

**TOWN OF BURGAW BOARD OF COMMISSIONERS
REGULAR MEETING**

DATE: February 10, 2015
TIME: 4:00 PM
PLACE: Historic Burgaw Depot
BOARD MEMBERS PRESENT: Mayor Eugene Mulligan
Commissioners Jan Dawson, Wilfred Robbins, Charles Rooks
BOARD MEMBERS ABSENT: Mayor Pro-tem Howard Walker, Commissioner Elaine Tyson
STAFF PRESENT: Chad McEwen, Town Manager
Sylvia W. Raynor, Town Clerk
Robert Kenan, Town Attorney
Anthony Colon, Utility & Compliance Specialist/ORC
Bill Fay, Director of Public Works
Louis Hesse, Building Inspector
Ashley Loftis, Finance Officer
Rebekah Roth, Planning Administrator
Montrina Sutton, Chief of Police
Kristin Wells, Deputy Clerk
Allen Wilson, Fire Administrator
MEDIA PRESENT: Bill Walsh, Star News
INVOCATION: Nick Smith, Chaplain
PLEDGE OF ALLEGIANCE: All

The meeting was called to order by Mayor Eugene Mulligan at 4:00 PM.

Approval of Agenda

Mayor Mulligan asked if there were any requests for amendments to the agenda. Mr. McEwen advised there will be a closed session regarding personnel at the end of the meeting and he also said there is a resolution regarding the SCADA system that will be added during other items from the manager. There being no further requests, Commissioner Robbins made a motion to approve the agenda as amended. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Approval of Consent Agenda

Commissioner Rooks made a motion to approve the consent agenda as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote. The consent agenda and the following items were approved:

- **Minutes of the January 13, 2015 regular meeting**

SPECIAL PRESENTATION

Jim Fouche – Promotions and Special Events Committee

Jim Fouche, Chairperson of the Promotions and Special Events Committee appeared before the Board to present a budget request of up to \$10,000 for the upcoming fiscal year (FY 2015-2016). Mr. Fouche advised the purpose of the funding request is to create a marketing plan for the promotion of the depot and the community house. The funding request included the following items:

SPECIAL EVENTS

- Christmas Tree Lighting – Production-sound, lighting, set up \$300.00
- Promotions-Post/Voice-free portion and paid portion \$100.00
- Star News – free portion and paid portion \$200.00
- Signs - \$200.00

- Other special events contingency - \$200.00
- DEPOT AND COMMUNITY HOUSE
- Website - \$3,000.00
 - Wedding Shows - \$1,500.00
 - Brochures/Packets for depot - \$1,000.00
 - Brochures/Packets for community house \$500.00
 - Magazine/Periodicals – 4 ads per year - \$1,000.00
 - Other promotional opportunities contingency \$2,000.00

After a brief discussion, the Board thanked Mr. Fouche and his committee for their effort in creating this presentation.

DEPARTMENTAL ITEMS

Finance – Ashley Loftis, Finance Officer

Ordinance 2015-02 Amending the FY 14-15 budget to recognize revenues received through the North Carolina Volunteer Fire Department Fund Grant

Ms. Loftis advised on May 15, 2014 The Burgaw Fire Department was awarded a matching grant of \$12,687.50 from the North Carolina Office of the State Fire Marshal. The fire department applied for this grant to assist in purchasing personal protective equipment and technology and supplies to keep our fire department compliant with state and federal standards. This has allowed us to purchase additional personal protective equipment and a thermal imaging camera that could not be supported through budgeted funds.

Ms. Loftis advised the necessary equipment was purchased and placed into service prior to the September 30, 2014 deadline. At that point all related invoices were sent to the Office of the State Fire Marshal for review and on November 20, 2014 the funds were received. She advised the recommendation is the approval of the ordinance to recognize the \$12, 687.50 into the FY 14-15 budget to cover the appropriate expenditures.

There being no discussion, Commissioner Dawson made a motion to approve Ordinance 2015-02 as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**ORDINANCE 2015-02
AMENDING FISCAL YEAR 2014-2015 ANNUAL BUDGET
Increasing Revenues and Expenditures**

WHEREAS, the Town of Burgaw Board of Commissioners approved the Burgaw Fire Department to initiate the filling of a grant through the North Carolina Volunteer Fire Department Fund; and

WHEREAS, the grant agreement was executed and the Town received notice on May 15, 2014 that financial assistance from the Office of the State Fire Marshal had been approved; and

WHEREAS, the Town of Burgaw Fire Department purchased additional equipment above and beyond what was budgeted in FY 14-15; and

WHEREAS, the grant funds to cover these expenses were received on November 20, 2014.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT:

Section 1: The FY 2014-2015 budget be amended to reflect the following changes:

INCREASE BUDGETED REVENUE

Account Number	Account Description	Amount
10-3700-00-800	Miscellaneous Revenue	\$12,687.50

INCREASE BUDGETED EXPENDITURE

Account Number	Account Description	Amount
10-5300-10-330	Supplies	\$12,687.50

Approved: February 10, 2015

Resolution 2015-04 Authorizing the Pender County Tax Collector to advertise tax liens

Ms. Loftis advised pursuant to General Statute 105-369(a), the Tax Collector must notify the governing body of the total amount of outstanding 2014 taxes, which are now a lien on real property. The governing body then gives the Tax Collector authority to advertise these liens. She advised the recommendation is the approval of the resolution authorizing the Pender County Tax collector to advertise the outstanding 2014 taxes on real property as liens on these properties.

There being no discussion, Commissioner Robbins made a motion to approve Resolution 2015-04 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

**RESOLUTION 2015-04
REPORT OF UNPAID TAXES**

WHEREAS, the Pender County Tax Collector has reported outstanding Town of Burgaw taxes of \$140,825.72 which are a lien on real property for 2014; and

WHEREAS, the Town of Burgaw Board of Commissioners wishes the tax collector to advertise the tax liens pursuant to the General Statute 105-369 (a).

NOW THEREFORE BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT the Pender County Tax Collector is ordered to advertise the tax liens for the outstanding 2014 taxes pursuant to General Statute 105-369(a).

Approved: February 10, 2015.

Fire Department/Safety/EM – Allen Wilson, Fire Administrator

Resolution 2015-05 Authorizing Disposal of Surplus Tables and Chairs

Mr. Wilson advised he is requesting permission to surplus 16 eight foot wood/laminate tables and 50 metal chairs. New tables and chairs have been purchased and placed in service. It is the request of the fire department to surplus these items either through a private sale or through advertisement.

After a brief discussion, it was recommended that if the tables don't sell by private sale that the Fire Department might try to sell the tables when they have their community yard sale in April.

Commissioner Rooks made a motion to approve Resolution 2015-05. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

**RESOLUTION 2015-05
AUTHORIZING DISPOSAL OF SURPLUS TABLES AND CHAIRS**

WHEREAS, the Town of Burgaw, North Carolina is the legal owner of 16 eight foot tables and 50 metal chairs; and

WHEREAS, upon purchase of new tables and chairs the current 16 eight foot tables and 50 metal chair will no longer be used by the Fire Department and should be declared surplus equipment of the Town of Burgaw; and

WHEREAS, North Carolina General Statutes 160A-270 allows municipalities to dispose of property by public auction by adopting a resolution; and

WHEREAS, the following regulations are designed to secure for the Town of Burgaw the fair market value for the tables and chairs, and to accomplish the disposal efficiently and economically.

NOW, THEREFORE, BE IT RESOLVED by the Town of Burgaw Board of Commissioners that:

1. *The Board of Commissioners does hereby decommission the 16 eight foot tables and 50 metal chairs above issued to the Fire Department and does hereby declare them to be surplus fire equipment;*
2. *Said property shall be sold by private sale in accordance with GS 160A-267. Upon completion of required publication of sale notice, if sale is not consummated within thirty days of advertising, property shall be placed on public auction with www.govdeals.com for sale to the highest bidder in accordance with GS 160A-270.*

Adopted this tenth day of February, 2015.

Planning – Rebekah Roth, Planning Administrator

Resolution 2015-06 Consideration of accepting Rhodes Avenue into the Town of Burgaw Street Maintenance System

Ms. Roth advised in 2004, Mack Bell and William Batuyios subdivided a property along US Hwy 117 Bypass into three tracts for the Bay Tree Business Park. The subdivision included the construction of Rhodes Avenue, an approximately 500 ft. road with 60-foot right-of-way, which provides access to the properties now occupied by SPEC and State Employees Credit Union.

Ms. Roth advised on the subdivision plat, the road is marked as public; however, it has never been officially accepted into the town's street maintenance system. The owners of the property were unaware of this until its status came up in talks with a potential developer last year. The town has taken care of small maintenance issues on the road in the past, repairing potholes, for example, but has never received Powell Bill funding for it.

Ms. Roth stated that Mr. Bell and Mr. Batuyios hired ECS Carolinas, LLP this past fall to inspect the roadway, which staff had requested as part of a petition for street acceptance. Public Works Director Bill Fay has seen the paperwork and inspected the site and has no concerns regarding the potential acceptance of the road into the town system. There is an existing pothole, which requires repair. The attached resolution of acceptance does specify that the owner has agreed to pay \$600.00 to the Town for the repair of the pothole with repairs being done the next time the Town has a paving contractor in town.

Ms. Roth informed the Board in her background material the infrastructure board did not feel consideration of the matter prior to Board of Commissioners deliberation necessary.

Ms. Roth advised that since the packets were delivered, Mr. Bill Fay, DPW has done further research on the condition of the road and requested that he present his findings to the Board.

Mr. Fay presented pictures of the site and advised there are trees holding water back in the ditch prohibiting drainage. He advised the driveway on the Credit Union side is too high and there needs to be some work done there to slow the water that is causing an erosion issue there. He said the ditch also needs to be cleaned. He advised there is large pothole as well as some cracks in the pavement. Mr. Fay advised the radius is tight and the slope from the ditch is at the edge of the pavement causing cracking along the edge of the pavement. He said increase in traffic caused by development will create more wear on the road as time goes by if repairs are not made soon.

Mr. Batuyios commented that the road was built to NC Department of Transportation's specifications at the time.

There was a very lengthy discussion regarding the current condition of the road, the liability of the town if the road is taken over as is, responsibility of adjoining property owners whose driveways connect to the road and the drainage issues.

Mr. Batuyios advised that the developers would be willing to make the necessary repairs such as removal of the trees that are blocking the ditch drainage, the cracked pavement and the large pothole contingent upon the Credit Union being required to repair their driveway connection which is causing an erosion issue. Mr. McEwen advised he and Mr. Fay will meet with the Credit Union and SPEC to discuss any issues that they would need to take care of to bring the road up to standard.

Commissioner Robbins made a motion to table any action on Resolution 2015-06 until the Town Manager can bring back further information regarding Rhodes Avenue and the necessary repairs. The motion was seconded by Commissioner Rooks and carried by unanimous vote.

Commissioner Rooks requested that in the future all streets be constructed to NCDOT standards and that private streets be eliminated within the town limits in the future. There was a lengthy discussion regarding the pros and cons of eliminating private streets.

Police Department – Montrina Sutton, Chief of Police

Resolution 2015-07 Authorizing Disposal of Surplus Cushman

Chief Sutton advised the police department is no longer using the Cushman and desires to surplus the vehicle. She advised she has received documentation from the state that will allow surplus of the vehicle. She advised the vehicle does not suit the needs of the department and it has some mechanical problems. Many questions were asked and after a lengthy discussion, Commissioner Rooks said he would like to get more information about the vehicle and if the vehicle can be utilized in another department. Bill Fay advised he has spoken to the new mechanic about looking at it to see if it can be used for any purpose in public works.

After much discussion, Commissioner Robbins made a motion to table any action on Resolution 2015-07 until further information can be obtained. The motion was seconded by Commissioner Rooks and carried by unanimous vote.

ITEMS FROM ATTORNEY – Robert Kenan

None.

ITEMS FROM MANAGER – Chad McEwen

Resolution 2015-08 Exempting the Water Rehabilitation Project from the Mini-Brooks Act as Provided by North Carolina General Statutes 143-64.31 and 143-64.32

Mr. McEwen advised in North Carolina the General Statutes (143-64-31 and 143-64-32) require the selection of professional services (engineers, architects, and surveyors) to be based on Qualification Based Selection (QBS) as opposed to the lowest responsive and responsible bidder requirement. Waiving the Mini-Brooks Act allows us to determine cost of services prior to selection and provides the Town with greater flexibility during the selection process. In addition the waiver of the Mini-Brooks Act will often force interested firms to provide you with their lowest bid for two reasons. First, the waiver allows you to consider price during the earliest phases of the selection process rather than after the selection of the firm has been made as is the case under a QBS process. Second, only projects that are estimated to be below \$50,000 for professional services may be waived under the Mini-Brooks Act. Waiving the Mini-Brooks Act informally tells any interested firms that the Town has determined a maximum financial obligation for the proposed project as it relates to professional services.

Mr. McEwen advised the recommendation is the approval of the attached resolution which exempts the Town from the Mini-Brooks Act as provided by North Carolina General Statutes 143-64.31 and 143-64.32.

Mr. McEwen advised approval of the resolution is basically checking a box in the long list of items that must be done during this process. After a lengthy discussion, Commissioner Rooks made a motion to approve Resolution 2015-08 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Resolution 2015-08

RESOLUTION EXEMPTING THE WATER REHABILITATION PROJECT FROM THE MINI-BROOKS ACT AS PROVIDED BY NORTH CAROLINA GENERAL STATUTES 143-64.32

WHEREAS, G.S. 143-64.31 requires the initial solicitation and evaluation of firms to perform architectural, engineering, surveying, and alternative construction delivery services (collectively “design services”) to be based on qualifications and without regard to fee; and

WHEREAS, the Town of Burgaw proposes to enter into a contract with McGill Associates for design engineering, permitting, bid and award, and construction phase services for upgrades to the Town’s water distribution system (herein referred to as the “Water Rehabilitation Project”); and

WHEREAS, G.S. 143-64.32 authorizes units of local government to exempt contracts for design services from the qualifications-based selection (QBS) requirements of G.S. 143-64.31 if the estimated fee is less than \$50,000; and

WHEREAS, the Town of Burgaw feels as though an exemption is warranted and serves the Town's best interest by providing a means for determining the actual cost of the above mentioned services prior to selection; and

WHEREAS, the estimated fee for design services for the above-described project is less than \$50,000.

NOW, THEREFORE, THE TOWN OF BURGAW BOARD OF COMMISSIONERS RESOLVES:

Section 1. The Water Rehabilitation Project is hereby exempted from the provisions of G.S. 143-64.31.

Section 2. This resolution and associated Mini-Brooks exemption shall be made effective upon adoption.

ADOPTED this the 10th day of February, 2015.

Resolution 2015-09 Approving a Proposal for Professional Services for the Water Rehabilitation Project with McGill Associates, P.A.

Mr. McEwen advised last year we hired McGill Associates, P.A. to assist us with a Drinking Water State Revolving Fund (SRF) loan/grant application for water system improvements to the Town's water distribution system. The Town was awarded and subsequently accepted (December 2014) the \$1.36 million loan/grant for the following project components:

- 1) Replace approximately 7,200 linear feet of water main
- 2) Replace potentially approximately 1,459 water meters with AMI or Cellular technology
- 3) Install a new permanent generator and automatic transfer switch (ATS) at the North Smith Street well

Mr. McEwen advised given McGill's knowledge of the project and our funding arrangements, it is his opinion that McGill Associates is the most qualified firm to provide the necessary services needed for the water rehabilitation project. He advised furthermore, given McGill's existing knowledge of the proposed project we received very little interest among other engineering firms. This was due to the fact that these other firms would have to start from the beginning in terms of the specifics of the project thus requiring more time and billable hours. As a result those firms that he spoke with felt as though they wouldn't be competitive with McGill.

Mr. McEwen advised the fee quoted as part of the proposal from McGill Associates is \$49,500 for design engineering, permitting, bid and award, and construction phase services for upgrades to the Town's water distribution system as described above. Mr. McEwen advised the recommendation is the approval of the proposal with McGill Associates for \$49,500.

After a lengthy discussion regarding various details of the project, Commissioner Rooks made a motion to approve Resolution 2015-09 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Resolution 2015-09

Resolution Approving a Proposal for Professional Services for the Water Rehabilitation Project with McGill Associates, P.A.

WHEREAS, the Town of Burgaw has exempted the Water Rehabilitation Project from the requirements of the Mini-Brooks Act as allowed by North Carolina General Statutes 143-64.32; and

WHEREAS, the Town of Burgaw proposes to enter into a contract with McGill Associates for design engineering, permitting, bid and award, and construction phase services for upgrades to the Town's water distribution system (herein referred to as the "Water Rehabilitation Project"); and

WHEREAS, G.S. 143-64.32 authorizes units of local government to exempt contracts for design services from the qualifications-based selection (QBS) requirements of G.S. 143-64.31 if the estimated fee is less than \$50,000; and

WHEREAS, the Town of Burgaw feels as though an exemption is warranted and serves the Town's best interest by providing a means for determining the actual cost of the above mentioned services prior to selection; and

WHEREAS, the estimated fee for design services for the above-described project is less than \$50,000; and

WHEREAS, McGill Associates has submitted a proposal in the amount of \$49,500 for the services described above related the Water Rehabilitation Project.

NOW, THEREFORE, THE TOWN OF BURGAW BOARD OF COMMISSIONERS RESOLVES:

Section 1. The proposal from McGill Associates dated January 30, 2015 related to the Water Rehabilitation Project is hereby accepted.

Section 2. The Town Manager is instructed to provide the necessary approvals and signatures required to formally accept the proposal.

ADOPTED this the 10th day of February, 2015.

Other Items from Manager

Mr. McEwen advised the Board was phone polled recently regarding the replacement of the SCADA hardware and software. He advised he was requested to bring this item back in the form of a resolution for formal approval. Commissioner Robbins made a motion to approve Resolution 2015-10. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

RESOLUTION 2015-10
RESOLUTION AUTHORIZING A SERVICE AGREEMENT WITH GLOVER CONTROLS AND INSTRUMENTATION
FOR THE REPLACEMENT AND UPGRADES TO THE SUPERVISORY CONTROL AND DATA ACQUISITION
(SCADA) COMPUTER AND SOFTWARE FOR THE TOWN OF BURGAW

WHEREAS, the SCADA system performs critical functions in maintaining the water and wastewater facilities of the Town of Burgaw, and

WHEREAS, the SCADA computer and related software have performed past their useful life expectancy, and

WHEREAS, the Town of Burgaw Public Works and IT department have researched long term replacement solutions and upgrades to SCADA equipment, and

WHEREAS, this will be a solid base system to build on for any future SCADA expansion and data collection, and

WHEREAS, the Town of Burgaw Public Works received bids for the installation of the attached list of computer hardware and software, and

WHEREAS, the following bids were received:

- | | |
|-------------------------------|-------------|
| 1) Glover Controls and Inst.- | \$18,978.50 |
| 2) Systems East Inc. - | \$19,393.53 |
| 3) Revere Controls - | \$32,485.00 |

WHEREAS, based on received bids Glover Controls and Instrumentation was the lowest bidder.

NOW THEREFORE BE IT RESOLVED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS:

SECTION 1. The Town of Burgaw Board of Commissioners hereby authorizes a service agreement with Glover Controls and Instrumentation for \$18,978.50

SECTION 2. The Town of Burgaw Board of Commissioners hereby authorizes the Mayor to execute the required service agreement with Glover Controls and Instrumentation

ADOPTED this the tenth day of February, 2015.

Digital Sign

Mr. McEwen advised he has made contact with several sign companies regarding the digital sign, but none either would or could quote better than Stewart Signs. After much discussion, it was consensus of the Board to move forward with the purchase of a sign, but they wanted Mr. McEwen to mark a spot on the ground exactly where the sign will be built. Mr. McEwen advised he will mark the ground in order for the Board to see where the sign will be located and bring this item back next month.

Arbor Day – Hood Property Landscape

Mr. McEwen advised the planning department has recommended doing some landscaping on the recently acquired Hood property at Timberly and Ashe. Mr. McEwen advised the town expects approximately \$10,000 in reimbursements from the state for the ice storm cleanup last year and to use \$6,000 of the reimbursements for the

purchase of the trees. He advised the recommendation is to plant willow oaks and arborvitaes along the Hood property for a part of the Arbor Day celebration. Mr. McEwen advised this will help the public to realize that this is a public park area and the public is welcome to visit the area. After much discussion, Commissioner Robbins made a motion to move forward with the Arbor Day project. Further discussion followed regarding the tree giveaway and using a better quality of tree that has a better chance of survival. Ms. Roth advised they have looked into purchasing 1 gallon oaks for the tree giveaway. There being a motion on the floor, Commissioner Robbins withdrew his motion and Commissioner Rooks made a motion to allow use of up to \$6,000 for the planting of trees along the canal as presented. The motion was seconded by Commissioner Robbins and carried by unanimous vote.

Wallace Proposed Sewer Rate Increase

Mr. McEwen advised he has received notice that Wallace is proposing a 7.5% increase in sewer rates for the next fiscal year. He advised he has told the Wallace Manager that we need to see definitive evidence that treatment costs have gone up that much. Mr. McEwen advised he will meet with the manager of Wallace regarding this issue and bring the information back to the Board.

BREAK 5:45PM

MEETING RECONVENED AT 6PM.

PUBLIC FORUM

Speakers: none

PUBLIC HEARINGS – *Rebekah Roth, Planning Administrator*

Public Hearing 1. Consideration of a text change amendment to Sections 14-7 and 14-8 of the Unified Development Ordinance reducing the setback requirements for some structures in the I-2 zoning district.

The public hearing was opened at 6PM.

Ms. Roth presented the following background information regarding the public hearing.

Background. North Carolina Department of Transportation's (NCDOT's) resident engineer's offices are located at 402 and 404 N. Smith St. in four small structures, the largest of which is just about 2,000 square feet. While a part of the Pender Correctional tract, the portion used by NCDOT is just at 2 acres. In November, an architect with NCDOT contacted me about getting a zoning permit to replace one of the existing buildings in order to consolidate the district's engineers in one location. However, there was no way to meet the setback requirements for the I-2 district on such a small tract given the location of existing buildings. As a result, NCDOT has applied for a text change amendment to allow smaller setbacks in the I-2 district for office buildings.

Proposed Text Change. The requested text change amendment would reduce setback requirements for office buildings to 30 feet in the front, 30 feet to the side, and 20 feet in the rear. These setbacks are larger than those required for office uses in the O&I district or for any building in the Light Industrial district. Currently, the ordinance requires setbacks of 75 feet in front, 50 feet on the side, and 50 feet in the rear for all new buildings in the I-2 district. In general, the purpose of such large setbacks is to protect the community from potential negative impacts caused by types of uses allowed in the district. Many of the existing buildings in this district do not meet these setback requirements. See the attached aerial map for all buildings that meet all setback requirements. While existing buildings are grandfathered, new buildings must meet all required setbacks. We do have provisions for grandfathered nonconforming lots that reduce required setbacks, but those provisions are based on lots that do not conform to minimum lot size or dimensional requirements, and there are not minimum lot size or frontage requirements in the I-2 district.

Based on staff recommendation, the Planning Board voted at their January 15, 2015 meeting to recommend approval of the requested text change amendment and to also allow the reduced setbacks to warehouse structures. They also adopted the attached consistency statement

I-2 District. The I-2, Heavy Industrial, district is defined by the Unified Development Ordinance as an area where the widest spectrum of industrial uses may be developed. The district is customarily located in proximity to railroads and/or major thoroughfares. The purpose of this district is to provide for major industrial development and operations. Only uses that would not be inherently obnoxious and yield only reasonable noise, odor, smoke, light, vibration, dust, or the use of dangerous chemicals and/or materials are allowed.

Uses Allowed. Uses allowed in this district as a use-by-right include wholesalers, warehouses, processing and manufacturing, and uses that involve open storage. Uses allowed in this district as conditional uses include potentially high-impact uses such as airport operations, slaughter houses, asphalt/concrete/cement manufacturing, automobile salvaging, coal sales and storage, hatchery operations, manufactured home sales, material recovery facilities, prisons, quarries, and racetracks. A full list of all permitted and conditional uses is attached.

The public hearing was closed at 6:07PM.

Commissioner Robbins made a motion to approve Ordinance 2015-03 as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

Ordinance 2015-03 Approving an Amendment to Section 14-7 of the Unified Development Ordinance Reducing the Setback Requirements for Some Structures in the I-2, Heavy Industrial, Zoning District

ORDINANCE 2015-03

APPROVING AN AMENDMENT TO SECTION 14-7 OF THE UNIFIED DEVELOPMENT ORDINANCE REDUCING THE SETBACK REQUIREMENTS FOR SOME STRUCTURES IN THE I-2, HEAVY INDUSTRIAL, ZONING DISTRICT

WHEREAS, the Town of Burgaw is a municipal corporation organized under the laws of North Carolina, invested with the powers enumerated in Chapter 160A of the North Carolina General Statutes; and

WHEREAS, the Town of Burgaw Board of Commissioners adopted the Unified Development Ordinance (UDO) and official zoning map on December 12, 2000; and

WHEREAS, applicant Chad Kimes with the North Carolina Department of Transportation (NCDOT) has applied for a text change amendment to reduce setback requirements for office buildings in the I-2 zoning district; and

WHEREAS, the Town of Burgaw Planning and Zoning Board has reviewed the types of uses allowed in the I-2 zoning district and the current development pattern of that district; and

WHEREAS, the Planning and Zoning Board has found that the requested amendment would not negatively impact adjacent properties and is in conformity with the existing development of that district; and

WHEREAS, staff has recommended also allowing reduced setbacks for warehouse structures; and

WHEREAS, the Planning and Zoning Board voted at their January 15, 2015 meeting to recommend the approval of the requested amendment to reduce setbacks for office and warehouse structures in the I-2 district; and

WHEREAS, the Town of Burgaw Board of Commissioners finds that the recommended amendment is consistent with the Burgaw 2030 Comprehensive Land Use Plan because it promotes infill development of areas with infrastructure and supports the profitability of existing businesses and industries; and

WHEREAS, the Town of Burgaw Board of Commissioners finds that the proposed amendment is reasonable because large setbacks are not needed to protect the community from office and warehousing uses; and

WHEREAS, the Board of Commissioners finds that the proposed amendment is in the public interest because it will allow full use of properties already used and zoned for industries, reducing the need to look at undeveloped tracts for high-impact uses;

NOW THEREFORE BE IT ORDAINED BY THE TOWN OF BURGAW BOARD OF COMMISSIONERS THAT:

SECTION 1: The Town of Burgaw Unified Development Ordinance Section 14-7 is amended to read:

District	Minimum Lot Size			Minimum Yard Regulations			Maximum Height of Structure in Feet
	Area in Square Feet	Square Feet per Dwelling Unit	Frontage in Feet	Front Yard Setback in Feet	Side Yard Width in Feet	Rear Yard Depth in Feet	
I-2 Industrial							
<i>Office and Warehouse Structures</i>				30	30	20	45
<i>All Other Structures</i>				75	50	50	45

SECTION 2: This amendment to the Unified Development Ordinance becomes effective immediately upon adoption of this ordinance on this, the 10th day of February 2015.

Public Hearing 2. Consideration of a conditional use permit request to locate a “Restaurant, Full Service and Limited Service” use at Tienda El Mirasol at 115 Hwy 117 South.

The public hearing was opened at 6:08PM.

Attorney Kenan administered the oath to Rebekah Roth, Louis Hesse, Celerina Sanchez and Gladys Sanchez.

Ms. Roth presented the following background information to the Board:

Hearing Agenda.

1. Swearing of all persons wishing to present evidence (required for quasi-judicial hearings)
2. Board disclosure of site visits, ex parte communication, specialized knowledge, bias, and conflicts of interest, if necessary
3. Opening of hearing
4. Presentation of general information and staff report by Planning Administrator
5. Presentation of evidence by applicant & cross-examination
6. Presentation of evidence by citizens & cross-examination
7. Comments and questions from Mayor and Board of Commissioners
8. Closing of public hearing
9. Discussion by Mayor and Board of Commissioners
10. Findings of fact for standards of evaluation

GENERAL INFORMATION

Applicant: Gregorio and Celerina B. Sanchez
150 Meadow Lane
Burgaw, NC 28425

Site: 115 Hwy 117 South

Owner: Coastal Carolina Car Wash LLC (registered agent Matthew Murphy)

Current Zoning: B-2, Highway Business

Size: 0.54 acres

Existing Land Use: Two buildings occupy site, one for a car wash and the other for the Tienda el Mirasol grocery store

HISTORY/SITE DESCRIPTION

Applicants Gregorio and Celerina Sanchez are petitioning the town for a conditional use permit to operate a restaurant, both full service and limited service, in their existing grocery store Tienda el Mirasol, located at 115 Hwy 117 South. The Sanchezes have already been allowed to install a space to prepare food, a customary accessory use to a grocery store, like the delis at Food Lion or Walmart. They would also like to add indoor seating for their customers, which trigger the need for approval as a restaurant.

This property is located at the corner of Hwy 117 Bypass and E. Fremont St. It shares the property with a car wash, backs up to the former Family Dollar currently leased by S&S Entertainment, and is across Fremont St. from a convenience store and gas station and across Hwy 117 from a vacant tract.

APPLICATION EVIDENCE

- Application showing requested use
- Layout of kitchen and seating area
 - Four tables are proposed, each of which would allow 4 seats
- Applicant has stated they intend to serve customers at their tables a portion of the time and to have customers order from the grill at others
- No changes to the site or signage have been proposed

EVIDENCE EXHIBITS

- Exhibit 1: Copy of application (including indoor layout)
- Exhibit 2: Zoning Map
- Exhibit 3: Aerial Map 1
- Exhibit 4: Aerial Map 2
- Exhibit 5: Site Photographs, taken by Rebekah Roth on January 26, 2015

STANDARDS FOR EVALUATION

In reviewing the permit application, the Town Board of Commissioners shall find as a specific finding of fact and reflect in their minutes if the permit will comply with the following standards based on the evidence presented at the hearing.

Standard 1. The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved.

Staff Recommendation: This use does not include new structures or outdoor storage or uses. The existing parking lot is in bad condition, but that is not directly tied to the proposed use. Unless additional evidence to the contrary is presented at the public hearing, this standard has been met in staff's judgment.

Standard 2. The use meets all required conditions and specifications.

Staff Recommendation:

- No detailed regulations for restaurant uses in the B-2 zoning district apply to this property. It does not include a drive thru and is not adjacent to residences, churches, schools, or public parks.
- One parking space for every 4 seats is required for restaurants. Currently, the site has 11 spaces, 7 of which are required for a retail operation.
- The existing spaces are difficult to see, as the lines are faded, and the cars parked in the lot during staff's site visit were not aligned in the designated spaces.
- Half of the existing parking is located within the NCDOT right-of-way for Hwy 117; however, the travel lane is wide enough that at least some parking would be available if the highway were ever extended.
- The existing dumpster is screened.
- All signage, if nonconforming, is grandfathered.

Based on this information, I recommend the following conditions to ensure that the applicant's proposal meets all town requirements:

- Existing parking spaces shall be repainted.

The board may also wish to consider requiring the installation of a bike rack to off-set potential loss of parking spaces in the case of expansion of Hwy 117.

Standard 3. The use will not adversely affect the use or any physical attribute of adjoining or abutting property or the use is a public necessity.

Staff Recommendation: As this use is not a public necessity, this standard must be met. As there are not changes to the site as the result of the proposed use, this standard has been met in staff's judgment.

Standard 4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Town of Burgaw Unified Development Ordinance, Burgaw 2030 Comprehensive Land Use Plan, and NC Hwy 53 Corridor Study.

Staff Recommendation:

- The site for the proposed business is currently zoned Highway Business and is designated as Commercial Growth in the Burgaw 2030 Comprehensive Land Use Plan.
- The site is not covered by the NC Hwy 53 Corridor Study.
- The site is adjacent to and across the street from existing commercial uses and is currently permitted for a grocery store use.

Unless additional evidence to the contrary is presented at the public hearing, this standard has been met in staff's judgment.

Commissioner Rooks commented that he doesn't feel that requiring a bike rack is a necessity for the conditional use permit.

Commissioner Dawson expressed concern about the parking place lines being repainted. It was suggested that the white lines be designated as parking places and repainted white and the yellow lines should be blacked out in order to remove any confusion over the actual parking spaces.

Commissioner Robbins advised he likes the idea of a bike rack and feels that the town is becoming a more bike friendly town and this is a small step to that concept.

After a brief discussion, it was the consensus of the Board to require the installation of a bike rack on the property.

There being no further discussion, Mayor Mulligan closed the public hearing at 6:22PM.

FINDINGS OF FACT

Mayor Mulligan read each of the Standards as listed below. The response from each Commissioner is documented below each Standard.

Standard 1. The use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved.

Commissioner Robbins, *Yes*; Commissioner Dawson, *Yes*; Commissioner Rooks, *Yes*

Standard 2. The use meets all required conditions and specifications including repainting of existing parking spaces and the installation of a bike rack to offset potential loss of parking spaces in the case of future widening of Hwy. 117.

Commissioner Robbins, *Yes*; Commissioner Dawson, *Yes*; Commissioner Rooks, *Yes*

Standard 3. The use will not adversely affect the use or any physical attribute of adjoining or abutting property or the use is a public necessity.

Commissioner Robbins, *Yes*; Commissioner Dawson, *Yes*; Commissioner Rooks, *Yes*

Standard 4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Town of Burgaw Unified Development Ordinance, Burgaw 2030 Comprehensive Land Use Plan, and NC Hwy 53 Corridor Study.

Commissioner Robbins, *Yes*; Commissioner Dawson, *Yes*; Commissioner Rooks, *Yes*

Commissioner Robbins made a motion to approve the Conditional Use for a “Restaurant, Full Service and Limited Service” use at Tienda El Mirasol as presented. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

ITEMS FROM MAYOR AND BOARD OF COMMISSIONERS

Mayor Mulligan inquired about the ability to place agendas on the website. Mr. McEwen advised there are issues with the current server and correction of this issue depends on decisions made during the budget proceedings.

Commissioner Rooks asked Ms. Roth to change the delivery address on his packets to his business address.

Commissioner Dawson advised she has checked with MOSCA Designs regarding the addition of a four foot section to the Christmas tree that is placed on the courthouse square. She advised this purchase can be made for \$3500 if purchased in February. She advised that the tree lighting ceremony in December was well attended and that it would be nice to make the tree taller by adding a section. She also commented that if the purchase is not made this month the prices will begin to rise throughout the year. Commissioner Dawson asked the Board if they would consider purchasing the extension for the Christmas tree. After a brief discussion, Commissioner Robbins made a motion to purchase the tree extension with funds coming from general fund balance. The motion was seconded by Commissioner Dawson and carried by unanimous vote. Commissioner Rooks commented that he would like to see the tree moved closer to the Wilmington Street side of the court house square in order for the tree to be more visible to traffic on Wilmington Street.

Commissioner Robbins said he wanted to inform everyone that Commissioner Howard Walker and his wife Edna were featured in the Pender Historical Society newsletter. He encouraged everyone to get a copy to read the article.

Mayor Mulligan congratulated Pender Early College for being the only school in the county to receive a grade of “A” in the recent assessment.

CLOSED SESSION – At 6:30PM Commissioner Robbins made a motion to go into closed session pursuant to GS 143-318.11 (a) (6) personnel. The motion was seconded by Commissioner Dawson and carried by unanimous vote.

OPEN SESSION RECONVENED – At 6:54PM Commissioner Robbins made a motion to go out of closed session. The motion was made by Commissioner Rooks and carried by unanimous vote. There was no action taken in closed session.

ADJOURNMENT

The being no further business Commissioner Robbins made a motion to adjourn. The motion was seconded by Commissioner Rooks and carried by unanimous vote. The meeting adjourned at 6:55PM.

Attest: _____
Sylvia W. Raynor, Town Clerk

Signed: _____
Eugene Mulligan, Mayor