commissioner Trainham** commented he feels the Committee would appreciate an open-ended situation because the work has been very in depth. With 8 different meetings they are just now really reaching out to certain conclusions and he appreciates Commissioner Wootten's suggestion, but he does think the Committee would appreciate leaving it open-ended. If the work can be finished in 60 days that is fine, but if they can't he would ask that it be left open-ended.

**Mayor Harris** reminded Commissioner Trainham that this Committee is an Ad Hoc Committee and it cannot go on and on. She feels that two months is enough.

**Commissioner Farmer** interjected that if the need to go on after 60 days is there, they should be allowed to continue.

**Commissioner Trainham** said that the meaning of Ad Hoc is temporary. Temporary can be as much as 6 months or a year.

**Commissioner Harris** called for a vote as she had a motion on the floor for 60 days and a second.

**Commissioner Wootten** commented that they would study the results given by the Committee at that time and the prioritizations and if necessary, they will turn around and re-direct the Committee to go through further researching or whatever needs to be done to support the JLUS.

*The Board voted unanimously (4-0) to approve Commissioner Wootten's motion with amendments as stated.*

d. **APPOINTMENTS TO THE MILITARY/CIVILIAN JOINT LAND USE STUDY COMMISSION.**

**Mayor Harris** clarified that the Military has requested that two elected officials be appointed to the JLUS Committee. Only one will have voting rights.

**Commissioner Farmer** nominated Commissioner Trainham as the voting member. No second was forthcoming. Motion failed.

**Commissioner McElraft** nominated Mayor Harris as the voting member of the Commission.

**Commissioner Wootten** clarified the motion. He feels the Board wants to nominate both Madam Mayor and Commissioner Trainham to the JLUS Commission. The plan per the Marine Corps calls for two people to be presented for this. Madam Mayor does want to be on the Commission, as does Commissioner Trainham as well.

*Commissioner Wootten moved that both Mayor Harris and Commissioner Trainham be appointed to the Joint Land Use Study Commission and that Mayor Harris be the voting member representing all of the Board. Commissioner McElraft seconded.*

**Commissioner Farmer** stated, "The Mayor's position in the Town of Emerald Isle is not a voting position. I believe that the appointment should be someone who can vote on the Town Board. Furthermore, the Mayor has not been real supportive of the Bogue Field Committee, and I think for her to be trying to work closely with them would be very difficult."

**Mayor Harris** stated, "I have been very supportive, and they have done an excellent job."

**Commissioner Farmer** stated, "We do not feel that way, Madam Mayor."

**Commissioner Trainham** said he talked to Tyler Harris today on the phone, and Tyler indicated to him that the question about one or two votes in the Policy Committee is up in the air and will be decided by the Committee when they meet. There is a question about who is going to do the voting, and he asked Lt. Col. Fetzer if he was stating this properly. Lt. Col. Fetzer's answer was yes. Commissioner Trainham feels that the question tonight is naming two persons for the Commission and let the Policy Committee decide how the voting will be done.

**Mayor Harris** called for a vote since a motion with a second was on the floor.

*Voting to approve the motion with a vote of 3-1 was Commissioner Wootten, Commissioner McElraft and Commissioner Trainham voting to approve, and voting no was Commissioner Farmer.*

**Mayor Harris** clarified that three are for the Motion, it was seconded that Mayor Harris and Commissioner Trainham be on this Committee and that Mayor Harris be designated as the voting member.

**Commissioner McElraft** said the Marine Corps has asked that the Town Manager attend meetings also as a logistic-type person. The Board all agreed he should be there.

**e. DISCUSSION AND POSSIBLE ACTION RELATIVE TO RECENT PLANNING BOARD ACTION AND ENGINEERING REPORTS ON TRAFFIC CONCERNS IN THE COAST GUARD ROAD/EMERALD DRIVE INTERSECTION AREA.**

**Mr. Cary Harrison**, Chairman of the Planning Board, said the Planning Board received a request for a commercial subdivision of about 1.73 acres that are zoned B3, with a question about subdividing this into three approximately 25,000-square-foot lots. This parcel is located at the corner of Coast Guard Road and N.C. Hwy 58. The Planning Board reviewed a NC DOT study that was conducted in July of the previous year which addressed the feasibility of a then-proposed commercial development on this property. That study rejected overwhelmingly the compatibility of this development due to traffic in the area. During the past Fall the NC DOT conduct a further study on the currently proposed development. DOT responded to Town Manager Allen that it would take approximately one and one half years to do this. The Town then contracted with two private engineering firms for primary and secondary studies of the situation. All three engineering studies show the potential traffic generation of B3 development in this area would exceed the capacity of Coast Guard Road. A right-in and right-out on the NC Hwy 58 was proposed by one of the engineering firms which would greatly lessen the traffic burden on Coast Guard Road since about 50% of it would outfall onto NC 58. The NC DOT recently issued a Memo to the Town, which said this would not be allowed. The Planning Board has worked very carefully and diligently on the problem. At their last meeting they came up with a series of recommendations.

**REED DRIVE PARK PLANNING BOARD RECOMMENDATIONS -**

1. That improvements to Coast Guard Road from approximately Pebble Beach to NC 58, as described in the reports from Kimley-Horn and Benchmark Engineering, be considered by the Board of Commissioners, and that these recommendations for improvements be implemented as soon as possible.
2. That the Town contact the NC DOT regarding lengthening the right turning lane onto Coast Guard Road, and other improvements to this intersection, and the light signal in general.
3. That the Town enter discussions with Mr. Ronnie Watson for the purposes of considering re-routing the camper trailer traffic flow from Coast Guard Road to Islander Drive.
4. That the Board of Commissioners require the Planning Board to examine the potential storm water problems and solutions associated with the potential development in this area in general.
5. That the Town require any development in this general area to be in compliance with the State of North Carolina's Phase II 2001 Environmental Standards.
6. That the Town consider immediately adopting the proposed ordinance written by Benchmark Engineering which would require that large commercial developments greater than a defined square footage be considered as a Special Use.
7. That the Town consider designating a specific, and as yet undefined, region of the Town's entryway from the West as a "Gateway Area" subject to certain density, visual, and screening standards. This area would roughly include both sides of NC Hwy 58 from the Town's western limit to an as yet undefined point.
8. The Planning Board **does not** approve the request of the owners of this parcel to subdivide the 1.73 acre portion on the NC 58 side of Reed Drive Extension.

**Mr. Richard Stanley**, Attorney at Law, representing the W.B. McLean Residuary Trust, came forward to speak. He related that the 3-lot subdivision came about in July, and he feels it is important that this be seen from the viewpoint of what has happened in the past.

Long before most of the development occurred on Coast Guard Road, there was a commercial division by W.B. McLean, J.A. Singleton, and the original developers of Emerald Isle. They recorded this plat (which was shown to the Board), and it was called a commercial division. W.B. McLean ended up with the property that is outlined in yellow on the plat, and it is split by Reed Drive Extension, which is a dedicated right-of-way. There is nothing his client can do about that, and she chose then to try to develop lots on the North side of that because her property is split. She has the duty to her family members under her father's will to try to get a return on the property that was left, and the only way to make good use of this particular property is to try to subdivide property on the North side of Reed Drive. What was before the Board last year was the question of whether or not the Town Board would abandon the right-of-way of Reed Drive, not a development; and the Board at that time, based upon a study from the Department of Transportation, voted not to do that.

**Mr. Stanley** pointed out that the report stated there were 17 acres there. This particular survey indicates that on the North part of Reed Drive, it is 3.45 acres. Mrs. Holz is not suggesting that all of that be used, in fact the only proposal before the Planning Board is 3 lots of approximately 30,000 square feet, approximately 2 acres. She is not proposing that anything take place with regard to 3.48 acres. Mr. Stanley also pointed out that the 3.48 acres that is not before the Board and will not be before the Board for a long time, is cone shaped. It goes to "0" at the northern most point and it goes to approximately 550 feet in width across Coast Guard Road, but it has an average depth of only about 250 feet. This becomes important because it shows how absurd some of the reports are in saying that you can put 82,000 square feet of building on these tracts. It is absolutely impossible. Mr. Stanley continued that the Planning Board, and he commends them for

that, is trying to take cars away from Coast Guard Road and carry them in another direction and bring them back out toward the Pebble Beach entrance. In doing that, they are recommending a 30 foot right-of-way to the North and then it turns and comes back out on Coast Guard Road at Pebble Beach. That becomes important because with this type of situation, that is about the only way to funnel the traffic away from Coast Guard and Highway 58.

**Mr. Stanley** related that they are not asking, as he has indicated, for any approval of anything at this point. What has been before the Planning Board is simply the approval of a 3-lot subdivision because this particular road splits it.

After the 1971 map was put on record and this became a lot of record, there was all of the additional development that has occurred down Coast Guard Road from Pebble Beach to Point Emerald to Dolphin Ridge and Lands Ends, etc. Mr. Stanley said that what he is saying is that this little old 3-lot subdivision may be at the end of what has happened on Coast Guard Road but is not at all the reason why you have a problem at Coast Guard Road and Hwy 58. This property has been idle since 1971 and nothing has been done, and it is Mrs. Holz' obligation to try to get a fair return on the property. Hwy 58 is a restrictive road. You cannot get additional curbs cut. Mr. Stanley thinks Mr. Allen has a letter which he has given to Mr. Harrison regarding that. The DOT at this point has taken the position that Hwy 58 and Coast Guard Road would be the access to this and is not going to allow any further cuts North along Hwy 58 in order to get into it. It becomes important as to what she can do because she has on this particular property Reed Drive Extension on the South, Hwy 58 on the North, and the only access to it is through Reed Drive and Coast Guard Road.

**Mr. Stanley** said he could appreciate the concern that the Planning Board had tonight, but he said that recommending that all planning on this and approval of this being halted is not fair to his client, it is manifestly unjust; it is prejudicial to her property rights. Mr. Stanley asked that the B3 Moratorium be lifted. He pointed out that the Coast Guard Road report at the present time indicates that it is handling about 5500 cars a day. The same report from Kimley-Horn indicates that if this property is utilized, based upon their projections, it would have 82,000 square feet and it would generate an additional 6600 automobiles per day on Coast Guard Road. Mr. Stanley feels that the Board can see, based upon the shape of the property, based upon the fact that Reed Drive splits the property, the fact that you cannot build across Reed Drive, that you then have two lots of record there that have to meet the setback requirements, they have to meet storm water requirements especially on the southern most tract and they have to meet the natural area and further, based upon the odd shape of the property, we are of the opinion that at most, a 100-foot-wide building, maybe something along a strip office building for a commercial piece is about all she is going to get there; and that is going to be far less than the 70,000 square feet.

**Mr. Stanley** said Mrs. Holz is willing to work with the Board to try to solve the traffic problem there but she did not create these, and he wants the understanding that her ability to do anything is severely limited because her property is only 7 acres and it is a town problem and a Department of Transportation problem. Mr. Stanley said they are requesting that the B3 Moratorium be lifted and let her proceed simply with the 3-lot commercial subdivision. If the Board does this, and if they will allow those to remain B3 and the property on the South to remain B3, they will make one assurance tonight and that is the fact that she will not come back to the Board or Planning Board with either a subdivision request on the property on the South or with a commercial review until the Board has had a reasonable opportunity to study the problem and try to work out the problem and to put some money in budget behind that. Secondly, she will tell you this,

that she will make every effort to work with the town to try to resolve the problems there because

she knows ultimately if there is any reasonable commercial use made of that property, there has to be the ability of the user to get in and out and until that is resolved, she is not going to be able to do anything with it.

Finally, **Mr. Stanley** said if the town is interested in having that portion of Reed Drive withdrawn so that a better planning of the entire tract could be developed or at least studied, she would be willing to consider giving right-of-way on both Coast Guard Road and Hwy 58 in order to have a turning lane there.

**Commissioner Wootten** commented that Mr. Stanley would have the Board believe, if you follow the guidelines, that this property owner is simply looking for a 3-lot subdivision of 10,000 square feet. The issue here is traffic because of the location and the timing of the problem, whether it developed late or early in the development of the town. That does not matter. The problem is there. There is traffic impairment, and the Board has the responsibility to make sure that the property is developed in such a manner that it does not impact or impede or tie up the traffic on Coast Guard Road. This is the first consideration. The second consideration is the storm water treatment and the wetlands and the run off of the storm water from that piece of property. Commissioner Wootten feels the only way that the first consideration can be solved is the review of the use of the entire parcel of 6.98 acres according to the survey in 1991 or the 7.38 according to the tax records here in Town Hall. The only way to deal with it is to deal with the entire parcel of how it is going to be developed, what would be the worst case scenario for the square footage development for that piece of property so that that can be translated into the number of vehicles on Coast Guard Road so a judgment call could be made as to whether the traffic could be handled or not. One of the recommendations the Planning Board is making is for the Special Use Permit Ordinance. That ordinance would give the town Board the ability to incrementally look at the criteria such as square footage for development on any parcel in B3 and its impact on traffic.

**Commissioner Wootten** continued, "No one is trying to take away the use of anyone's property, but the traffic is paramount and the only way to deal with the traffic is to deal with the totality of the parcel." He feels that the developer has to recognize that or no one is going to get anywhere.

**Mr. Stanley** said what is before the Board is only preliminary approval of the 3-lot subdivision, and the studies show a maximum of 3,000, 4,000 or maybe 5,000 feet, and the Planning Board has suggested and recommended that the road be carried in as 30 feet and turned around.

**Commissioner Wootten** said that assumes that the current configuration of Reed Drive should exist and remain just as it is. There have been three engineering studies that have suggested to the Board and Planning Board that the access to that property is best moved and located down closer to the Pebble Beach area. This leaves the question of what are you going to do with Reed Drive Extension. The 3-lot subdivision that is being requested assumes that Reed Drive would exist and stay the exact configuration it is right now. That may not be the best answer for the developer and the town.

**Mr. Stanley** commented that it came before the town last year as to what the town would like to do about Reed Drive, and it was turned down and now Mrs. Holz is back with that fixed in place with a proposal using Reed Drive, of doing something solely with the 3 small lots on the North, and the recommendation of the Planning Board is that you halt this and look at any more indefinitely. How is that not harming her property rights?

**Commissioner Wootten** replied, "Because we should look at the totality of the development of that parcel of land, which can be done in very short order if the developer is willing to sit down with the town and the Planning Board and develop scenarios that would clearly state the square

footage for that piece of property. That, in very short order, could be translated into numbers of cars of traffic, then the decision of where is the best location of the road within the piece." The development would have a major, major say in that and then we can proceed. **Mr. Stanley** said he feels sure that Mrs. Holz has no problem with sitting down with the Planning Board and looking at the overall picture of the property, but until there is some direction from the town on what is to happen with Reed Drive, but he will let her speak for that. **Commissioner Wootten** said this has to be considered along with the widening of Coast Guard Road and the internal uses of road within that piece of property.

**Mr. Stanley** said they are asking, and he thinks that the Planning Board is saying, that they want you to turn down the 3-lot subdivision, and we are saying you should not do that. In order to continue to study the question, Mrs. Holz will be glad to participate in that and try to arrive at a conclusion that is best for all concerned because they realize there is a problem. But to simply say no, turn this down . . . **Commissioner Wootten** interjected "it is being turned down because approval of that plan right now, even though it is a preliminary plan, precludes or eliminates options for better use of the roadway within the parcel and in fact may be better use on the part of the developer of her property." **Mr. Stanley** replied it has not met the ordinance yet with preliminary approval. They are not talking about the fact there is a traffic problem. There are some things required by the ordinances that haven't been provided yet, and you are already turning it down. This is the point. **Commissioner Wootten** asked why proceed with a preliminary for something that you know is not going to work.

**Mr. Stanley** asked if they come back next month and say they would like to complete their application, you are just going to simply say no we are not going to consider it. **Commissioner Wootten** replied, "I am saying we need a very short period of time, in my view, to get the Special Use Permit Ordinance in place that will allow the process to develop regarding the problems." **Commissioner Trainham** agreed.

**Mr. Stanley** asked what period of time is being talked about. **Commissioner Farmer** felt the Board needed to talk about that. Actually the Board does not have the subdivision before them tonight. **Mr. Stanley** said that the recommendation was that they turn down the subdivision. **Commissioner Farmer** replied that is not on the agenda, that in fact there is a moratorium on that, and they could not turn it down or approve it. **Commissioner Wootten** said the Board is not trying to deny the developer anything, and he does not want her to go away from this conversation on a sour note but on a constructive note on how the Board and developer can move forward to solve a mutual problem of traffic control and the best use of the land.

**Mr. Stanley** commented that the town has asked for two studies that his client has had no input in. **Commissioner Wootten** said a developer does not have to have any input into a traffic study. **Mr. Stanley** said, "But you are saying that you would like to solve the traffic problem." **Commissioner Wootten** said, now there is a basis from which to talk traffic to the developer. Now we do need the cooperation of the developer.

**Mrs. Anna Mae Meltner**, 10501 Island Circle, begged the Board to please listen to the Planning Board and not do that. We do not need that, and Mrs. Holz may not have caused the problem we have now, but she certainly will contribute to it if this goes.

**Mrs. Paxon Holz**, trustee of the William B. McLean Residuary Trust, said she is very concerned that the Board understand that the traffic studies and the amount of traffic presented to them is fatally flawed. The NC DOT survey used a figure of 17 acres and over 80,000 square feet of commercial possibilities. She was never consulted during the planning process concerning the

traffic counts or asked for any input whatsoever. Had she known they were considering those figures, she would immediately have shown them the boundary survey which she has now produced. There was never a 7-acre parcel in addition to the 3- or 4-lot subdivision. She has spoken to one of the firms that did a traffic survey. The town has always had the cooperation of the McLean family, that the McLean name is on the deeds to many of the properties—the Town Hall, the gymnasium, the fire department, various electric and fire substations, beach accesses. Time and again they have been asked, and have given or sold family property to benefit not only their own family but the other six families. Now, when they have one little piece that could be considered a valuable property, they feel they are being unfairly burdened, studied, dissected, pulled apart, and that is ok; but they want accurate figures in front of those reviewing the process. There is no way in this world they can put 80,000 square feet of retail on this little bitty piece of property. She had asked for the abandonment of Reed Drive in the first place in order to form a cohesive and sensible plan for the use of the whole parcel. She is willing to cooperate, that any additional right-of-way acquired should be acquired from both sides, and she does not think they need any more state right-of-way on Hwy 58 because they have 200 feet. The turn-off is 80 feet wide. She has advised enlarging Coast Guard Road and Reed Drive Extension. The town has private encroachment on the rights-of-way there. One thing she cannot do is suffer the property to be diminished in value, and she does not think they have a thing to worry about, or be fearful of, with this piece of property. She will be watching to see what impact this has on other development on Coast Guard Road.

**Mr. Mike Harvey**, of Benchmark, Inc., said that when they initially began this, they were told that the tract was 7.3 acres, which is the total tract. The two tracts are 3.4 and 3.8 acres, one of each side of Reed Drive. He told Mrs. Holz that at 3 acres, there is still sizable retail commercial-style development, and the potential development of these lots could put a large number of vehicles on Coast Guard Road. Will it be 6600? Probably not, given the constraints that will be utilized in developing the two sites individually, but there will be a large number of cars if the site is developed for B3 commercial development. That is one of the reasons Benchmark, Inc. recommended the improvements to Coast Guard Road to mitigate that. This piece of property is not the sole problem. There is a lot of high density development along Coast Guard Road, primarily residential, and this is just one more element that adds to the problem.

Benchmark recommended changes to the zoning ordinances as well as changes to Coast Guard Road, to mitigate the problem as best they felt could be mitigated. That would still allow for the use of the property for its current zoning but at the same time address the town's concern over traffic safety. They feel that the improvements that they and Kimley-Horn recommended will help address those concerns. They also suggested amendments to the current B3 zoning ordinances to turn large-scale retail facilities into special uses, which would require approval by the Planning Board and Board of Commissioners and public hearings prior to a building permit being issued. These standards were developed to try to mitigate internal traffic problems and help direct traffic flow onto Coast Guard Road in a manner which would try to ensure the protection of the stability of the roadway. They suggested that the town consult the NC DOT about lengthening the left turn signal onto Hwy 58 from Coast Guard Road during peak seasonal demand. In their addendum, they recommended that Reed Drive be considered the primary means of egress to the property and that a second means of ingress and egress also be developed across from Pebble Beach to handle the majority of the traffic exiting the site.

**Mr. Harvey** continued by saying that Benchmark came up with the concept of special use to ask the developer and the town to work together to address concerns such as buffering, shielding of Dumpster pad areas, universal pedestrian access, and integrated pedestrian and vehicular access (to guarantee that these would not commingle). These sites could be developed as currently zoned

and still be made safe with the developer willing to work with the town.

**Mayor Harris** said there are still 7.3 acres of property.

**Commissioner Wootten** said he has seen two charts, one the town tax roles that says 7.38, the other a survey dated 1991 that has two pieces that add up to 6.9. That is not a huge difference.

**Mayor Harris** asked about Reed Drive Extension. Will it cut down on the number of cars?

**Commissioner Wootten** said the square footage of buildings will drive the number of cars. **Mr. Harvey** said at 7.3 acres, he stands by the estimates in the initial report. With the current configuration of 3.4 and 3.8 acres on either side of Reed Drive, he thinks they will still look at a sizable facility, but not at 6,600 cars, more at 5,000.

**Mr. Harrison** said he had come up with 107,000 square feet total permissible, calculating parking areas, septic fields, etc. Benchmark came up with 100,000. Kimley-Horn came up with 82,000. Those figures are in the same ballpark. If you look at the amount of traffic that could be generated in B3 and you add that to the capacity of Coast Guard Road right now, his 107,000 exceeds the 100% capacity of Coast Guard Road, as does Benchmark's, and Kimley-Horn's comes in at 94%. This number would be reduced by wetlands, by the fact that Reed Drive occurs on the property; but according to Kimley-Horn, the capacity of Coast Guard Road of 12,000 cars per day is reduced by the number of curb cuts, by pedestrian traffic, etc. That is not the case with Coast Guard Road. Globally, we are looking at exceeding the capacity of Coast Guard Road regardless of which numbers you use.

**Commissioner Wootten** asked if the square footage of the total development is limited and Coast Guard Road is improved in the way Kimley-Horn and Benchmark have suggested, would there be a possibility of fitting development of the property within the traffic confines of Coast Guard Road. **Mr. Harrison** replied yes, but they were dealing with an empty box, a request for a 3-lot subdivision.

**Commissioner Wootten** said his point is the Planning Board and the two reports had to come up with square footage. The developer is telling us tonight that she does not believe those big numbers in terms of square footage. "Now the answer is let's prove it. What is the square footage going to be? How does that relate to traffic?"

**Mr. Harvey** said the information provided in a sense is correct because even with Reed Drive there, it is still one piece of property. If you take Reed Drive Extension into consideration, that it does split the property, you can still look at a fairly sizable retail facility. You are still looking at a sizable number of cars.

**Mr. Harvey** said if the Board would like Benchmark, Inc. to take the existing site as it sits today, as it is shown on the survey, at 3.4 acres and 3.8 acres and do the same study they did, they would do it at their own expense and could have it to the Board by Thursday morning.

**Commissioner Wootten** said the Planning Board has made a recommendation about widening Coast Guard Road. He thinks the Board should agree or disagree with that and move on. Decision number 2 should be the development of the special use ordinance and the modification and addition to the Town Ordinance. He suggested that Benchmark work with the Planning Board to develop a draft of that legislation change by the January meeting so they could have it to look at and then proceed to a public hearing and approval of it in the February meeting. Decision number

3 is that they ought to get a smaller group (two commissioners and Cary Harrison) together to sit down with the developer and go through some process of communications in terms of what is the best use of the land from the developer's standpoint vis a vis the traffic considerations, searching for a plan that will allow the traffic to flow. He would suggest that he and Commissioner Murphy would be willing to do that.

**Commissioner Farmer** commented on the widening of Coast Guard Road. She has heard from a lot of people who live down Coast Guard Road that they are not too thrilled with the idea of it being widened; and in fact, the traffic right now is not a problem, as some Board members have said it is. There is also the problem that once you get past Reed Drive, Coast Guard Road narrows down to a 60-foot right-of-way, there are 20 feet of right-of-way that would have to be added somehow. She is not convinced that this widening of Coast Guard Road is not being done strictly so that the developer can develop more densely on this parcel, and she is not convinced that Emerald Isle taxpayers should be footing that bill. She would add number 4 to the list, and this came up in a lot of the discussions at the Planning Board meetings she sat in on. There was concern that we would lose the whole flavor of Emerald Isle as you come over the bridge. People have been making all sorts of comments of how meaningful that is to come over the bridge and see the beautiful green of Emerald Isle; and it was recommended that we look into a Gateway District that would require wider buffers, possibly lower building heights, some control over roof configurations so that we're not looking at air conditioners on top of roofs, and this would not just be on one side of Coast Guard Road—it would be on both. She would like that added to the list because she thinks that is very important to a lot of people in Emerald Isle.

**Commissioner Farmer** commented on stumbling blocks that both the Planning Board and the Board of Commissioners keep tripping over. She thinks it is way past time for Emerald Isle to try to get some grant funding from the Division of Coastal Management for a CAMA planning grant and try to hire a planner and nail down some of these things that we keep bumping into as development comes before us. She would like the Board to consider that.

**Commissioner Wootten** agreed to adding that to the list.

**Mr. Harvey** asked if the Board wanted him to proceed with the analysis based on the survey presented to him by Mrs. Holz.

*Commissioner McElraft moved that they ask Mr. Harvey and Benchmark, Inc. for the free work on the usage of the two different parcels. Commissioner Trainham seconded. Vote was unanimous. Motion carried.*

*Commissioner Farmer moved that Benchmark proceed with the ordinance language for special use permits in B2, B3, and the commercial part of RMH zones. This would go to the Planning Board for a final review and be brought to the Board of Commissioners in draft form at a January meeting. Commissioner Wootten seconded the motion. Vote was unanimous. Motion carried.*

The Board of Commissioners took a 10-minute break.

**Commissioner Farmer** said she thinks they have a great deal of work before them with the study from Benchmark, particularly related to traffic. The Planning Board and a lot of residents who live just west of the property that is cut by Reed Drive Extension have storm water concerns, they already have flooding problems, there is another subdivision west of that that has expressed

concerns, too. There is a moratorium that is expiring on December 25. She feels they have an obligation to the residents of Emerald Isle to make sure that they don't put themselves in a position similar to the one that they are in now, where they're looking at \$4.8 million to undo the impacts from development. She wants to make sure that the Emerald Isle citizens and taxpayers are protected; and therefore, she thinks they have no choice but to extend this moratorium. They had talked about getting a draft from the Planning Board at some January meeting. They have a process that is two months long where they talk about it at the January meeting, refine it, hold the public hearing at the February meeting. She thinks everyone would agree that they are moving as quickly on this as they possibly can with special meetings for the Planning Board members, special meetings probably for the Board of Commissioners. They certainly don't like holding up commercial projects, but she feels very strongly that they have a very important responsibility to the citizens of Emerald Isle, particularly those down Coast Guard Road, that the Board protect them as best they can from negative impacts.

**Commissioner McElraft** said they are holding up other projects that don't have anything to do with Coast Guard Road, and she wonders if they could get a legal agreement between Ms. Paxon's [sic] attorney and our town attorney that would be agreeable to the Town of Emerald Isle that she would not do anything on that property at all until they work with her and get clarification on how the road is going to go and get the special use permit in there. That way, they wouldn't be holding up other properties. She heard from Mr. Stanley tonight that they would be agreeable to hold off until they did something with the B3 special use ordinance.

**Commissioner Farmer** replied that one problem is that she does not think they are just looking at one side of 58, they're looking at both, at least in terms of a gateway overlay.

**Commissioner Wootten** asked how long she would extend the moratorium.

**Commissioner Farmer** replied hopefully until the February 13 meeting, assuming that the Board of Commissioners can set up a special meeting in January to go over it and hopefully come up with some sort of buffer and whatever else on the Gateway. She would recommend on the Gateway that they give the Planning Board a break as they did with the signage committee, set up a committee, have them talk about buffer recommendations.

**Commissioner Wootten** said he was the one who pushed for the moratorium to start with because he lacked information on which to make a good decision about what to do with the property on Reed Drive. They have the information now, and they have a potential solution that needs some work. He doesn't like the idea of extending the moratorium at the expense of others—Ronnie Watson is sitting on plans for a hotel that he needs to get going on if he plans to have it in operation next year for the tourist season, as well as the fellow on the other end of town. If they want to extend for 60 days, he thinks that they could probably get the developer of the Reed Drive property to agree not to do anything until the end of February. That way they won't punish anybody else.

**Commissioner Farmer** said that does nothing for the north side of 58.

**Commissioner Wootten** said the problem they are addressing is the Reed Drive property.

**Commissioner Farmer** said that is only part of it. They are talking about concerns that residents have for protecting the view from the bridge and the entrance to Emerald Isle. What happens on that B3 property will affect that area.

**Commissioner Wootten** asked if she would want to have the Gateway thing solved as well as the storm water issue solved, along with special use before the moratorium comes off.

**Commissioner Farmer** replied for the gateway, absolutely. She does not think the Planning Board had even looked at storm water on that parcel.

**Commissioner Wootten** said he would submit that if she intends to try to get the gateway configuration within a 60-day period of time, she is not being realistic. They don't even know what ordinance changes or specs they want to do.

**Commissioner Farmer** said to set up a committee. She doesn't really think it is going to be that complicated. She doesn't think there is that much they can do. She thinks it mostly will fall into a wider buffer along 58 on both sides, and it may include building heights.

**Commissioner Wootten** said he thinks they are doing more harm to the town extending the moratorium when they don't have to. You do not have to in order to protect the town.

**Mayor Harris** asked Commissioner Wootten if he had another suggestion. **Commissioner Wootten** replied that his suggestion that if he asked the developer if he or she would not develop a piece of property until as early as April and he had the words stated here in front of him that she would not do that, he would accept that that piece of property would not be developed. And therefore they don't need the moratorium—they don't need to punish anybody else. If they want to get the gal who owns the piece of property on the other side of the road into that equation, do that, too.

**Commissioner Farmer** asked Derek Taylor, Town Attorney, if they could narrow the area that the moratorium is covering in B3, for instance, to take all B3 from the bridge to Emerald Plantation.

**Mr. Taylor** replied that the answer to that is yes. They have the flexibility to narrow the moratorium down to the areas they think are the greatest concern. They will have to try to decide what it is they are trying to accomplish with the moratorium. If it is the purpose to hold the status quo until they make some determination as to the special use permit and how it applies to the B3, B2, and RMH zones as they have asked Benchmark to do, they are going to want to encompass that area in the moratorium. If that is not the concern, and they are only concerned about some smaller section for whatever reasons, and that is the justification, they need to be able to justify why they are doing the moratorium. Pick the area based on what they are trying to accomplish, and don't be any more expansive than what is necessary to do that.

**Commissioner Wootten** asked why they put the moratorium on all B3 to start with. **Mr. Taylor** replied that originally it was discussed that this traffic problem existed all along the Hwy 58 corridor, which is primarily this area of B3 zoning area, and they put it across the entire area to make a determination as to whether or not the whole area needed to be decided. They can narrow the scope of this thing. They want to narrow it if that is the only area of concern. He interjected that they must take into consideration the logistics involved in notification associated with a rezoning issue. They must mail to every property owner inside and adjoining to, within certain parameters, 100 feet, by first class mail, notice of the hearing they will have on the rezoning issue. That's a logistical nightmare if it is a huge area. He continued that if they do special use, they will be more restrictive, and with issues relating to those zonings, they might have the same notification requirements. He has not researched that yet. If they are not concerned about what

will happen between now and the time they set up the special use restrictions, it is not an issue.

**Mayor Harris** said still the number one concern is the traffic. **Commissioner McElraft** said the reason the original moratorium was put on there was for a traffic study to be done. She thinks that is what they need to use to guide them right now. If they want to do a gateway moratorium, they may need to address that later. She thinks that the gateway issue can be taken care of in the special use possibly, with talking about buffer zones with vegetation. With the special use B3, it is her understanding that they can dictate many things as far as how high the vegetation needs to be, that kind of thing. They have already limited building heights to 3 stories, and limiting them further . . . They already have a Citgo station there. How much uglier can they get?

**Commissioner Farmer** said there might be some non-conforming structures within it in terms of buffering. She asked if they could single out only one part of special use issues. **Mr. Taylor** said they could do that, if they think that is the area of greatest concern. **Commissioner Farmer** said she would also argue that the Coast Guard Road – 58 intersection is not just on one side on the street. It actually is on both sides, and the traffic problems conceivably will be contributed to by the other side as well. The problems aren't there now, but they are on the other side.

**Commissioner McElraft** asked if Commissioner Farmer thought something was going to happen as far as the other side. **Commissioner Farmer** replied that she didn't know and she is not sure if that is how you do a moratorium. She thinks they take the area you are concerned in, and they are not playing a guessing game with whoever . . .

**Commissioner McElraft** asked if they had to go back and re-do with public hearing and all a moratorium that is different from the one they've already put on. **Mr. Taylor** said there is not a lot of law on moratoriums, there is one case dealing with Vulcan that says moratoriums in a reasonable period of time for justifiable reasons, the Board can put into place. It has suggested that a notice and process be given in the same manner as they would if they were doing a rezoning to establish the moratorium. There is nothing he has been able to find that says what they do to extend the moratorium and whether they can do that as an action of the Board without further notice. They are in uncharted territory as to what is required to move forward with a moratorium. He would say that if they have a reasonable period of time and they can justify the reason for moving forward, and all they are doing is narrowing the scope of the moratorium and not creating new areas, that they can probably proceed without the necessary notice.

**Commissioner Farmer** said the issue still is the intersection at Coast Guard Road and 58. **Commissioner McElraft** added "or traffic study." **Commissioner Farmer** said they could take the time while the moratorium is in place and also do a gateway.

**Mayor Harris** said the majority of the Board does not want to extend the moratorium.

**Commissioner Wootten** asked that they consider that they put the moratorium in place for a very specific purpose, which was to study the intersection at Coast Guard Road. How much are they going to sweep under the guise of a moratorium? To keep a moratorium in place until they have the Gateway potential, the storm water problem solved, etc., that is what it appears we are doing here. They are not going to get that done in 60 days.

**Commissioner Farmer** said Benchmark had suggested 90 to 180 days for this moratorium to do this ordinance. Limit the extension of the moratorium 60 days for traffic only at the intersection of Coast Guard Road and Hwy 58. The reason is because they need that time to get the ordinance in

place that will deal with the traffic problems recommended to us by Benchmark in their traffic study.

**Commissioner McElraft** asked if they could, in order not to hurt other people who want to get something going, get an agreement with Ms. Paxon [sic] not to do anything until that February timeframe. That eliminates having to continue on with the moratorium.

**Commissioner Farmer** asked Mr. Taylor if a verbal agreement or written agreement is legally binding. **Mr. Taylor** replied that there are challenges that could be made to the legitimacy of a contract of that type. **Commissioner Farmer** said she would not support that. They have people sitting out in the audience who are very concerned about what is going to happen with this intersection, and they have an obligation to protect their interests.

*Commissioner Farmer moved that the moratorium currently in place be extended another 60 days so that Benchmark can draft this ordinance, the Planning Board can review it, the Board of Commissioners can also review it and then call for a public hearing at the February Board meeting. Commissioner Trainham seconded the motion. Commissioner Trainham and Commissioner Farmer voted in favor, Commissioner McElraft and Commissioner Wootten opposed. Mr. Taylor explained that when there is a deadlock, the individual who has been excused is gone, the excused individual does not have a vote that is not necessarily affirmative when there is a deadlock, the ordinance and statutes say that the mayor breaks the tie. Mayor Harris voted "No." Motion defeated.*

*Commissioner Wootten moved that the Board agree with the recommendation from the Planning Board that improvements to Coast Guard Road from approximately Pebble Beach to NC 58, as described in the reports from Kimley-Horn and Benchmark Engineering, Inc., be implemented as soon as possible. Commissioner McElraft seconded the motion.*

**Mr. Tom Henson**, resident of 8806 Sound View Court, asked if they would be voting to go ahead with the improvements to Coast Guard Road. **Commissioner Wootten** replied that the reports by Kimley-Horn and Benchmark included lane layouts, and the motion is to proceed down that path and implement that plan. **Mr. Henson** asked if they were getting ready to spend taxpayer dollars in order not to reduce the value of the McLean property by an unknown amount—and they don't know how much it is going to cost to do the improvements to the road.

**Commissioner Wootten** said all they were doing was approving the recommendation. There are all kinds of steps to be taken. **Commissioner McElraft** commented that the land value, where it is right now, something is going to be developed there, so something is going to have to be done about the traffic. The land value where it is right now is getting a minimal amount of taxes. With the improvements there with development of that property, they will probably be going to have a ten-fold tax increase from that area that will more than pay for any road improvement.

**Mr. Henson** said if the zoning were reduced to B2 or in some way restricted, the threat is that it is going to reduce the value of the McLean Trust property. His question is, without knowing how much that reduction is going to be, how can they go forward making a decision to spend an unknown amount of money to improve a roadway to contribute to a piece of property to be developed so it won't lose value. Hypothetically speaking, \$250,000 to improve the road so the property doesn't decrease in value?

**Commissioner Wootten** said Mr. Henson was making the assumption that road development improvement widening is being done just for the development of that piece of property. That is not the case.

**Mr. Henson** said they are making the assumption that there is a problem there without the development. **Commissioner Wootten** said Kimley-Horn and Benchmark both said irregardless of how the piece of property turns out, Coast Guard Road has to be dealt with. **Mr. Henson** said without development, there is no problem there. **Commissioner Wootten** disagreed.

**Commissioner McElraft** asked if they would have no development. There is either going to be B3 or B2. They have decided pretty much not to rezone it to B2, to keep it at B3 special use.

**Mr. Henson** said the problem is that they didn't extend the moratorium in order to give the Planning Board time enough to make decisions on what the impact is going to be on that property and the amount. Instead, they have let the moratorium go, which means she can put plans and develop it any way she wants to, they don't have but so many restrictions they can go with, and instead they are moving forward to spend money to fix an intersection that may not need fixing. He doesn't understand the logic of that.

**Commissioner Wootten** said the recommendation that came out of the Planning Board, some of the comments were that something has to be done about Coast Guard Road first, regardless of how the property is developed. **Mr. Henson** said the problem with that is that Commissioner Wootten has absolutely no idea what is going to happen with that land, and how can he go forward with a plan without knowing what the impact of the development is going to be.

**Commissioner Wootten** said the recommendation for widening and dealing with Coast Guard Road can be dealt with regardless of development of that property. It may only go to 3 lanes if there is no development of the property. **Mr. Henson** asked what would happen if they did that, the development goes in, and they need more lanes. **Commissioner Wootten** replied that the development, under the special use permit, would have to contribute the property to add the land. **Mr. Henson** said there isn't special use permit because they lifted the moratorium.

**Commissioner Wootten** said they will proceed with the special use permit. **Commissioner Farmer** said all they have to show is vested interest. **Mr. Henson** said all they have to do is go before the Planning Board.

**Mr. Bob Smith**, resident of 2208 Emerald Drive, said from what he just heard about lifting the moratorium, the Planning Board has done their part. They have told the Board what they think ought to happen. The Board is suggesting going forward and spending money when they don't know what they are spending it for. Does that make sense? It makes sense that they are going to spend money to widen Coast Guard Road; but at the same time, when they asked the Planning Board to consider the McLean property, those two things were tied together. You have to do something to the road to consider whether or not to give her authorization to go forward with any kind of development.

**Commissioner Wootten** said the consideration of the road in terms of the relation to the property was more internal to the property, as in ingress and egress from the property. There is the whole issue of Coast Guard Road and the width and the traffic volume to take care of the road regardless of the development of the property.

**Mr. Smith** said it is confusing to him, and maybe some other folks, that those two things are running together. **Commissioner Wootten** said the point he was trying to make is that they don't

necessarily have to, although they appear to. He would submit that they need to do something about Coast Guard Road even if they didn't have the issue of development of that property.

**Mr. Smith** said that may be true, but the way it comes out from the Board to the public, that is not the way it is being done.

**Mr. Larry Spell**, of 410 Cape Emerald agreed with Commissioner Wootten that there are times in the summer when they have problems with Coast Guard Road regardless of anything that might take place on that corner. His thought would be to suggest that campers come down a different road other than Coast Guard Road. It might facilitate that if they consider making Reed Drive a one-way street so that people who turn down Coast Guard Road would not be able to turn left onto Reed Drive.

**Commissioner Farmer** said one of the reports looked at that, and they said "No."

**Mr. Jack Siekmann**, resident of 218 Sandfiddler, wants to know what is wrong with Coast Guard Road. What are they planning on doing, and why do they agree to do it without knowing how much it is going to cost? He goes up and down that street, and the Board is asking for public comments, and the public doesn't have the slightest idea what they are talking about.

**Commissioner Farmer** said she also lives down Coast Guard Road and does not have any problems with it.

**Commissioner Wootten** said two engineering reports address Coast Guard Road, and they have a recommendation from the Planning Board to the Board to improve the road. There is a lane layout, a whole scheme.

**Mr. Siekmann** said they are voting on it tonight. He wants to know how much it is going to cost. He agrees with Commissioner Farmer that there is no problem with Coast Guard Road, he doesn't care what the engineering studies say.

**Mr. John Grady**, resident of 113 Fawn Drive, said there is a traffic problem. He doesn't care where the people live on Coast Guard Road, they are not at the other end. He is right there with the problem.

*Mayor Harris asked for an amendment that the recommendation from the Planning Board that improvements to Coast Guard Road from approximately Pebble Beach to NC 58, as described in the reports from Kimley-Horn and Benchmark Engineering, Inc., be quantified as to the cost and presented to the Board of Commissioners for approval. Commissioner Wootten agreed with that modification and Commissioner McElraft seconded that.*

**Mr. Taylor** suggested that the Board does not want to write a blank check tonight. They need to see the proposal and what it is going to cost.

**Commissioner Farmer** spoke to Mr. Harrison, Planning Board chairman. If the parcel that was under consideration for subdivision remains B3, is she right that the widening of Coast Guard Road still will result in worse traffic conditions in the summer than they have now? With the development of that one parcel along 58 that is likely to remain B3, even though they widen Coast Guard Road, traffic will be worse than it is now. **Mr. Harrison** replied "Likely." He would say

that anything that is done on that parcel, or for that matter, any additional house down Coast Guard Road, is going to add some level of traffic for Coast Guard Road. **Commissioner Farmer** said a house down Coast Guard Road will not add the same kind of burden.

**Commissioner Wootten** said it depends on the square footage of commercial development on that piece of property.

**Commissioner Farmer** said she hopes the Board keeps that in mind, because the people out here may be paying a mint to have that road widened, and they are going to end up with worse traffic, to say nothing of the character of the road being destroyed.

*Mayor Harris said they had an amended motion and a second. Commissioner Farmer clarified that it is merely for a study. Vote was unanimously in favor. Motion carried.*

**f. BOARD AUTHORIZATION FOR PUBLIC WORKS DIRECTOR CONRAD TO SEEK BIDS FOR STREET RESURFACING ELEVATION AND IMPROVEMENTS FOR 2000-2001 WITH EXISTING POWELL BILL FUNDS.**

Mayor Harris said that the Commissioners have the list of priorities, sub-priorities, and can-waits submitted by Mr. Conrad.

**Commissioner Farmer** asked about the statement on page 2, "As you recall, we will be beginning the construction work in Ocean Oaks and Cape Emerald around the first of January on the drainage easement in that area." She wondered whether people were aware of and were happy with that. Cape Emerald has had sinkhole problems. Her second question is her concern that there are a number of roads that are going to be elevated in the trough, and her concern that the road elevation will push water onto people's property. These are Island Circle and Coast Guard Road (Parker Street to Island Circle.)

**Mr. Bob Conrad** replied that Coast Guard Road is approximately 2½- to 3-inch average elevation. There would be some places that are 1, some that are 5 or 6. They are talking about the entrances on both ends of Island Circle, which would be a little higher elevation but would not come up higher than Coast Guard Road. There are culverts on Coast Guard Road connecting the ditches on both sides. **Commissioner Farmer** wondered how much the roadway was actually helping hold some of the water, but she guessed not much—that water that would be standing on the roadway now will now be in people's yards. **Mr. Conrad** said, "That's true."

**Mr. Bernie Zucker**, resident of 226 Cape Lookout Loop, asked if they were going to be starting work on the project in Cape Emerald. **Mr. Pete Allen**, Town Manager, replied that they are planning to start the first of January, and they are trying to lock that date in so they can write everybody an individual letter. **Mr. Zucker** said they would appreciate notice. **Mr. Allen** said he had addresses for all affected property owners, but they have been trying to get an estimate of the starting date from the contractor, and he is estimating the first or second week of January.

**Mr. John Grady**, 113 Fawn Drive, said it would help to know which streets they are going to elevate. Rescue and trucks might get through but they are still getting a saucer effect from it. The water is already trapped. They can't get it out now, and every time they add an inch, or 2 inches, they are blocking it that much more. They are already up to their ears with water.

**Mayor Harris** asked Mr. Allen if they had any news regarding Deer Horn Dunes. **Mr. Allen**

replied that Mr. Grady should stop by his office, and Mr. Allen would tell him what they are going to do. They have also run numbers on piping between Fawn Drive and Doe Drive. They are trying to get an official ok from DWQ in Wilmington whether they can pump across that area.

*Commissioner Wootten moved that the list for street resurfacing and use of Powell Bill funds to pay for it be approved, Commissioner Trainham seconded, and the Board voted unanimously for approval. Motion carried.*

**Mayor Harris** said that Mr. Allen does have the list, so residents can check with him.

**g. DISCUSSION AND FINAL PLAT FOR SUNSET HARBOR CONDOMINIUMS BLOCK 38, LOT 2.**

**Mayor Harris** asked Mr. Harrison of the Planning Board if there were any contingencies. **Mr. Harrison** replied that the only reservation they had was something relayed to them by Chief Walker about their inability to access the buildings as they are currently laid out. There was discussion earlier about adding gravel below grass level so they can access the buildings in event of a fire. This concerns the extension of the parking lot at a distance of about 50 feet and a width of 16 feet.

**Mr. Ricky Farrington**, developer of the property, said those are installed under the grass. There is a long one on the left side of the walkway and one to the right of the walkway. It is on the preliminary plat showing exactly where they are. They can drive on them up to within 20 feet of the building.

**Commissioner Farmer** said she would like to know whether that is considered impervious because it has gravel underneath it. The water will not infiltrate. **Mr. Farrington** said he was not sure whether it is or not and questioned whether a gravel driveway is considered impervious. **Commissioner Farmer** said it is essentially a gravel driveway with grass growing over it that can support the weight of the fire trucks.

**Mr. Farrington** said underneath the grass there is a 12-inch drop bed that allows a fire truck to get up there. He showed pictures of the drainage system being installed and said their impervious surface area is 12.5% of the property.

*Commissioner Farmer moved, Commissioner Trainham seconded, and the Board voted unanimously for approval of the final plat of Sunset Harbor Lot 2, Block 38. Motion carried.*

**NEW BUSINESS**

**a. DISCUSSION AND POSSIBLE PRELIMINARY PLAT APPROVAL FOR OSPREY BLUFF SUBDIVISION-BLOCK 43.**

**Mayor Harris** asked if Chief Walker had met with the people concerning the slope. **Mr. Harrison** replied that he, Carol Angus, Chief Walker, Larry Spell, John McLean met and suggested that a fire hydrant be moved to a more central location at the intersection of lots 9 and 10 Christina Court, that the known distance between any retaining walls on Christina Court, or on any lot, access driveways be 25 feet, that the turning radius onto Christina Court be changed to accommodate the largest town emergency vehicle, that the steepest portion of Christina Court be

able to accommodate the most limiting town emergency vehicle, that prior to paving, all of these factors be subject to a field verification by Chief Walker and the Emerald Isle Inspections Department.

**Commissioner Farmer** asked if the Planning Board is happy with the retaining walls. **Mr. Harrison** said there had been questions about the retaining walls, and those modifications were made. **Commissioner Farmer** asked if the slotted drain is ok to drive on, and **Mr. Harrison** said it was.

*Commissioner Trainham moved, Commissioner Wootten seconded, and the Board voted unanimously for approval of the final plat of Osprey Bluff Subdivision, Block 43. Motion carried.*

**b. Removed from agenda because of B3 Moratorium**

**c. SPECIAL USE REQUEST BY EMERALD PLANTATION HOA TO DESIGNATE AREA FOR BOAT STORAGE.**

**Mr. Tom Ross**, resident of 415 Emerald Plantation Road, represented Emerald Plantation as President of the Homeowners Association

**Commissioner Wootten** asked if the Planning Board had approved the request. **Mr. Harrison** said they had. They have recommended to Mr. Ross that this be considered an appurtenant use so they won't have to come back every year and renew a special use permit and pay a \$60 fee and go through this process.

**Mayor Harris** asked about clearing and removing the trees, is there a timetable for replanting? **Mr. Ross** said they would do that immediately after they remove the trees. They'll work with the community, and already have a plan laid out where they will remove the necessary trees, then will go back in and border all along where the boat storage will be with Japanese pines and Crape myrtle. That should all be done by May 2001.

*Commissioner Wootten moved, Commissioner Farmer seconded, and the Board voted unanimously for approval of the special use permit request for a boat storage area in Emerald Plantation on a permanent basis. Motion carried.*

**d. DISCUSSION OF ON-GOING ACTIVITIES RELATIVE TO BEACH NOURISHMENT.**

**Mr. Frank Vance**, resident of 2302 Ocean Drive and member of the Planning Board, said when the Tideland News came out on November 22, 2000, there was an article that got him in a lot of trouble. Several of his neighbors got a number of calls and visits and questions about the article considering the first three rows from 1<sup>st</sup> Street to the 3000 block. He made up a list of the people and their properties, and three neighbors helped him. There are 87 names on his list that are not for it: 7 of them say they can't afford it due to certain problems; 11 are oceanfront property owners; and a couple more weren't interested but didn't want their names listed. He didn't get involved when we had the election, so a lot of comments have been made about what should or shouldn't be done. In the survey, if the people say what they have said to him, there will be a problem. Most of the people say they are willing to do something, but they're not willing to bail out some guy who went down and bought 5 houses on the ocean. Looking at the overall picture of refurbishing the beach, most are willing to do something provided the whole island is involved. They want the whole island to help pay for it, and they want to see money from the county, state,

and federal governments. He called Walter Jones' office and spoke to Jeff Bowman, and Mr. Bowman said there is money available but studies have to be completed. He has also written to Walter Jones, Jesse Helms, and John Edwards, and he had response back from Edwards and Helms. Helms, if you read between the lines, says that we need to get the state ready to help us.

**Mr. Vance** has been a homeowner in that area for 24 years and has been living there for 10 years. He showed a picture of the beach when he first moved there of 23<sup>rd</sup> Street and Emerald Drive looking toward the ocean. Before the one house in the picture had been sold, water was splashing off the utility room. It was built in the ocean to start with. If you look at the picture without the house on it, you don't see any dunes, you see the ocean looks like it's going to come straight at you. These people have made some really ugly comments that the whole section was built into the ocean. They know for a fact that all the docks and piers that the taxpayers spent removing debris from, and the money FEMA spent last year, those homeowners got the benefit of that. His point is that when you look into it, it will be knocked down again. He hasn't seen one person who agrees to go into it without help.

He has referred some of the people to the Commissioners. He has also told them to contact their state representatives. Jeff Bowman said they had just approved over \$1 billion for Dare County, and they have to have matching state funds for that.

**Commissioner McElraft** asked if all 11 oceanfront property owners were all negative. **Mr. Vance** replied that they were, and there were two more who did not want their names added to the list. The man who owns the house in front of him has not spent one dime on pushing sand. All the sand has been free to him from FEMA, and his house brought in \$38,000 last year.

**Commissioner Wootten** said there would be a survey sent out. If it is a bad idea, it won't go anyplace.

**Commissioner McElraft** said they are working on federal, state, and occupancy tax funds to fund beach nourishment. That is probably 6 or 7 years down the road. It is looking good, and they are also looking at the way the inlets are being dredged and are considering an injunction. She, Mr. Henson, Julia Wax, and Charles Vincent are all on the Bogue Banks Beach Preservation Association Board and are working every Saturday morning so that the taxpayers don't have to pay for this.

**e. STORM WATER PRESENTATION BEFORE THE BOARD REQUESTED BY RON MARKS.**

**Mr. Ron Marks**, resident of 134 Sand Castle Drive, gave a computer presentation on storm water issues in the Coast Guard Road area. Years ago, he had enough training as a geologist to be certified to teach it in secondary schools. He looked at the storm water issue with that in mind. One of the things they take for granted is something that he took for granted where he lived previously. When rain water fell in his back yard, it went into a small stream, to the Seneca River, to the Schuylkill River, Lake Ontario, St. Lawrence, and to the ocean. Almost anyplace in the United States you can pour a cup of water into the ground; and if it doesn't evaporate, it will find its own way to the ocean. Emerald Isle is not one of those places.

Now he lives a quarter mile from the ocean, and the water in his back yard cannot get to the ocean. It is not because of the roads, the construction, it is because of the basic topology of the island. The information he is using comes from the 1953 and 1954 surveys by the U.S. Coastal

Geodetic Surveys. Added to that were aerial surveys of 1971, 1993, and 1994, which are not field-checked. Basically the topography of the vegetative part of the island is essentially unchanged except for some construction with minor effects.

He showed a map of an island in the Inland Waterway and its depression contour. When you go down inside that, everything is below that level. That is key—the depression contour is a solid line and encloses an area where there will be no water drainage. He outlined what looked to him to be the most significant depression contours, and there are a mess of them on that island.

He showed the main portion of the west end of Emerald Isle. The yellow line was Coast Guard Road. The green lines were the depression contours, which have a rim between 10 and 15 feet above sea level. That means everything inside the lines is below 10 feet above sea level and has no outlet, and until the water fills it up to that level, it will not flow out and over the surface. The orange lines are below 5 feet above sea level. We basically have two big troughs. In the area of Sea Dunes and Deer Horn Dunes, the reason we are getting water is because it will not flow up and out of the troughs.

Mr. Marks showed where Emerald Drive came in. Reed Drive goes right along the depression contour, which is 4½ miles long, and there is no way water can flow out of it over the natural rim. This was not caused by construction or road-building, it was caused by the natural topography of the island.

The builder of Coast Guard Road was no dummy. He built the road along the south side of the depression basin where there are wetlands, and looking ahead, he built it up to a level of about 11 feet. Coast Guard Road did not block the drainage. Coast Guard Road goes along the natural ridge which blocks off drainage to the north. The road is not responsible for blocking drainage to the Sound.

**Mr. Marks** showed that it is the same elevation at the end of the island as it is 4½ miles east. Living room floors are not that level. There is so little slope, he questions whether there has ever been natural drainage along the surface. There may be some sub-surface drainage, but he questions the assumption of an east to west drainage on the island. He doesn't think it ever existed.

Our problem is natural topography, we built homes in wetlands, and when you build a house in a wetland, you have a house in a wetland. **Mr. Marks** showed a slide of a cross-section of a fictional island. Where the land goes up, the water table tends to be higher. Where the land goes lower, the water table tends to be lower. Where the water in the pond is represents the top level of the saturated ground water. If he tries to pump the pond out and tries to get the water down, the water inside goes right back up again. To take the water down in the trough, you have to take down not only the water in the ponds but also the ground water around it. Ground water has a gradient and follows the steepest gradient. Ground water is going to go to the south along the steepest slope or the north along the steepest slope, not in the almost level trough that goes through there.

This island is not formed by running water, it does not follow the same rules that watersheds do on the mainland.

**Commissioner Wootten** contrasted this to work that Ricky Farrington has done. He asked what happened when the water went over the natural ridges. **Mr. Marks** replied that none of the water

goes over the natural ridges. There is water outside the troughs. **Commissioner Wootten** said at some point in heavy rainfall, some water would go over it. **Mr. Marks** said for water to go over the green areas, there would have to be ponds of standing water up to a level of at least 10 feet absolutely full. The water would have to be filling up those areas, and he doesn't think that has ever happened here. **Commissioner Wootten** said today that the ponds at Lands End have gravity feed to the Sound area. **Mr. Marks** said the underground connections would have to go through that divide or be pumped over it. He compared his levels to the Moffat & Nichol study and to Mr. Farrington's map, and he has confidence in the levels.

**Commissioner Farmer** asked Mr. Marks to clarify that there is no natural drainage. **Mr. Marks** says he can't say there isn't, but his opinion is that the whole area is the same elevation, and you can't build a wooden house with a floor that level. The water will not flow on that floor. Where Coast Guard Road crosses at Dolphin Ridge, if there is a westward flow, he expected to see water ponding on the east side.

**Mr. Farrington** said that can't be seen because the water in that section is draining through the artificial drain under Cape Emerald Road to the Sound.

**Mr. Marks** says he really questions how much water flows that way, if any. If you put a drain in lower, then it will drain.

## **PUBLIC COMMENTS**

**Mayor Harris** said due to the time at 11:00, she would bypass public comments, department head comments. They have to go into closed session.

**Carolyn Custy**, Town Clerk, had no comment.

**Derek Taylor**, Town Attorney, said Merry Christmas, bless us every one.

**Pete Allen**, Town Manager, had no comment.

*Commissioner McElraft moved, Commissioner Farmer seconded, and the Board voted unanimously to go into closed session to discuss Cline Vs. Town of Emerald Isle litigation. Motion carried.*

The Board of Commissioners went into closed session at 10:50 P.M.

*Commissioner McElraft moved, Commissioner Wootten seconded, and the Board voted unanimously to go back into open session.*

The Board of Commissioners returned to open session at 11:10 P.M and announced the settlement of Cline Vs. Emerald Isle litigation in the amount of \$2,000.00.

*Commissioner Trainham moved, Commissioner Farmer seconded and the Board voted unanimously to adjourn.*

The meeting was adjourned at 11:15 P.M.

Respectfully submitted,

Carolyn K. Custy

Town Clerk